AGREEMENT

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

THE EUROPEAN UNION,

of the one part, and

THE REPUBLIC OF TURKEY

of the other part,

hereinafter referred to as the 'Parties',

WHEREAS:

(1) The European Union (EU) may decide to take action in the field of crisis management.

(2) The European Union will decide whether third States will be invited to participate in an EU crisis management operation. The Republic of Turkey may accept the invitation by the European Union and offer its contribution. In such case, the European Union will decide on the acceptance of the proposed contribution of the Republic of Turkey.

(3) If the European Union decides to undertake a military crisis management operation with recourse to NATO assets and capabilities, the Republic of Turkey may express its intention in principle of taking part in the operation.

(4) The European Council at Brussels on 24 and 25 October 2002 has agreed modalities for implementation of the provisions agreed by the Nice European Council on 7 to 9 December 2000 on the involvement of the non-EU European NATO members in EU-led operations.

(5) Conditions regarding the participation of the Republic of Turkey 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.

(6) Such an Agreement should be without prejudice to the decision-making autonomy of the European Union, and should not prejudge the case-by-case nature of the decisions of the Republic of Turkey to participate in an EU crisis management operation.

(7) Such an Agreement should only address future EU crisis management operations and should be without prejudice to possible existing agreements regulating the participation of the Republic of Turkey in an already deployed EU crisis management operation,

HAVE AGREED AS FOLLOWS:

SECTION I

GENERAL PROVISIONS

Article 1

Decisions relating to participation

1. Following the decision of the European Union to invite the Republic of Turkey to participate in an EU crisis management operation, and once Republic of Turkey has decided to participate, the Republic of Turkey shall provide information on its proposed contribution to the European Union.

2. Where the European Union has decided to undertake a military crisis management operation with recourse to NATO assets and capabilities, the Republic of Turkey will inform the European Union of any intention to participate in the operation, and subsequently provide information on any proposed contribution.

3. The assessment by the European Union of the Republic of Turkey's contribution shall be conducted in consultation with the Republic of Turkey.

4. The European Union will provide the Republic of Turkey with an early indication of likely contribution to the common costs of the operation as soon as possible with a view to assisting the Republic of Turkey in the formulation of its offer.

5. The European Union shall communicate the outcome of the assessment to the Republic of Turkey by letter with a view to securing the participation of the Republic of Turkey in accordance with the provisions of this Agreement.

Article 2

Framework

1. The Republic of Turkey shall associate itself with the Joint Action by which the Council of the European Union decides that the EU will conduct the crisis management operation, and with any Joint Action or 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 Turkey to an EU crisis management operation is without prejudice to the decision-making autonomy of the European Union.

Article 3

Status of personnel and forces

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 Turkey shall be governed by the agreement on the status of forces/mission, if available, concluded between the European 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 Republic of Turkey.

3. Without prejudice to the agreement on the status of forces/mission referred to in paragraph 1, the Republic of Turkey shall exercise jurisdiction over its personnel participating in the EU crisis management operation.

4. The Republic of Turkey shall be responsible for answering any claims linked to the participation in an EU crisis management operation, from or concerning any of its personnel. The Republic of Turkey shall be responsible for bringing any action, in particular legal or disciplinary, against any of its personnel in accordance with its laws and regulations.

5. The Republic of Turkey 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 Turkey participates, and to do so when signing this Agreement. A model for such a declaration is annexed to this Agreement.

6. The European Union undertakes to ensure that Member States make a declaration as regards the waiver of claims against the Republic of Turkey, when it is participating in an EU crisis management operation, and to do so when signing this Agreement. A model for such a declaration is annexed to this Agreement.

Article 4

Classified information

1. The Republic of Turkey shall take appropriate measures to ensure that EU classified information is protected in accordance with the European Union Council's security regulations, contained in Council Decision 2001/264/EC of 19 March 2001 [1], and in accordance with further guidance issued by competent authorities, including the EU Operation Commander concerning an EU military crisis management operation or by the EU Head of Mission concerning an EU civilian crisis management operation.

2. If the EU receives classified information from the Republic of Turkey, that information shall be given protection appropriate to its classification and according to the standards established in the regulations for EU classified information.

3. Where the EU and the Republic of Turkey have concluded an agreement on security procedures for the exchange of classified information, the provisions of such an 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 Turkey shall ensure that its personnel seconded to the EU civilian crisis management operation undertake their mission in conformity with:

— the Joint Action and subsequent amendments as referred to in Article 2(1) of this Agreement,

— the Operation Plan,

— implementing measures.

2. The Republic of Turkey shall inform in due time the EU civilian crisis management operation Head of Mission and the General Secretariat of the Council of the European Union of any change to its contribution to the EU civilian crisis management operation.

[1] OJ L 101, 11.4.2001, p. 1. Decision as last amended by Decision 2005/952/EC (OJ L 346, 29.12.2005, p. 18).

3. Personnel seconded to the EU civilian crisis management operation shall undergo a medical examination, vaccination and be certified medically fit for duty by a competent authority from the Republic of Turkey. Personnel seconded to the EU civilian crisis management operation shall produce a copy of this certification.

Article 6

Chain of command

1. Personnel seconded by the Republic of Turkey shall carry out their duties and conduct themselves solely with the interests of the EU civilian crisis management operation in mind.

2. All personnel shall remain under the full command of their national authorities.

3. National authorities shall transfer operational control to the EU civilian crisis management operation Head of Mission, who shall exercise that command through a hierarchical structure of command and control.

4. The Head of Mission shall lead the EU civilian crisis management operation and assume its day-to-day management.

5. The Republic of Turkey shall have the same rights and obligations in terms of day-to-day management of the operation as European Union Member States taking part in the operation, in accordance with the legal instruments referred to in Article 2(1) of this Agreement.

6. The EU civilian crisis management operation Head of Mission shall be responsible for disciplinary control over EU civilian crisis management operation personnel. 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 Turkey to represent its national contingent in the operation. The NPC shall report to the EU civilian crisis management operation Head of Mission on national matters and shall be responsible for day-to-day contingent discipline.

8. The decision to end the operation shall be taken by the European Union, following consultation with the Republic of Turkey, provided that the Republic of Turkey is still contributing to the EU civilian crisis management operation at the date of termination of the operation.

Article 7

Financial aspects

1. The Republic of Turkey shall assume all the costs associated with its participation in the operation apart from the costs which are subject to common funding, as set out in the operational budget of the operation. This shall be without prejudice to Article 8.

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 Turkey shall, when its liability has been established, pay compensation under the conditions foreseen in the agreement on status of mission, if available, as referred to in Article 3(1) of this Agreement.

Article 8

Contribution to operational budget

1. The Republic of Turkey shall contribute to the financing of the operational budget of the EU civilian crisis management operation.

2. The financial contribution of the Republic of Turkey to the operational budget shall be the lower amount of the following two alternatives:

(a) that share of the reference amount which is in proportion to the ratio of its GNI to the total of the GNIs of all States contributing to the operational budget of the operation; or

(b) that share of the reference amount for the operational budget which is in proportion to the ratio of the number of its personnel 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 Turkey shall not make any contribution towards the financing of per diem allowances paid to personnel of the European Union Member States.

4. Notwithstanding paragraph 1, the European Union shall, in principle, exempt third States from financial contributions to a particular EU civilian crisis management operation when:

(a) the European Union decides that the third State participating in the operation provides a significant contribution which is essential for this operation; or

(b) the third State participating in the operation has a GNI per capita which does not exceed that of any Member State of the European Union.

5. An arrangement on the practical modalities of the payment shall be signed between the EU civilian crisis management operation Head of Mission and the relevant administrative services of the Republic of Turkey on the contributions of the Republic of Turkey to the operational budget of the EU civilian crisis management operation. This arrangement shall, *inter alia*, include the following provisions:

(a) the amount concerned;

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

(c) the auditing procedure.

SECTION III

PROVISIONS ON PARTICIPATION IN MILITARY CRISIS MANAGEMENT OPERATIONS

Article 9

Participation in the EU military crisis management operation

1. The Republic of Turkey shall ensure that its forces and personnel participating in the EU military crisis management operation undertake their mission in conformity with:

— the Joint Action and subsequent amendments as referred to in Article 2(1) of this Agreement,

— the Operation Plan,

— implementing measures.

2. Personnel seconded by the Republic of Turkey shall carry out their duties and conduct themselves solely with the interest of the EU military crisis management operation in mind.

3. The Republic of Turkey shall inform the EU Operation Commander in due time of any change to its participation in the operation.

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 command and/or control of their forces and personnel to the EU Operation Commander. The EU Operation Commander is entitled to delegate his authority.

3. The Republic of Turkey shall have the same rights and obligations in terms of the day-to-day management, of the operation as participating European Union Member States.

4. The EU Operation Commander may, following consultations with the Republic of Turkey, at any time request the withdrawal of the Republic of Turkey's contribution.

5. A Senior Military Representative (SMR) shall be appointed by the Republic of Turkey 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 day-to-day contingent discipline.

Article 11

Financial aspects

1. Without prejudice to Article 12, the Republic of Turkey 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) of this Agreement, as well as in Council Decision 2004/197/CFSP of 23 February 2004 establishing a mechanism to administer the financing of the common costs of EU operations having military or defence implications ([1]).

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 Turkey shall, when its liability has been established, pay compensation under the conditions foreseen in the agreement on the status of forces, if available, as referred to in Article 3(1) of this Agreement.

Article 12

Contribution to the common costs

1. The Republic of Turkey shall contribute to the financing of the common costs of the EU military crisis management operation.

2. The financial contribution of the Republic of Turkey to the common costs shall be the lower amount of the following two alternatives:

(a) that share of the reference amount for the common costs which is in proportion to the ratio of its GNI to the total of the GNIs of all States contributing to the common costs of the operation; or

(b) that share of the reference amount for the common costs which is in proportion to the ratio of the number of its personnel participating in the operation to the total number of personnel of all States participating in the operation.

([1]) OJ L 63, 28.2.2004, p. 68. Decision as last amended by Decision 2005/68/CFSP (OJ L 27, 29.1.2005, p. 59).

In calculating 2(b), where the Republic of Turkey 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. Otherwise, the ratio shall be that of all personnel contributed by the Republic of Turkey to that of the total personnel of the operation.

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

(a) the European Union decides that the third State participating in the operation provides a significant contribution to assets and/or capabilities which are essential for this operation; or

(b) the third State participating in the operation has a GNI per capita which does not exceed that of any Member State of the European Union.

4. An arrangement shall be concluded between the Administrator provided for in Decision 2004/197/CFSP, and the competent administrative authorities of the Republic of Turkey. This arrangement shall include, *inter alia*, provisions on:

(a) the amount concerned;

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

(c) the auditing procedure.

SECTION IV

FINAL PROVISIONS

Article 13

Arrangements to implement the Agreement

Without prejudice to the provisions of 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 Secretary General of the Council of the European Union, High Representative for the Common Foreign and Security Policy, and the appropriate authorities of the Republic of Turkey.

Article 14

Non-compliance

Should one of the Parties fail to comply with its obligations laid down in the previous Articles, the other Party shall have the right to terminate this Agreement by serving a 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

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 procedures necessary for this purpose.

2. This Agreement shall be subject to review not later than 1 June 2008, and subsequently at least every three years.

3. This Agreement may be amended on the basis of mutual written agreement between the Parties.

4. This Agreement may be denounced by one Party by written notice of denunciation given to the other Party. Such denunciation shall take effect six months after receipt of notification by the other Party.

Done at Brussels, on the twenty-ninth day of June in the year two thousand and six, in the English language in four copies.

For the European Union *For the Republic of Turkey*

TEXT OF DECLARATIONS

Declaration by the EU Member States:

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

— was caused by personnel from the Republic of Turkey 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 Turkey, provided that the assets were used in connection with the operation and except in case of gross negligence or wilful misconduct of EU crisis management operation personnel from the Republic of Turkey using those assets.'

Declaration by the Republic of Turkey:

'The Republic of Turkey associating itself with an EU Joint Action on an EU crisis management operation will endeavour, insofar as its internal legal system so permits, to waive as far as possible claims against any other State participating in the EU crisis management operation for injury, death of its personnel, or damage to, or loss of, any assets owned by itself 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 case of gross negligence or wilful misconduct of EU crisis management operation personnel using those assets.'