

**AGREEMENT****between the European Union and the Republic of Korea establishing a framework for the participation of the Republic of Korea in European Union crisis management operations**

THE EUROPEAN UNION (the 'Union') or (the 'EU')

of the one part, and

THE REPUBLIC OF KOREA

of the other part,

hereinafter referred to as the 'Parties',

Whereas:

- (1) The Union may decide to take action in the field of crisis management, including peace-keeping operations or humanitarian operations.
- (2) The Union will decide whether third States will be invited to participate in an EU crisis management operation. The Republic of Korea may accept the invitation by the Union and offer its contribution. In such case, the Union will decide on the acceptance of that proposed contribution.
- (3) Conditions regarding the participation of the Republic of Korea in EU crisis management operations should be laid down in an agreement establishing a framework for such possible future participation, rather than defining these conditions on a case-by-case basis for each operation concerned.
- (4) Such an agreement should be without prejudice to the decision-making autonomy of the Union, and should not prejudice the case-by-case nature of the decision for the Republic of Korea to participate in an EU crisis management operation, in accordance with its legal system.
- (5) Such an agreement should only address future EU crisis management operations and should be without prejudice to any existing agreements regulating the participation of the Republic of Korea in an EU crisis management operation that has already been deployed.

HAVE AGREED AS FOLLOWS:

**SECTION I****GENERAL PROVISIONS***Article 1***Decisions relating to participation**

1. Following a decision of the Union to invite the Republic of Korea to participate in an EU crisis management operation, the Union shall exchange all relevant information and assessments related to that operation with a view to facilitating the consideration, by the Republic of Korea, of the Union's invitation.
2. The Union shall provide the Republic of Korea with an early indication of the likely Korean contribution to the common costs or to the costs as set out in the operational budget, in accordance with Articles 8 and 12, with a view to assisting the Republic of Korea in the formulation of any proposed contribution.

3. Once the Republic of Korea has decided to propose a contribution, the Republic of Korea shall determine and provide information on its proposed contribution to the Union, including on the composition of any contingent of Korean personnel.
4. The Union shall assess the Korean contribution in consultation with the Republic of Korea. The Republic of Korea may choose to revise its proposed contribution at any time during the consultation and assessment process.
5. The Union shall communicate the outcome of its assessment and decision on the proposed Korean contribution to the Republic of Korea in writing with a view to securing the participation of the Republic of Korea, in accordance with the provisions of this Agreement.
6. The Republic of Korea may, on its own initiative or at the request of the Union, and following consultations between the Parties, withdraw wholly or in part, at any time, from participation in an EU crisis management operation.

#### *Article 2*

#### **Framework**

1. The Republic of Korea shall associate itself with the Council Decision by which the Council of the European Union decides that the Union will conduct the crisis management operation, and with any other Decision by which the Council of the European Union decides to extend the EU crisis management operation, in accordance with the provisions of this Agreement and any required implementing arrangements.
2. The contribution of the Republic of Korea to an EU crisis management operation shall be without prejudice to the decision-making autonomy of the Union.

#### *Article 3*

#### **Status of personnel and forces of the Republic of Korea**

1. The status of personnel seconded to an EU civilian crisis management operation and/or of the forces contributed to an EU military crisis management operation by the Republic of Korea shall be governed by the agreement on the status of forces/mission, if concluded, between the Union and the State(s) in which the operation is conducted.
2. The status of personnel contributed to headquarters or command elements located outside the State(s) in which the EU crisis management operation takes place, shall be governed by arrangements between the headquarters and command elements concerned and the competent authorities of the Republic of Korea.
3. Without prejudice to the agreement on the status of forces/mission referred to in paragraph 1, the Republic of Korea shall exercise jurisdiction over its personnel participating in the EU crisis management operation. Where the forces of the Republic of Korea operate on board a vessel or aircraft of a Member State of the European Union, the latter State may exercise jurisdiction subject to any existing and/or future agreements and in accordance with its laws and regulations and with international law.
4. The Republic of Korea shall be responsible for answering any claims linked to the participation in an EU crisis management operation, from any of its personnel and shall be responsible for bringing any action, in particular legal or disciplinary action, against any of its personnel in accordance with its laws and regulations.

5. The Parties agree to waive any and all claims, other than contractual claims, against each other for damage to, loss of, or destruction of assets owned or operated by either Party, or injury or death to personnel of either Party, arising out of the performance of their official duties in connection with activities under this Agreement, except in the case of gross negligence or wilful misconduct.
6. The Republic of Korea undertakes to make a declaration as regards the waiver of claims against any State participating in an EU crisis management operation in which the Republic of Korea participates, and to do so when signing this Agreement.
7. The Union undertakes to ensure that the Member States of the European Union make a declaration as regards the waiver of claims, for any future participation of the Republic of Korea in an EU crisis management operation, and to do so when signing this Agreement.

#### *Article 4*

### **Classified information**

1. The Republic of Korea shall take appropriate measures to ensure that EU classified information is protected in accordance with the security regulations of the Council of the European Union, contained in Council Decision 2013/488/EU <sup>(1)</sup>, and in accordance with further guidance issued by competent authorities, including by the EU Operation Commander concerning an EU military crisis management operation, or by the Head of Mission concerning an EU civilian crisis management operation.
2. Where the Parties conclude an agreement on security procedures for the exchange of classified information, such agreement shall apply in the context of an EU crisis management operation.

#### SECTION II

### **PROVISIONS ON PARTICIPATION IN CIVILIAN CRISIS MANAGEMENT OPERATIONS**

#### *Article 5*

### **Personnel seconded to an EU civilian crisis management operation**

1. The Republic of Korea:
  - (a) shall ensure that its personnel seconded to the EU civilian crisis management operation undertake their mission in accordance with:
    - (i) the Council Decision and subsequent amendments as referred to in Article 2(1);
    - (ii) the Operation Plan;
    - (iii) implementing measures.
  - (b) shall inform in due time the Head of Mission and the High Representative of the Union for Foreign Affairs and Security Policy ('HR') of any change to its contribution to the EU civilian crisis management operation.
2. Personnel seconded by the Republic of Korea to an EU civilian crisis management operation shall undergo a medical examination, vaccination and be certified medically fit for duty by its competent authority and shall produce a copy of that certification.
3. Personnel seconded by the Republic of Korea shall carry out their duties and conduct themselves solely with the interests of the EU civilian crisis management operation in mind.

<sup>(1)</sup> 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).

*Article 6***Chain of command**

1. All personnel shall remain under the full command of their national authorities.
2. National authorities shall transfer operational control to the Civilian Operation Commander of the Union.
3. The Civilian Operation Commander shall assume responsibility and exercise command and control of the EU civilian crisis management operation at strategic level.
4. The Head of Mission shall assume responsibility and exercise command and control of the EU civilian crisis management operation at theatre level and assume its day-to-day management.
5. The Republic of Korea shall have the same rights and obligations in terms of day-to-day management of the operation as the Member States of the European Union taking part in the operation, in accordance with the legal instruments referred to in Article 2(1).
6. The Head of Mission shall be responsible for disciplinary control over the personnel of the EU civilian crisis management operation. Where required, disciplinary action shall be taken by the national authority concerned.
7. A National Contingent Point of Contact ('NPC') shall be appointed by the Republic of Korea to represent its national contingent in the operation. The NPC shall report to the Head of Mission on national matters and shall be responsible for the day-to-day discipline of the contingent.
8. The decision to end the operation shall be taken by the Union, following consultation with the Republic of Korea if it is still contributing to the EU civilian crisis management operation at the date of termination of the operation.

*Article 7***Financial aspects**

1. Without prejudice to Article 8, the Republic of Korea shall assume all the costs associated with its participation in the operation apart from the running costs, as set out in the operational budget of the operation.
2. In case of death, injury, loss or damage to natural or legal persons from the State(s) in which the operation is conducted, the Republic of Korea shall, when its liability has been established, pay compensation under the conditions provided for in the applicable status of mission agreement referred to in Article 3(1).

*Article 8***Contribution to operational budget**

1. Subject to paragraph 4, the Republic of Korea shall contribute to the financing of the operational budget of the EU civilian crisis management operation.
2. Such contribution to the operational budget shall be calculated on the basis of either of the following formulae, whichever produces the lower amount:
  - (a) the share of the reference amount which is in proportion to the ratio of the Republic of Korea's gross national income (GNI) to the total GNIs of all States contributing to the operational budget of the operation; or
  - (b) the share of the reference amount for the operational budget which is in proportion to the ratio of the number of personnel from the Republic of Korea participating in the operation to the total number of personnel of all States participating in the operation.

3. Notwithstanding paragraphs 1 and 2, the Republic of Korea shall not make any contribution towards the financing of per diem allowances paid to personnel of the Member States of the European Union.
4. Notwithstanding paragraph 1, the Union shall, in principle, exempt the Republic of Korea from financial contributions to a particular EU civilian crisis management operation when:
  - (a) the Union decides that the Republic of Korea provides a significant contribution which is essential for that operation; or
  - (b) the Republic of Korea has a GNI per capita which does not exceed that of any Member State of the Union.
5. Subject to paragraph 1, any arrangement on the payment of the contributions of the Republic of Korea to the operational budget of the EU civilian crisis management operation shall be signed between the competent authorities of the Parties and shall, inter alia, include the following provisions on:
  - (a) the amount of the financial contribution concerned;
  - (b) the arrangements for payment of the financial contribution; and
  - (c) the auditing procedure.

### SECTION III

#### PROVISIONS ON PARTICIPATION IN MILITARY CRISIS MANAGEMENT OPERATIONS

##### *Article 9*

#### **Participation in an EU military crisis management operation**

1. The Republic of Korea shall ensure that its forces and personnel participating in an EU military crisis management operation undertake their mission in accordance with:
  - (a) the Council Decision and subsequent amendments as referred to in Article 2(1);
  - (b) the Operation Plan; and
  - (c) implementing measures.
2. The Republic of Korea shall inform the EU Operation Commander in due time of any change to its participation in the operation.
3. Personnel seconded by the Republic of Korea shall carry out their duties and conduct themselves solely with the interest of the EU military crisis management operation in mind.

##### *Article 10*

#### **Chain of command**

1. All forces and personnel participating in the EU military crisis management operation shall remain under the full command of their national authorities.
2. National authorities shall transfer the Operational and Tactical control of their forces and personnel to the EU Operation Commander, who is entitled to delegate his authority.
3. The Republic of Korea shall have the same rights and obligations in terms of the day-to-day management of the operation as the Member States of the European Union taking part in the operation, in accordance with the legal instruments referred to in Article 2(1).
4. The EU Operation Commander may, following consultations with the Republic of Korea, at any time request the withdrawal of the contribution by the Republic of Korea.

5. A Senior Military Representative ('SMR') shall be appointed by the Republic of Korea to represent its national contingent in the EU military crisis management operation. The SMR shall consult with the EU Force Commander on all matters affecting the operation and shall be responsible for the day-to-day discipline of the Republic of Korea contingent.

#### Article 11

##### Financial aspects

1. Without prejudice to Article 12 of this Agreement, the Republic of Korea shall assume all the costs associated with its participation in the operation unless the costs are subject to common funding as provided for in the legal instruments referred to in Article 2(1), as well as in Council Decision 2011/871/CFSP <sup>(1)</sup>.

2. In case of death, injury, loss or damage to natural or legal persons from the State(s) in which the operation is conducted, the Republic of Korea shall, when its liability has been established, pay compensation under the conditions provided for in the applicable status of forces agreement referred to in Article 3(1).

#### Article 12

##### Contribution to the common costs

1. Subject to paragraph 3, the Republic of Korea shall contribute to the financing of the common costs of the EU military crisis management operation.

2. Such contribution to the common costs shall be calculated on the basis of either of the following formulae, whichever produces the lower amount:

(a) the share of the common costs which is in proportion to the ratio of the Republic of Korea's GNI to the total GNIs of all States contributing to the common costs of the operation; or

(b) the share of the common costs which is in proportion to the ratio of the number of personnel from the Republic of Korea participating in the operation to the total number of personnel of all States participating in the operation.

Where the formula under point (b) is used and the Republic of Korea contributes personnel only to the Operation or Force Headquarters, the ratio used shall be that of its personnel to that of the total number of the respective headquarters personnel. In other cases, the ratio shall be that of all personnel contributed by the Republic of Korea to that of the total personnel of the operation.

3. Notwithstanding paragraph 1, the Union shall, in principle, exempt the Republic of Korea from financial contributions to the common costs of a particular EU military crisis management operation when:

(a) the Union decides that the Republic of Korea provides a significant contribution which is essential for that operation; or

(b) the Republic of Korea has a GNI per capita which does not exceed that of any Member State of the Union.

4. Subject to paragraph 1, any arrangement on the payment of the contributions of the Republic of Korea to the common costs shall be concluded between the competent authorities of the Parties and shall include, inter alia, the following provisions on:

(a) the amount of the financial contribution concerned;

(b) the arrangements for payment of the financial contribution; and

(c) the auditing procedure.

<sup>(1)</sup> Council Decision 2011/871/CFSP of 19 December 2011 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) (OJ L 343, 23.12.2011, p.35).

## SECTION IV

## FINAL PROVISIONS

## Article 13

**Arrangements to implement the Agreement**

Without prejudice to Articles 8(5) and 12(4), any necessary technical and administrative arrangements in pursuance of the implementation of this Agreement shall be concluded between the competent authorities of the Parties.

## Article 14

**Non-compliance**

Should either Party fail to comply with its obligations under this Agreement, the other Party shall have the right to terminate this Agreement by written notice of one month.

## Article 15

**Dispute settlement**

Disputes concerning the interpretation or application of this Agreement shall be settled by diplomatic means between the Parties.

## Article 16

**Entry into force, Duration, and Termination**

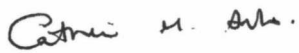
1. This Agreement shall enter into force on the first day of the first month after the Parties have notified each other of the completion of the internal legal procedures necessary for its entry into force.
2. This Agreement shall be subject to regular review.
3. This Agreement may be amended on the basis of a mutual written agreement between the Parties. The amendments shall enter into force in accordance with the procedure laid down in paragraph 1.
4. This Agreement shall remain in force for an initial period of five years, and shall thereafter be automatically extended for successive periods of five years unless either Party notifies the other Party of its intention to terminate this Agreement, in writing, at least six months before such expiry date.

IN WITNESS WHEREOF, the undersigned, both being duly authorized thereto by the respective Parties, have signed this Agreement.

Done at Seoul, on the twenty-third day of May in the year two thousand and fourteen in duplicate in the English and Korean languages, both texts being equally authentic. In case of any divergence of the interpretation, the English text shall prevail.

*For the European Union*

*For the Republic of Korea*



DECLARATION BY THE MEMBER STATES OF THE EU APPLYING AN EU COUNCIL DECISION ON AN EU CRISIS MANAGEMENT OPERATION, IN WHICH THE REPUBLIC OF KOREA PARTICIPATES REGARDING THE WAIVER OF CLAIMS

The EU Member States applying an EU Council Decision of an EU crisis management operation in which the Republic of Korea participates will endeavour, insofar as their internal legal systems so permit, to waive as far as possible any claims against the Republic of Korea for injury, death of their personnel, or damage to, or loss of, any assets owned by them and used by the EU crisis management operation if such injury, death, damage or loss:

- was caused by personnel, contributed by the Republic of Korea to an EU crisis management operation, in the execution of their duties in connection with the EU crisis management operation, except in case of gross negligence or wilful misconduct; or
- arose from the use of any assets owned by the Republic of Korea, provided that the assets were used in connection with the operation and except in the case of gross negligence or wilful misconduct by personnel contributed by the Republic of Korea to an EU crisis management operation, using those assets.’.

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DECLARATION BY THE REPUBLIC OF KOREA REGARDING THE WAIVER OF CLAIMS AGAINST ANY STATE PARTICIPATING IN EU CRISIS MANAGEMENT OPERATIONS

The Republic of Korea, having agreed to participate in an EU crisis management operation, will endeavour, insofar as its internal legal system so permits, to waive as far as possible any claims against any State participating in an EU crisis management operation for injury, death of its personnel, or damage to, or loss of, any assets owned by it and used by the EU crisis management operation if such injury, death, damage or loss:

- was caused by personnel in the execution of their duties in connection with the EU crisis management operation, except in case of gross negligence or wilful misconduct; or
  - arose from the use of any assets owned by States participating in the EU crisis management operation, provided that the assets were used in connection with the operation and except in the case of gross negligence or wilful misconduct by EU crisis management operation personnel using those assets.’.
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