
Chapter 31 Screening

Foreign, Security and Defense Policy,
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Legal effect of CFSP/ESDP Acts

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CFSP LEGAL ORDER

The CFSP legal order (Title V of the TEU)

- The decision-making power of the Council (Art. 13(3))
- The legal instruments of the CFSP; common strategies (Art. 13(2)), joint actions (Art. 14), common positions (Art. 15); implementing decisions (Art. 23(2)); decisions on the conclusion of international agreements (Art. 24); decisions appointing EU Special Representatives (Art. 18(5))
- The general obligation of Member States to refrain from any action contrary to the interests of the Union (Art. 11(2))

JOINT ACTIONS AND COMMON POSITIONS

The binding effect of joint actions and common positions

- Art. 14(3): *“Joint actions shall commit Member States in the positions they adopt and in the conduct of their activity”.*
- Art. 15: *“Member States shall ensure that their national policies conform to the common positions.”*
- Art. 19(1): *“Member States shall coordinate their action in international organisations and at international conferences. They shall uphold the common positions in such forums.”*

INTERNATIONAL AGREEMENTS CONCLUDED BY EU

The binding effect of international agreements concluded by the EU

- The procedure for the negotiation and conclusion of international agreements (Art. 24)
- Art. 24(5): *“No agreement shall be binding on a Member State whose representative in the Council states that it has to comply with the requirements of its own constitutional procedure; the other members of the Council may agree that the agreement shall nevertheless apply provisionally.”*

IMPLEMENTING JOINT ACTIONS AND COMMON POSITIONS

Decisions implementing joint actions or common positions (Art. 23(2))

- Implementation of specific projects (e.g. in the area of non-proliferation)
- Modification of lists of persons targeted by restrictive measures
- Modification of financial reference amounts

Decisions adopted by the PSC under Art. 25(3) in the context of EU crisis management operations

- Setting-up of a committee of contributors
- Acceptance of contributions from third states
- Appointment of the head of mission
- Modifications of the OPLAN

RESTRICTIVE MEASURES (SANCTIONS)

Restrictive measures (sanctions) adopted by the EU

- Types of restrictive measures: trade embargo, restrictions on admission (“visa ban”)
- Implementation of UN measures and “autonomous” sanctions
- The common position as the relevant legal instrument
- Common position as a legal precondition for the adoption of implementing measures by the Community

LINKS TO MAIN ACQUIS

- **Treaties:** <http://europa.eu.int/eur-lex/lex/en/treaties/index.htm>
- **CFSP/ESDP Legal Acts:** <http://eur-lex.europa.eu/en/repert/18.htm>
- **International Agreements :**
http://www.consilium.europa.eu/cms3_fo/showPage.asp?lang=en&id=252&mode=g&name=
- **Sanctions:** http://ec.europa.eu/comm/external_relations/cfsp/sanctions/measures.htm