

COUNCIL DECISION (CFSP) 2022/2441**of 12 December 2022****amending Joint Action 2008/851/CFSP on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast**

THE COUNCIL OF THE EUROPEAN UNION,

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

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

Whereas:

- (1) On 10 November 2008, the Council adopted Joint Action 2008/851/CFSP ⁽¹⁾ establishing the EU military operation Atalanta.
- (2) On 22 December 2020, Council Decision (CFSP) 2020/2188 ⁽²⁾ amended Joint Action 2008/851/CFSP and extended Atalanta until 31 December 2022.
- (3) Decision (CFSP) 2020/2188 extended the task of Atalanta of contributing to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast and of protecting vessels of the World Food Programme (WFP) delivering food aid to displaced persons in Somalia as well as protecting vulnerable vessels cruising off the coast of Somalia. It also provided that, in addition, Atalanta would contribute, as secondary executive tasks, to the implementation of the United Nations arms embargo on Somalia in accordance with United Nations Security Council (UNSC) Resolution 2182 (2014) and to countering narcotic drugs trafficking off the coast of Somalia in the context of the United Nations Convention on the Law of the Sea and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988. It furthermore provided that Atalanta would monitor, as a secondary non-executive task, narcotic drugs trafficking, arms trafficking, illegal, unreported and unregulated (IUU) fishing and illicit trade in charcoal off the coast of Somalia in accordance with UNSC Resolutions 2498 (2019) and 2500 (2019) and consistent with the United Nations Convention against Illicit Traffic In Narcotic Drugs And Psychotropic Substances of 20 December 1988.
- (4) The Council in its conclusions of 22 June 2021 recalled that 'maritime security aims to ensure a free and peaceful use of the seas and is a prerequisite for safe, clear and secure oceans and seas for all types of activities, and a clear priority for the European Union and its Member States for the protection of their strategic interests'. The Council highlighted 'the significant and long-standing contribution to maritime security made by the European Union's Common Security and Defence Policy maritime operations, including EUNAVFOR ATALANTA, in order to confront and ultimately eliminate piracy in the Indian Ocean'.
- (5) On 15 November 2021, UNSC Resolution 2607 (2021) in particular renewed and expanded the provisions set out in paragraph 15 of Resolution 2182 (2014) and the authorisation regarding inspections to implement the arms embargo on Somalia and the ban on charcoal exports from Somalia.
- (6) On 3 December 2021, UNSC Resolution 2608 (2021) renewed its call upon States and regional organisations that are able to do so to take part in the fight against piracy and armed robbery at sea off the coast of Somalia, in particular, consistent with the same resolution and with international law, by deploying naval vessels, arms, and military aircraft, by providing basing and logistical support for counter-piracy forces, and by seizing and disposing

⁽¹⁾ Council Joint Action 2008/851/CFSP of 10 November 2008 on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (OJ L 301, 12.11.2008, p. 33).

⁽²⁾ Council Decision (CFSP) 2020/2188 of 22 December 2020 amending Joint Action 2008/851/CFSP on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (OJ L 435, 23.12.2020, p. 74).

of boats, vessels, arms, and other related equipment used in the commission of piracy and armed robbery at sea off the coast of Somalia, or for which there are reasonable grounds for suspecting such use, recognised the successful prosecution of piracy cases by Seychelles and urged all States to share information with INTERPOL, for use in the global piracy database, through appropriate channels.

- (7) The Council in its conclusions of 21 February 2022 launched the implementation of the Coordinated Maritime Presences concept in the North-Western Indian Ocean by establishing a Maritime Area of Interest covering the maritime area from the strait of Hormuz to the Southern Tropic and from the north of the Red Sea towards the centre of the Indian Ocean.
- (8) In that context, Atalanta's Strategic Review in 2022 led to the conclusion that the operation's mandate should be extended to 31 December 2024 and enlarged to maritime security off the coast of Somalia and in the Red Sea, while the ongoing tasks should be continued. In addition, a dialogue with the European-led Maritime Situation Awareness in the Strait of Hormuz (EMASOH) initiative and its military component, Operation Agénor should be pursued in order to develop further links and synergies. Equally, synergies with the Coordinated Maritime Presence in the North-Western Indian Ocean should be sought. Furthermore, the operation should establish a mechanism to share information on suspected IUU fishing with the Federal Government of Somalia through the Interpol National Central Bureau in Mogadishu.
- (9) Joint Action 2008/851/CFSP should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Joint Action 2008/851/CFSP is amended as follows:

- (1) in the title, the phrase 'on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast' is replaced by the following:

'on a European Union military operation to contribute to maritime security in the West Indian Ocean and in the Red Sea (EUNAVFOR ATALANTA)';

- (2) throughout the text, the name 'Atalanta' is replaced by the name 'EUNAVFOR ATALANTA';

- (3) in Article 1, paragraph 1 is replaced by the following:

'1. The European Union (EU) shall conduct a military operation to contribute to maritime security in the West Indian Ocean and in the Red Sea (EUNAVFOR ATALANTA).

1a. In support of Resolutions 1814 (2008), 1816 (2008), 1838 (2008), 1846 (2008) and 1851 (2008) and subsequent relevant Resolutions of the United Nations Security Council (UNSC), in a manner consistent with action permitted with respect to piracy under Article 100 et seq. of the United Nations Convention on the Law of the Sea signed in Montego Bay on 10 December 1982 (hereinafter referred to as "the United Nations Convention on the Law of the Sea") and by means, in particular, of commitments made with third States, EUNAVFOR ATALANTA shall contribute to:

- the protection of vessels of the WFP delivering food aid to displaced persons in Somalia, in accordance with the mandate laid down in UNSC Resolution 1814 (2008), and
- the protection of vulnerable vessels cruising off the Somali coast, and the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast, in accordance with the mandate laid down in UNSC Resolutions 1846 (2008) and 1851 (2008).;

(4) Article 8 is replaced by the following:

'Article 8

Coherence of EU response

1. The HR, the EU Operation Commander and the EU Force Commander shall closely coordinate their respective activities regarding the implementation of this Joint Action.

2. EUNAVFOR ATALANTA shall coordinate closely with the European Union military mission to contribute to the training of Somali security forces (EUTM Somalia), with the European Union Capacity Building Mission in Somalia (EUCAP Somalia) and with the Coordinated Maritime Presences in the North Western Indian Ocean. It shall cooperate with operation AGENOR and shall exchange information with the European-led Maritime Situation Awareness in the Strait of Hormuz (EMASOH) initiative.

3. EUNAVFOR ATALANTA shall support, within means and capabilities, the relevant Union programmes.;

(5) in Article 14, the following paragraph is added:

'8. The financial reference amount for the common costs of the EU military operation for the period from 1 January 2023 until 31 December 2024 shall be EUR 10 400 000. The percentage of the reference amount referred to in Article 51(2) of Council Decision (CFSP) 2021/509 (*) shall be 0 % for commitments and 0 % for payments.

(*) 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).;

(6) in Article 15, paragraph 5 is replaced by the following:

'5. EUNAVFOR ATALANTA is hereby authorised to release to INTERPOL, in accordance with Article 2(h), and to EUROPOL, in accordance with Article 2(i), information gathered on illegal activities other than piracy during the course of its operations. In addition, EUNAVFOR ATALANTA is hereby authorised to transmit to the Interpol National Central bureau in Mogadishu information gathered on suspected IUU fishing in the course of its operations.;

(7) in Article 16, paragraph 3 is replaced by the following:

'3. EUNAVFOR ATALANTA shall terminate on 31 December 2024.;

Article 2

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

Done at Brussels, 12 December 2022.

For the Council
The President
J. BORRELL FONTELLES
