

**EXPLANATORY MEMORANDUM ON THE EUROPEAN UNION'S
COMMON FOREIGN AND SECURITY POLICY**

**Council Decision in support of the Biological and Toxin Weapons
Convention (BTWC) in the framework of the EU Strategy against
Proliferation of Weapons of Mass Destruction**

Submitted by the Foreign and Commonwealth Office on 8 November 2018.

SUBJECT MATTER

1. The attached draft proposal for a Council Decision serves as an operational policy tool for the European Union to provide essential follow-up and momentum to the activities undertaken throughout 2016-2018 in the framework of Council Decision 2016/51/CFSP in support of the BTWC. Adoption of the Decision will help ensure the sustainability of activities set out in 2016/51/CFSP (see Annex C) and enhance the implementation of objectives reached as an outcome of the Meetings of States Parties to the BTWC held in December 2017 and 2018. The Decision is intended to support future discussions in the BTWC Meetings of Experts in 2019 and 2020, and inform preparations for the Ninth Review Conference of the States Parties to the BTWC in 2021.
2. The BTWC is the first multilateral disarmament treaty banning an entire category of weapons; it entered into force on 26 March 1975. The BTWC effectively prohibits the development, production, acquisition, transfer, stockpiling and use of biological and toxin weapons and is a key element in the international community's efforts to address the proliferation of weapons of mass destruction.
3. On 18 January 2016, the Council adopted Decision 2016/51/CFSP in support of the BTWC, in the framework of the EU Strategy against the proliferation of WMD. Seven more States became States Parties to the BTWC since the adoption of Decision 2016/51/CFSP and several States benefited from assistance provided by Union experts.
4. The duration of the new Decision will be 36 months. It will start once the financing agreement between the European Commission and the UN Office for Disarmament Affairs (UNODA) has been concluded.

5. The Geneva Branch of the UNODA is the implementing agency for the current Council Decision, which aims to support the BTWC and the work of the BTWC Implementation Support Unit (ISU) on the international, regional and national levels through six major projects:

- Project I Support for BTWC universalisation
- Project II Capacity Development in support of BTWC national implementation
- Project III Fostering biosecurity networks in the Global South
- Project IV Support for the inter-sessional programme and preparations for the Ninth Review Conference of the BTWC
- Project V Preparedness of States Parties to prevent and respond to attacks involving biological agents
- Project VI Enabling tools for outreach, education and engagement.

6. In line with the 2003 EU Strategy against proliferation of Weapons of Mass Destruction, the EU is a firm supporter of the BTWC. As part of the Strategy, the EU has committed itself to working towards universal adherence to key disarmament and non-proliferation treaties and agreements, including the BTWC. The UK is one of three States that act as depositaries of the BTWC, and works closely with the BTWC Implementation Support Unit (ISU) and is a strong supporter of its work.

SCRUTINY HISTORY

7. An explanatory memorandum on this issue was last submitted for Parliamentary scrutiny on 10 December 2015. The document was cleared at the House of Lords Chairman's sift on 22 December 2015. The House of Commons European Scrutiny Committee cleared the document as "not legally or politically important" on 16 December 2015 (ESC 37382, 15th Report, Session 2015/16).

MINISTERIAL RESPONSIBILITY

8. The Secretary of State for Foreign and Commonwealth Affairs is the Minister with overall responsibility for UK policy on the EU's Common Foreign and Security Policy.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

9. The UK's Foreign Affairs policy is a reserved matter under the UK's devolution settlements and no devolved administration interests arise. The devolved administrations have therefore not been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

10. This project supports the implementation of the EU Strategy (EU Strategy) against Proliferation of Weapons of Mass Destruction adopted on 12 December 2003, and in particular gives effect to the measures listed in Chapter III of the Strategy through releasing financial resources to support specific projects conducted by multilateral institutions.
11. Legal Basis: Articles 28(1) and 31(1) of the Treaty on European Union.
12. Voting Procedures: Unanimity.
13. Impact on UK Law: The Decision will be binding on the UK (but this is not a proposal for legislation).
14. Application to Gibraltar: Yes (but this is not a proposal for legislation).
15. Fundamental rights analysis: No fundamental rights issues apply.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

16. None.

SUBSIDIARITY

17. The EU and its Member States make an important contribution to implementation of EU Strategy. The support provided by EU institutions and Member States is complementary and coordinated through various international fora, including the Council of the EU Working Party on Non-Proliferation.

POLICY IMPLICATIONS (including Exit implications where appropriate)

18. On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. The Government respected the result and triggered Article 50 of the Treaty on European Union on 29 March 2017 to begin the process of exit. The UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force, until the formal conclusion of the UK's departure. During this period, the Government will also continue to negotiate, implement and apply EU legislation.
19. Support for this project is in line with the UK National Security Strategy and Strategic Defence and Security Review (2015), The National Counter Proliferation Strategy (2016), the EU Strategy against the Proliferation of Weapons of Mass Destruction (2003) and the UK Biological Security Strategy 2018.
20. After the UK leaves the EU, the UK will continue to have a strong interest in preventing the use of biological weapons. Therefore the activities supported by this Council Decision will therefore continue to contribute to UK objectives to counter the proliferation and use of biological weapons after the UK leaves the EU. We do not as yet know if the UK will be expected to contribute to EU assistance in this area beyond 29 March.

CONSULTATION

21. Not applicable.

REGULATORY IMPACT ASSESSMENT

22. Not applicable.

FINANCIAL IMPLICATIONS

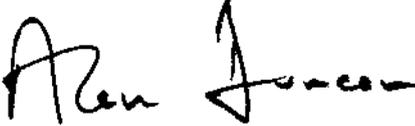
23. The EU has yet to agree a budget for this Council Decision so we will update Parliament once a budget has been approved and funding information becomes available. However, the EU has confirmed that this decision will be funded through the 2019 CFSP budget once agreed and no co-funding of the activities under this Decision from EU MS is foreseen. So no additional UK funding is expected.

TIMETABLE

24. The Council Decision is expected to be tabled for adoption in January 2019.

OTHER OBSERVATIONS

25. None.

A handwritten signature in black ink that reads "Alan Duncan". The signature is written in a cursive, slightly stylized font.

Rt Hon Sir Alan Duncan MP
Minister for Europe and the Americas
Foreign and Commonwealth Office