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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on a European Union maritime security operation to safeguard freedom of navigation in relation to the Red Sea crisis (EUNAVFOR ASPIDES)

COUNCIL DECISION (CFSP) 2024/...

of ...

**on a European Union maritime security operation
to safeguard freedom of navigation in relation to the Red Sea crisis
(EUNAVFOR ASPIDES)**

THE COUNCIL OF THE EUROPEAN UNION,

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

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

Whereas:

- (1) On 28 February 2022, the United Nations Security Council (UNSC) adopted Resolution 2624 (2022), condemning in the strongest terms the increasing number of incidents off the coast of Yemen, including attacks on civilian and commercial ships as well as arbitrary or unlawful seizure and detention of commercial vessels, which poses a significant risk to the maritime security of vessels in the Gulf of Aden and Red Sea along the coast of Yemen.
- (2) On 12 December 2022, the Council adopted conclusions affirming that the Union's engagement with Yemen is linked to core interests and commitments of the Union, including: supporting peace and a rules-based international order; the humanitarian imperative to support the people of Yemen; the implementation of the Women, Peace and Security Agenda across the globe; the importance of Yemen for key sea-based supply lines of energy and other commodities and the objective to ensure the security and stability of the Gulf region as well as the Red Sea and the Horn of Africa; and the need to prevent further proliferation of terrorist organisations. Moreover, the Council affirmed that maritime security has a strong impact on international maritime trade and that the Union is ready to step up its efforts to build confidence and promote maritime safety and security in the wider Gulf region and the Red Sea.

- (3) On 24 October 2023, the Council adopted conclusions approving a revised EU Maritime Security Strategy (EUMSS) and its Action Plan, laying out the framework for the Union to take further action to safeguard its interests at sea and to protect its citizens, values and economy, while promoting international rules and full compliance with international instruments, in particular the United Nations Convention of the Law of the Sea (UNCLOS).
- (4) Since October 2023, numerous Houthi attacks have targeted vessels in the Red Sea, the Gulf of Aden, the Arabian Sea and the Gulf of Oman. Such attacks jeopardise the life of seamen on vessels, and constitute a breach of the freedom of the high seas and of the right of transit passage in straits used for international navigation enshrined in UNCLOS. They have an adverse impact on merchant shipping and on the economies of many countries in the Union and in the region.
- (5) On 10 January 2024, the UNSC adopted Resolution 2722 (2024), condemning in the strongest terms the Houthi attacks on merchant and commercial vessels, underscoring the importance of the exercise of navigational rights and freedoms of vessels of all States in the Red Sea, including for merchant and commercial vessels transiting the Baab al-Mandab Strait, in accordance with international law, demanding that the Houthis immediately cease all such attacks, affirming that the exercise of navigational rights and freedoms by merchant and commercial vessels, in accordance with international law, must be respected, and taking note of the right of Member States, in accordance with international law, to defend their vessels from attacks, including those that undermine navigational rights and freedoms.

- (6) On 29 January 2024, the Council approved a Crisis Management Concept for a possible European Union maritime security operation to safeguard freedom of navigation in relation to the Red Sea crisis, with an initial duration of one year from when it is launched. In line with the revised EUMSS, that European Union maritime security operation (the ‘operation’) should contribute to maritime security along the main sea lines of communication in an area including the Red Sea, the Arabian Sea and the Persian Gulf, in cooperation with other major actors, and be accompanied by a strong and targeted diplomatic outreach to Gulf Cooperation Council partners, regional actors and coastal States. The operation should therefore be established. Its Area of Operation, which should consist of maritime areas, should be defined in accordance with the agreed mandate in the relevant planning documents.
- (7) The strategic objective of the operation should be to ensure a Union naval presence in the area where attacks occur, with the aim of ensuring freedom of navigation for vessels, in close cooperation with like-minded maritime security providers.
- (8) For that purpose, the operation should accompany vessels, provide maritime situational awareness and protect vessels against multi-domain attacks at sea. It should remain defensive in nature. Forces deployed for the operation should act in compliance with applicable international law, including customary international law, including self-defence where conditions are met, to defend against an imminent or ongoing attack on their own, or third-party, vessels. The operation should act in full compliance with UNCLOS. The modalities and conditions for the above should be elaborated in the Operation Plan, including the Rules of Engagement, to be approved by the Council.

- (9) The Political and Security Committee should exercise, under the responsibility of the Council and of the High Representative for Foreign Affairs and Security Policy, political control over the operation, provide it with strategic direction and take the relevant decisions in accordance with the third paragraph of Article 38 of the Treaty on European Union (TEU).
- (10) Close cooperation with like-minded maritime security providers will require the possibility to exchange, on the basis of reciprocity and inclusiveness, classified information up to 'SECRET UE/EU SECRET' level with the United States-led Operation Prosperity Guardian and with the Combined Maritime Forces, and the possibility to release EU classified information up to the appropriate level to like-minded partners, in accordance with Council Decision 2013/488/EU¹, which lays down the security rules for protecting EU classified information.
- (11) Pursuant to Article 41(2) TEU and in accordance with Council Decision (CFSP) 2021/509², the operating expenditure arising from this Decision, which has military or defence implications, is to be borne by the Member States,

HAS ADOPTED THIS DECISION:

¹ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

² Council Decision (CFSP) 2021/509 of 22 March 2021 establishing a European Peace Facility and repealing Decision (CFSP) 2015/528 (OJ L 102, 24.3.2021, p. 14).

Article 1

Mission

1. The Union hereby establishes a military European Union maritime security operation to safeguard freedom of navigation in relation to the Red Sea crisis. That operation shall contribute to maritime security along the main sea lines of communication in the area referred to in paragraph 3, in cooperation with other major actors.
2. The operation shall be named EUNAVFOR ASPIDES.
3. The Area of Operation shall comprise the Baab al-Mandab Strait and the Strait of Hormuz, as well as international waters in the Red Sea, the Gulf of Aden, the Arabian Sea, the Gulf of Oman and the Persian Gulf. Its detailed limits, any sub-area and the Area of Interest shall be defined in the relevant planning documents approved by the Council.
4. The strategic objective of EUNAVFOR ASPIDES shall be to ensure a Union naval presence in the Area of Operation with the aim of ensuring freedom of navigation for vessels, in close cooperation with like-minded maritime security providers.
5. For that purpose, EUNAVFOR ASPIDES shall within its means and capabilities:
 - a) accompany vessels in the Area of Operation;
 - b) ensure maritime situational awareness in the Area of Operation;
 - c) protect vessels against multi-domain attacks at sea, in full respect of international law, including the principles of necessity and proportionality, in a sub-area of the Area of Operation.

Article 2

Appointment of the EU Operation Commander

Commodore Vasilios GRIPARIS is hereby appointed EU Operation Commander of EUNAVFOR ASPIDES.

Article 3

Designation of the EU Operation Headquarters

The Operation Headquarters of EUNAVFOR ASPIDES shall be located in Larissa, Greece.

Article 4

Political control and strategic direction

1. Under the responsibility of the Council and of the High Representative for Foreign Affairs and Security Policy (HR), the Political and Security Committee (PSC) shall exercise the political control and strategic direction of EUNAVFOR ASPIDES.
2. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 38 of the Treaty on European Union (TEU). That authorisation shall include the powers to amend the planning documents, including the Operation Plan, the Chain of Command and the Rules of Engagement. It shall also include the powers to take decisions on the appointment of the EU Operation Commander and of the EU Force Commander. The powers of decision with respect to the objectives and termination of EUNAVFOR ASPIDES shall remain vested in the Council.

3. The PSC shall be kept regularly updated on the conduct of EUNAVFOR ASPIDES, and, in particular, the Chairman of the EU Military Committee (EUMC) shall, at regular intervals, report to the PSC thereon. The PSC may invite the EU Operation Commander or the EU Force Commander to its meetings, as appropriate.
4. The EU Operation Commander shall provide the PSC with reports on the conduct of EUNAVFOR ASPIDES every two months.
5. The PSC shall report to the Council at regular intervals.

Article 5

Military direction

1. The EUMC shall monitor the proper execution of EUNAVFOR ASPIDES conducted under the responsibility of the EU Operation Commander.
2. The EU Operation Commander shall, at regular intervals, report to the EUMC. The EUMC may invite the EU Operation Commander or the EU Force Commander to its meetings, as appropriate.
3. The Chairman of the EUMC shall act as the primary point of contact for the EU Operation Commander.

Article 6

Consistency of the Union's response and cooperation with third parties

1. The HR shall ensure the implementation of this Decision and its consistency with the Union's external action as a whole, including the Union's development programmes and its humanitarian assistance.
2. The HR, assisted by the European External Action Service (EEAS), shall act as the primary point of contact with the United Nations, the authorities of the countries in the region, and other multinational and bilateral actors, including the Gulf Cooperation Council, the League of Arab States, the United States of America and the United Kingdom.
3. EUNAVFOR ASPIDES shall coordinate closely with the European Union military operation to contribute to maritime security in the West Indian Ocean and in the Red Sea (EUNAVFOR ATALANTA), established by Council Joint Action 2008/851/CFSP³.
4. EUNAVFOR ASPIDES shall cooperate with Operation Prosperity Guardian, with the Combined Maritime Forces and with willing States contributing to maritime security in its Area of Operation.
5. EUNAVFOR ASPIDES shall liaise closely with the shipping industry, notably through the Maritime Security Centre-Horn of Africa (MSCHOA).

³ Council Joint Action 2008/851/CFSP of 10 November 2008 on a European Union military operation to contribute to maritime security in the West Indian Ocean and in the Red Sea (EUNAVFOR ATALANTA) (OJ L 301, 12.11.2008, p. 33).

6. EUNAVFOR ASPIDES shall cooperate with the relevant Member State authorities, with relevant Union agencies and bodies, in particular the European Union Satellite Centre (SATCEN), and with relevant CSDP missions and operations, in particular with the European Union military mission to contribute to the training of Somali security forces (EUTM Somalia), established by Council Decision 2010/96/CFSP⁴, and with the European Union Capacity Building Mission in Somalia (EUCAP Somalia), established by Council Decision 2012/389/CFSP⁵.
7. EUNAVFOR ASPIDES shall be supported by SATCEN and by the European Union Intelligence and Situation Centre in gathering information as necessary to fulfil its tasks.

Article 7

Participation by third States

1. Without prejudice to the Union's decision-making autonomy or to the single institutional framework, and in accordance with the relevant guidelines of the European Council, third States may be invited to participate in EUNAVFOR ASPIDES.

⁴ Council Decision 2010/96/CFSP of 15 February 2010 on a European Union military mission to contribute to the training of Somali security forces (OJ L 44, 19.2.2010, p. 16).

⁵ Council Decision 2012/389/CFSP of 16 July 2012 on the European Union Capacity Building Mission in Somalia (EUCAP Somalia) (OJ L 187, 17.7.2012, p. 40).

2. The Council hereby authorises the PSC to invite third States to offer contributions and to take the relevant decisions on acceptance of the proposed contributions, upon the recommendation of the EU Operation Commander and of the EUMC.
3. Detailed arrangements for the participation by third States shall be the subject of agreements concluded pursuant to Article 37 TEU and in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union. Where the Union and a third State have concluded an agreement establishing a framework for the latter's participation in crisis management missions of the Union, the provisions of such an agreement shall apply in the context of EUNAVFOR ASPIDES.
4. Third States making significant military contributions to EUNAVFOR ASPIDES shall have the same rights and obligations in terms of day-to-day management of EUNAVFOR ASPIDES as Member States taking part in it.
5. The Council hereby authorises the PSC to take relevant decisions on the setting-up of a Committee of Contributors, should third States provide significant military contributions.

Article 8

Status of Union-led personnel

The status of Union-led units and personnel shall be defined where necessary in accordance with international law.

Article 9
Financial arrangements

1. The common costs of EUNAVFOR ASPIDES shall be administered in accordance with Decision (CFSP) 2021/509.
2. The reference amount for the common costs of EUNAVFOR ASPIDES shall be EUR 8 000 000. The percentage of the reference amount referred to in Article 51(2) of Decision (CFSP) 2021/509 shall be 30 % for commitments and 30 % for payments.

Article 10
Release and exchange of Information

1. The HR shall be authorised to release to designated third States, as appropriate and in accordance with the operational needs of EUNAVFOR ASPIDES, any EU non-classified documents connected with the deliberations of the Council relating to EUNAVFOR ASPIDES and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure⁶. The PSC, provided that these conditions are met, shall designate on a case-by-case basis the third States concerned.

⁶ Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

2. The HR shall be authorised to release to designated third States, as appropriate and in accordance with the operational needs of EUNAVFOR ASPIDES, EU classified information generated for the purposes of EUNAVFOR ASPIDES, in accordance with Decision 2013/488/EU, as follows:
 - (a) up to the level provided in the applicable Security of Information Agreement concluded between the Union and the third State concerned; or
 - (b) up to ‘RESTREINT UE/EU RESTRICTED’ level for information released to Egypt, to the Gulf Cooperation Council and its Member States, and to India, as well as to other third States designated by the PSC.
3. The HR is hereby authorised to exchange with Operation Prosperity Guardian and with the Combined Maritime Forces, through their Headquarters, classified information relevant to the purposes of EUNAVFOR ASPIDES up to ‘SECRET UE/EU SECRET’ level, where such exchange at theatre level is necessary for operational reasons, in accordance with Decision 2013/488/EU and subject to arrangements between the HR and the competent authorities of those operations.
4. The release and exchange of information referred to in paragraphs 1, 2 and 3 shall be conducted in full respect of the principles of reciprocity and inclusiveness. Classified information received shall be handled by EUNAVFOR ASPIDES without any distinction between its staff and solely on the basis of operational requirements.

5. The HR shall be authorised to conclude the arrangements necessary to implement the provisions on the release or exchange of information in this Decision.
6. The HR may delegate the authorisations to release or exchange information as well as the ability to conclude the arrangements referred to in this Article to EEAS officials, to the EU Operation Commander or to the EU Force Commander in accordance with section VII of Annex VI to Decision 2013/488/EU.

Article 11

Entry into force and termination

1. This Decision shall enter into force on the date of its adoption.
2. EUNAVFOR ASPIDES shall end one year from the date when it is launched.
3. A strategic review of EUNAVFOR ASPIDES shall be conducted in good time before the expiry of this Decision.
4. This Decision shall be repealed as from the date of closure of the EU Operation Headquarters in accordance with the plans approved for the termination of EUNAVFOR ASPIDES and without prejudice to the procedures regarding the audit and presentation of the accounts of EUNAVFOR ASPIDES laid down in Decision (CFSP) 2021/509.

Done at ...,

For the Council

The President
