



**COUNCIL OF
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NOTE

From:	Committee for Civilian Aspects of Crisis Management
To:	Political and Security Committee
Subject :	Concept paper on procedures for the termination, extension and refocusing of an EU civilian crisis management operation

Delegations will find enclosed a concept paper on procedures for the termination, extension and refocusing of an EU civilian crisis management operation as finalised by Civcom on 9 January 2006.

Concept paper on procedures for the termination, extension and refocusing of an EU civilian crisis management operation

Introduction

1. In recent years the EU has gained experience with the planning and launching of civilian crisis management operations (CMOs). We are now at the point where a number of missions are reaching the end of their mandates. EUJUST THEMIS was completed in July 2005; EUPM, EUPOL KINSHASA, EUPOL PROXIMA, the EU supporting action to AMIS II and the Aceh Monitoring Mission will all reach the end of their current mandate towards the end of this year or early in 2006.

2. It is therefore timely to consider the steps that need to be taken in preparation for the end of a mission mandate from a political, operational and financial perspective. The proposals as set out in this document, once agreed, would supplement the procedures set out in phase 6 of the 'Suggestions for procedures for coherent , comprehensive EU crisis management' (11127/03). It should be noted however that these elements can only provide general guidance as the steps required at the end of the mandate for a mission correspond to case-by-case needs and require tailor made solutions.

Key considerations

3. In principle, EU civilian crisis management operations should be terminated in line with the count-down plan which should be contained in the planning documents of the mission. However, decisions taken towards the end of a mission's mandate should address whether and how to continue the objectives of this EU action, for example, through existing or additional Community programmes or other bilateral and multilateral actions as well as, where decided by the Council, through reinforcing the EUSR. The EU may also consider the extension of the mission or its refocusing depending on the situation in the crisis area. These options will need careful planning in order to ensure an effective continuation of the EU presence in the crisis area.

4. For the mission, the Council Secretariat and the Commission as regards the budgetary and financial issues, planning for and implementing steps at the end of a mission's mandate poses serious challenges similar to those encountered during the launching and setting-up phase. Planning for the steps to be taken at the end of a mission's mandate therefore needs to start as early as possible, including during planning for the launch of a mission. Experience gained during the mission will also be valuable in this process. As far as possible, the same mission staff that prepared the mission and guided the mission throughout the implementation phase should therefore continue to cooperate and coordinate the closure phase.

5. According to the TEU, the general rule for financing EU civilian crisis management operations under CFSP is the Community budget (Art. 28 TEU). Article 48 of the Financial Regulation states that the Commission implements the revenue and expenditure of the budget in accordance with this Regulation, on its own responsibility and within the limits of the appropriations authorised. In order to allow the Special Adviser for the Mission (i.e. the Head of Mission (HoM) access to the funding required to launch and conduct an operation, the Commission has introduced a standard contract which sets out the legal and financial aspects of the closure of the mission, the related responsibilities of the HoM during and after the operation and the HoMs contractual obligations in respect of the Commission. (Relevant excerpts of the contract are set out in Annex). This contract specifies that, "on completion of the mission, the ownership and use of equipment and materials directly financed by the European Community shall be determined by joint agreement between the Special Adviser and the Commission, including transfer to a third party beneficiary". As the financing in question comes from the CFSP budget, once the mission is completed the assets bought with such financing should primarily serve the objectives of CFSP/ESDP, mainly in the form of support to existing missions or to future missions under Title V of the Treaty where this will contribute to the overall effectiveness and efficiency of the operations in question. Appropriate guidance should be given to the HoM through the chain of command of the operation regarding his/her proposal to the Commission on the closure, including the final destination of mission assets.

Political decision

6. The target termination date of an EU civilian crisis management operation is normally set in the Joint Action establishing the mission. The OPLAN should accordingly include an indicative count-down plan for closing down the mission. According to the OPLAN, in due time before the expiry of the mandate of the mission, the Council Secretariat in close consultation with the HoM and with the EUSR if appointed, will assess the situation and reflect on options for the future of the mission. The benchmarks contained in the operational documents may also help to assess whether the mission's objectives/end state have been reached. This joint assessment will form the basis for a report by the SG/HR to PSC.

7. Based on the options proposed by the Secretary General/High Representative and taking into account possible advices from CivCom and if appropriate from EUMC, the PSC will evaluate the timeliness of terminating, refocusing or extending the mission and provide strategic guidance. The PSC will forward to the Council its recommendations in line with the agreed procedures (11127/03), and the Council will take the necessary decisions. However, where the PSC is in a position to agree that the requirements of the OPLAN relating to the objectives/end state of the Mission have been met, the Council may authorise it to take the relevant decisions. This process should be concluded in good time (usually three months before the expiry of the mandate of the mission). The possible recommendations may include:

- A Termination of the operation and possible follow-up through other appropriate instruments including Community instruments
- B Extension of the mission
- C Refocusing and/or refining of the mission mandate

A. Termination of the operation and possible follow-up through other appropriate instruments including Community instruments

8. Closing down a mission is the ceasing of all mission operational activities following the expiry of the mandate. This will involve the termination of all operational actions and of the organisational aspects of the mission (staff, services, rented and procured goods and equipment etc.). Following the expiry date of the mandate, the mission formally ceases to exist vis-à-vis the host country and in terms of chain of command, except concerning administrative activities required

for the correct financial closure and the fulfillment of all contractual obligations by the HoM vis à vis the Commission. In case of a full closure, this normally implies a liquidation team being constituted from the core mission whose running costs are to be provided for in the overall mission's budget (see para. 14).

9. Together with the indication to terminate an operation, PSC should consider possible follow-up to the ESDP operation. Further actions may include *inter alia* inviting the Commission to consolidate the results achieved with the ESDP operation through Community assistance programmes, encouraging Member States to take action bilaterally or, where decided by the Council, strengthening the EUSR office for follow-on actions that no longer require a fully fledged mission but can be covered by the EUSR and his office. The PSC will forward to the Council, as appropriate, its recommendations in line with the agreed procedures (11127/03).

10. Where the expiry date of a mission is indicated in the Joint Action, the planning and execution of the termination of the mission, including the liquidation, should already be foreseen in the OPLAN. Appropriate financial resources should be provided for in the planning documents. Thus, the HoM should be ready to start this phase when the expiry of the mission is approaching. He/she should implement the count-down plan contained in the OPLAN following the Council Decision on the termination of the mission (see para. 7).

11. Following the Council Decision on the strategic orientation for the CMO, a Termination Plan should be prepared by the HoM, in co-ordination with the Council Secretariat and the Commission and in full respect of his/her contractual obligations, notably the need for sound financial management. It could be divided into two sub-plans:

- The Operational sub-plan which defines the main concepts related to the closing down of activities, the return of the deployed elements and the timing;
- The Support sub-plan which contains a series of actions aimed at terminating the financial/legal relations developed by the mission during its activity (staff, treatment of equipment etc) and at identifying the needs of the liquidation team. The issue of medals and certificates for the staff of the mission should be taken into account.

12. The implementation of the actions contained in the Termination Plan may last between a few weeks and a few months depending on the size of the mission and the complexity of the closure operation.

13. Once the mission is terminated, the HoM will present a final mission report to PSC. In line with the existing contractual arrangements, the Head of Mission is also responsible for presenting to the Commission for approval an audited final report and a financial statement. The final report will give a full account of the technical and financial aspects related to the implementation of the mission and will contain a joint agreement on the handling of equipment and materials directly financed by the CFSP line of the Community budget (see Annex). The Mission will have also to deal with and report on possible contributions by Member States and/or contributing States.

14. Once the operational activities of the mission have been fully concluded, a liquidation team will remain in the mission area to conclude the remaining required actions, in particular the closing down of all local contracts for services and, if appropriate, to implement the disposal of the remaining equipment. The liquidation team's objective will be to implement the Termination Plan. According to Article 20 of the Model SOMA (10607/05 of 27 June 2005), the Agreement on the status of the mission between the EU and the Host State concerned will remain in force until the date of departure of the last EU mission personnel, as notified by the EU mission. To that end, arrangements between the Head of Mission and the relevant administrative authorities of the Host State will secure application of these provisions to the personnel of the liquidation team.

15. At the end of this process, the PSC will request CivCom to evaluate lessons learned in particular on the basis of reports by the Council Secretariat and by the HoM. The Commission will provide information to the PSC on lessons learned within its area of responsibility. The PSC will proceed to an overall assessment.

B. Extension of the mission

16. Extension of the mission is the continuation of the mission under the same mandate and with a largely unchanged force strength.

17. In case of a political orientation by PSC in this sense (see para. 7), the extension needs to be reflected in a new Joint Action (accompanied by a new financial fiche) to be adopted by the Council. In this context, PSC will extend the mandate of the HoM or appoint a new HoM based on a proposal by the SG/HR. If required, an amended OPLAN will be agreed in PSC (where the provisions of the Joint Action allow PSC to take such a decision).

18. Where a mission is extended, the administrative structures of the mission will normally remain in place and will therefore work on the financial closure linked to the (annual) contract of the outgoing or continuing HoM while at the same time continuing to ensure the relevant activities for the running of the extended mission. Appropriate arrangements will secure the application of the provisions of the existing SOMA to the extended mission.

C. Refocusing and/or refining of the mission mandate

19. The refocusing of a mission implies a reformulation of its mandate and a concomitant increase/reduction of its activities and personnel.

20. Following the political orientation by PSC in this sense (see para. 7), the HoM should prepare a Refocusing Plan in co-ordination with the Council Secretariat and the Commission and in full respect of his/her contractual obligations. This Plan could be divided into two sub-plans:

- The Operational sub-plan which defines the main concepts related to the increasing/downsizing of activities, the arrival/return of deployed elements where appropriate and their timing.

- The Support sub-plan which contains a series of actions aimed at modifying and/or terminating the relevant financial/legal relations developed by the mission during its prior activity and at identifying the needs of the resulting mission. It will include as well a schedule of refocusing actions.

21. Based on the Refocusing Plan, procedures should be followed in a similar way to the launching of a new operation. A revised CMC or Concept of Operations may not be required if so decided. However the Council will have to adopt a new Joint Action and approve the OPLAN. If appropriate, the new OPLAN may contain measures aimed at facilitating the seamless transition between the two missions and the start up of the new operation. In this context, PSC may extend the mandate of the HoM or appoint a new HoM based on a proposal by the SG/HR.

22. The transition between the two missions may last a few months depending on the size of the mission and its particular deployment. In this phase, the Refocusing Plan should be implemented. When the expiry date of the previous mission is over, the new OPLAN should immediately enter into force. Appropriate arrangements will secure the application of the provisions of the existing SOMA to the refocused mission.

23. The Head of Mission will also present a final report to the Commission giving full account of the technical and financial aspects related to the implementation of the original mission, including a narrative description covering, as appropriate, the whole duration of this period. Where necessary, a liquidation team may need to be established within the mission to take charge of the liquidation of contracts and supplies no longer required following the refocusing process.

24. At the end of this process, PSC will request CivCom to evaluate lessons learned in particular on the basis of reports by Council Secretariat and by the HoM. The Commission will provide information to the PSC on lessons learned within its area of responsibility. The PSC will proceed to an overall assessment.

**Illustrative excerpts of relevant articles of the HoM's Special Adviser Contract between
the HoM and the Commission**

(...)

Article 6

Reports and other documents¹

6.1. The following reports and other documents shall be supplied by the Special Adviser:

- a) an interim report and a financial statement are to be transmitted together with the request for payment of the first intermediate payment;
- b) a final report and final financial statement within six months following the date specified in Article 1.4.

(...)

6.4. Final reports and final financial statements: The final report shall give a full account of all technical and financial aspects related to the implementation of the Mission, including a detailed narrative description covering the whole contract duration. The final report shall contain information on the steps taken to identify the Special Adviser as representing the European Union and considerations on measures that could be used to evaluate the Mission's impact. The final report shall also include the joint agreement on the transfer of ownership and use of material and equipment as mentioned in Article 13.3. The final financial statement shall additionally outline all the eligible costs undergone plus a full summary of the payments received. The final financial statement shall be definitive and be laid out in such a way that it can be deemed to close the accounts of implementing the Mission.

¹ The need for specific provisions on reporting stems from Art. 164 (1) point (j) IR.

- 6.5. On receipt of the reports and financial statements, the Commission shall have the period specified in Article 5.2 points b) to d) in order to:
- a) approve the reports and financial statements;
 - b) request the Special Adviser for supporting documents or any additional information it deems necessary to allow the approval of the reports and financial statements;
 - c) reject the reports and financial statements and ask for the submission of new reports and financial statements¹.

Failing a written reply from the Commission within the time limit for scrutiny indicated above, the documents shall be deemed to have been approved. Approval of the reports and financial statements accompanying the request for payment shall not imply recognition of the regularity, authenticity, completeness and correctness of the declarations and information contained therein.

Requests for additional information or fresh documents shall be notified to the Special Adviser in writing. The Special Adviser shall have the period laid down in Article 5.2 points b) to d) to submit the information or fresh documents requested. If additional documents are requested, the time limit for scrutiny shall be extended by the time it takes to obtain the documents concerned.

Where documents are rejected and fresh documents requested, the approval procedure described herein shall apply.

(...)

¹ The powers of the Commission needed to proceed with the reports received, these are reflected as from what is foreseen in Arts. 97 to 103 IR.

Article 13

Procurement

(...)

- 13.3. On completion of the Mission, the ownership and use of equipment and materials directly financed by the European Communities shall be determined by joint agreement between the Special Adviser and the Commission, including transfer to a third party beneficiary. This joint agreement shall be included in the final report¹.

¹ Although the Special Adviser is personally owner of all the equipment bought with the funds put at his/her disposal, the property of such equipment is not at its discretion since financed with Community funds. Hence, the present provision provides for disposing on any equipment only in agreement with the Commission representing the Communities. However, it follows from this limitation on disposing of the property so acquired that Arts. 220 to 227 IR apply to such equipment by analogy. See also the obligation to keep an inventory in Arts. 10.6 and 6.2.