(Acts adopted under Title V of the Treaty on European Union)

COUNCIL JOINT ACTION 2004/494/CFSP

of 17 May 2004

on European Union support to the establishment of the Integrated Police Unit in the Democratic Republic of the Congo (DRC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14 thereof,

Whereas:

(1) On 26 January 2004, the Council adopted Common Position 2004/85/CFSP concerning conflict prevention, management and resolution in Africa [1].

(2) The European Union, through Operation Artemis conducted in the DRC during 2003 under Joint Action 2003/423/CFSP of 5 June 2003 on the EU Military Operation in the Democratic Republic of the Congo [2], has already taken concrete steps to contribute to the re-establishment of security within the DRC.

(3) On 14 December 2000, the Council adopted Joint Action 2000/792/CFSP [3] appointing Mr Aldo Ajello as the Special Representative of the European Union for the African Great Lakes Region, and repealing Joint Action 96/250/CFSP. The Joint Action was last amended and extended by Joint Action 2003/869/CFSP of 8 December 2003 [4].

(4) The Council on 29 September 2003 adopted Common Position 2003/680/CFSP [5] amending Common Position 2002/829/CFSP on the supply of certain equipment to the Democratic Republic of the Congo.

(5) The global and all-inclusive Agreement on the transition in the Democratic Republic of the Congo, signed in Pretoria on 17 December 2002 and the Memorandum on Security and the Army of 29 June 2003 provided for the establishment of an Integrated Police Unit (IPU).

(6) On 28 July 2003 the United Nations Security Council adopted Resolution 1493 (2003) in which it expresses satisfaction at the promulgation, on 4 April 2003, of the Transitional Constitution in the Democratic Republic of the Congo and at the formation, announced on 30 June 2003, of the Government of National Unity and Transition. It also encourages donors to support the establishment of an integrated Congolese police unit and approves the provision by the United Nations Organisation Mission in the Democratic Republic of the Congo (MONUC) of the additional assistance that might be needed for its training.

(7) The current security situation in the DRC may deteriorate with potentially serious repercussions on the process of strengthening of democracy, the rule of law and international and regional security. A commitment of EU political effort and resources will help to embed stability in the region.

(8) On 20 October 2003, the government of the DRC addressed an official request to the High Representative for the CFSP for European Union assistance in setting up the IPU, which should contribute to ensuring the protection of the State institutions and reinforce the internal security apparatus.

(9) The Commission has adopted a financing decision on the European Development Fund (EDF) for a project which includes technical assistance, rehabilitation of the training centre and the provision of equipment for the IPU (with the exception of arms and anti-riot equipment), as well as adequate training.

(10) As a prerequisite to the training of the IPU and to its functioning later on, EU Member States have agreed to provide contributions, either financially or in kind. In addition to the Member State contributions, the European Union will offer financial assistance for the setting up of the IPU from the EU Budget.

(11) All these contributions and assistance should be subject to conditions on use regarding notably auditing, accountability and traceability to be laid down in a Memorandum of Understanding between the contributors and the DRC.

(12) The Council may decide that the EDF project and the provision of law enforcement equipment, arms and ammunition to the IPU as appropriate be followed by an European Security and Defence Policy (ESDP) component for monitoring, mentoring and advising,

[1] OJ L 21, 28.1.2004, p. 25.
[2] OJ L 143, 11.6.2003, p. 50.
[3] OJ L 318, 16.12.2000, p. 1.
[4] OJ L 326, 13.12.2003, p. 37.
[5] OJ L 249, 1.10.2003, p. 64.

HAS ADOPTED THIS JOINT ACTION:

Article 1

1. The European Union shall support the process of the consolidation of internal security in the DRC, which is an essential factor for the peace process and the development of the country, through assistance to the setting up of an Integrated Police Unit (IPU) in Kinshasa.

2. To that end, and in addition to the EDF funded activities, the European Union and its Member States will contribute with funds and/or contributions in kind to provide the government of the DRC with the law enforcement equipment, arms and ammunition as set out in Annex I, including transport costs to Kinshasa where relevant, identified as necessary for the establishment of the IPU.

Article 2

1. For the purpose mentioned in Article 1, and subject to certain conditions, notably that solid guarantees are put in place for auditing, accountability and traceability of the law enforcement equipment, arms and ammunition:

(a) Member States have agreed to provide contributions;

(b) the European Union shall provide financial assistance to the DRC government in addition to the contributions provided by the Member States, which will take the form of a grant.

2. The maximum degree of consistency possible shall be sought with regard to the conditions applied to the contributions and assistance provided for in paragraph 1.

Article 3

1. A Memorandum of Understanding shall be prepared by the Commission's technical assistance team in Kinshasa, in close consultation with contributing Member States, regarding the conditions for the use of the contributions referred to in Article 2(1)(a). It will be signed by the government of the DRC, on the one hand, and by the Presidency, on the other hand.

2. The Memorandum of Understanding will in particular stipulate:

— conditions for auditing, accountability and traceability, including safe storage, of Member State contributions as set out in Annex II, which will be no less stringent than those applicable to the financing agreement referred to in Article 5(2);

— that conditions for operating and managing these funds, including procurement, shall as far as possible be the same as for the grant referred in Article 5(2);

— that all financial contributions shall be made directly to the DRC Ministry of the Interior, to the same bank account into which the financial assistance by the EU is transmitted to the DRC government. A triple signatory arrangement would apply (government of the DRC, Technical Assistant/police head of project and the acting EU Presidency). Purchases made with these funds would formally be purchases made by the government of the DRC;

— that all in kind contributions by the Member States shall be provided to, and become the property of, the DRC government and shall be used solely for the purposes stated in Article 1;

— that the Technical Assistant/police head of project will assist Member States that have agreed to make contributions in kind by providing all practical information necessary to smoothly channel those contributions to the DRC Ministry of the Interior;

— that a local Steering Committee, comprised of the Technical Assistant/police head of project, representatives of the Presidency, contributing Member States, the Commission, DRC Ministry of the Interior and MONUC, shall be set up to ensure overall follow-up. It shall in particular supervise compliance with the provisions of the Memorandum of Understanding. The DRC Ministry of Interior shall remain responsible for project implementation.

Article 4

The Technical Assistant/police head of project, appointed by the Commission on the basis of a proposal made by the Member States, shall closely monitor the use made by the DRC government of the contributions to which Article 2(1)(a) refers. He/she shall in particular, in close coordination with the DRC authorities, ensure compliance with the conditions set out in the Memorandum of Understanding, including those on auditing, accountability and traceability. The Technical Assistant/police head of project shall make regular reports to the acting Presidency and the Steering Committee referred to in Article 3(2).

Article 5

1. The financial reference amount for the financial assistance referred to in Article 2(1)(b) shall be EUR 585 000.

2. The Commission shall be entrusted with the implementation of the grant referred to in Article 2(1)(b). To that end, it shall conclude a financing agreement with the government of the DRC.

3. The management of the expenditure financed by the amount specified in paragraph 1 shall be subject to the Community procedures and rules applicable to the general budget of the European Union, with the exception that any pre-financing shall not remain the property of the Community. Nationals of third States shall be allowed to tender contracts.

Article 6

The Presidency and the Commission will report regularly to the Council through the latter's relevant bodies, in particular the Political and Security Committee, on the implementation of this Joint Action, and especially on the activities of the steering committee.

In the political implementation of this Joint Action, the acting Presidency in Kinshasa will be closely supported by the Commission.

The EU Special Representative will be informed regarding developments of this project.

Article 7

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

It shall be reviewed at the end of the EDF project or at any other moment as appropriate.

Article 8

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

Done at Brussels, 17 May 2004.

For the Council

The President

B. COWEN

ANNEX I

INDICATIVE LIST OF LAW ENFORCEMENT EQUIPMENT, ARMS AND AMMUNITION REFERRED TO IN ARTICLE 1

The following list is indicative: some additions or substitutions may be necessary.

Law enforcement equipment

Riot helmets	1 008
Deflective shields	240
Riot boots	1 008
Shinguards	950
Shoulder pads (pairs)	950
Deflective arm protectors	950
Batons	1 008
Baton holders	1 008
Belts	1 008
Handcuffs	1 000
Masks	950
Riot clothing (set)	1 008
Grenade pouches	193
Plastic handcuffs	1 000
Extinguishers	100

Arms

Automatic pistols	1 008
Sub machine guns	300
Riot Guns	100
Grenade launcher (rifle)	100

Ammunition (per unit)

Tear smoke cartridges	2 000
Rifle grenades	5 000
Hand grenades	5 000
9mm ammunition	500

Other

Briefcases	200
Binoculars	116
Conspicuity vests (traffic)	200
Whistles	1 008
Compasses	1 000
Protective jackets	400

ANNEX II

CONTRIBUTIONS BY THE MEMBER STATES REFERRED TO IN ARTICLE 3(2)

1. The following Member States have agreed to make contributions in kind: Belgium, Germany and Hungary.

2. The following Member States have agreed to make financial contributions: The Netherlands, the UK, Sweden [1], Luxembourg, Ireland and Denmark.

3. Member States have agreed to make contributions, whether financial or in kind, subject to the condition that solid guarantees are put in place to ensure:

   (a) full compliance with Member State and EU procedures and obligations relevant to the export of law enforcement equipment, arms and ammunition;

   (b) full traceability of all law enforcement equipment, arms and ammunition provided to the IPU. All law enforcement equipment, arms and ammunition, donated or purchased with financial contributions, shall be listed in a continually updated inventory, including serial numbers. All law enforcement equipment, arms and ammunition shall be traceable for the entire duration of the project. All law enforcement equipment, arms and ammunition provided shall be for the use of the IPU alone, and must not be diverted to any other unit or non-police group or user or re-exported;

   (c) the strictest accountability for all funds and law enforcement equipment, arms and ammunition. The government of the DRC shall account fully for the use of Member States' contributions, both financial or in kind, for the sole purpose described in Article 1;

   (d) the proper and effective auditing of expenditure. An independent auditor shall certify that funds are used for the purpose described in Article 1.

4. The Danish financial contribution shall be subject to the additional condition that it shall be used in accordance with OECD DAC Guidelines for Development Assistance and will be reported to the DAC Committee as official Danish Development Assistance.

[1] Subject to necessary national procedures.