

AGREEMENT**between the Swiss Confederation and the European Union on the security procedures for the exchange of classified information**

THE SWISS CONFEDERATION, and

THE EUROPEAN UNION, hereinafter 'the EU', represented by the Presidency of the Council of the European Union,

hereinafter referred to as 'the Parties',

CONSIDERING THAT the Swiss Confederation and the EU share the objectives to strengthen their own security in all ways and to provide their citizens with a high level of safety within an area of security;

CONSIDERING THAT the Swiss Confederation and the EU agree that consultations and cooperation should be developed between them on questions of common interest relating to security;

CONSIDERING THAT, in this context, a permanent need therefore exists to exchange classified information between the Swiss Confederation and the EU;

RECOGNISING THAT full and effective consultation and cooperation may require access to Swiss and EU classified information and material, as well as the exchange of classified information and related material between the Swiss Confederation and the EU;

CONSCIOUS THAT such access to and exchange of classified information and related material requires appropriate security measures,

HAVE AGREED AS FOLLOWS:

Article 1

In order to fulfill the objective of strengthening the security of each of the Parties in all ways, this Agreement applies to classified information or material in any form either provided or exchanged between the Parties.

Article 2

For the purposes of this Agreement, classified information shall mean any information (namely, knowledge that can be communicated in any form) or material determined to require protection against unauthorised disclosure and which has been so designated by a security classification (hereinafter classified information).

Article 3

For the purposes of this Agreement, 'EU' shall mean the Council of the European Union (hereinafter the Council), the Secretary General/High Representative and the General Secretariat of the Council, and the Commission of the European Communities (hereinafter the European Commission).

Article 4

Each Party shall:

- (a) protect and safeguard classified information subject to this Agreement provided or exchanged by the other Party;
- (b) ensure that classified information subject to this Agreement provided or exchanged keeps the security classification given to it by the providing Party. The receiving Party shall protect and safeguard the classified information according to the provisions set out in its own security regulations for information or material holding an equivalent security classification, as specified in the Security Arrangements to be established pursuant to Articles 11 and 12;
- (c) not use such classified information subject to this Agreement for purposes other than those established by the originator and those for which the information is provided or exchanged;
- (d) not disclose such classified information subject to this Agreement to third parties, or to any EU institution or entity not mentioned in Article 3, without the prior consent of the originator.

Article 5

1. Classified information may be disclosed or released, in accordance with the principle of originator control, by one Party, 'the providing Party', to the other Party, 'the receiving Party'.

2. For release to recipients other than the Parties to this Agreement, a decision on disclosure or release of classified information shall be made by the receiving Party following the consent of the providing Party, in accordance with the principle of originator control as defined in its security regulations.

3. In implementing paragraphs 1 and 2, no generic release shall be possible unless procedures are established and agreed between the Parties regarding certain categories of information, relevant to their operational requirements.

Article 6

Each of the Parties, and entities thereof as defined in Article 3, shall have a security organisation and security programmes, based upon such basic principles and minimum standards of security which shall be implemented in the security systems of the Parties to be established pursuant to Articles 11 and 12, to ensure that an equivalent level of protection is applied to classified information subject to this Agreement.

Article 7

1. The Parties shall ensure that all persons who, in the conduct of their official duties require access, or whose duties or functions may afford access, to classified information provided or exchanged under this Agreement are appropriately security cleared before they are granted access to such information.

2. The security clearance procedures shall be designed to determine whether an individual may, taking into account his or her loyalty, trustworthiness and reliability, have access to classified information.

Article 8

The Parties shall provide mutual assistance with regard to security of classified information subject to this Agreement and matters of common security interest. Mutually agreed and reciprocal security consultations and inspections shall be conducted by the authorities as defined in Article 11 to assess the effectiveness of the Security Arrangements within their

respective responsibility to be established pursuant to Articles 11 and 12.

Article 9

1. For the purpose of this Agreement:

(a) As regards the EU:

all correspondence shall be sent to the Council at the following address:

Council of the European Union
Chief Registry Officer
Rue de la Loi/Wetstraat, 175
B-1048 Brussels;

All correspondence shall be forwarded by the Chief Registry Officer of the Council to the Member States and to the European Commission subject to paragraph 2.

(b) As regards the Swiss Confederation,

all correspondence shall be addressed to the Chief Registry Officer of the Ministry of Foreign Affairs of Switzerland and forwarded, where appropriate, via the Mission of Switzerland to the European Union, at the following address:

Mission of Switzerland to the European Union
Registry Officer
Place du Luxembourg, 1
B-1050 Brussels.

2. If necessary, correspondence from one Party which is only accessible to specific competent officials, organs or services of that Party may, for operational reasons, be addressed and only be accessible to specific competent officials, organs or services of the other Party specifically designated as recipients, taking into account their competencies and according to the need to know principle. As far as the EU is concerned, this correspondence shall be transmitted through the Chief Registry Officer of the Council. As far as the Swiss Confederation is concerned, this correspondence may be transmitted via the Mission of Switzerland to the European Union.

Article 10

The State Secretary of the Federal Department of Foreign Affairs of the Swiss Confederation, and the Secretaries-General of the Council and of the European Commission shall oversee the implementation of this Agreement.

Article 11

In order to implement this Agreement:

1. The national security authorities of the Swiss Confederation (Federal Department of Justice and Police, Federal Office of Police and Federal Department of Defence, Civil Protection and Sports, Defence – Staff of the Chief of the Armed Forces, Information Security and Facility Protection), acting in the name of the Government of the Swiss Confederation and under its authority, shall be responsible for developing security arrangements for the protection and safeguarding of classified information provided to the Swiss Confederation under this Agreement.
2. The General Secretariat of the Council Security Office (hereinafter GSC Security Office), under the direction and on behalf of the Secretary-General of the Council, acting in the name of the Council and under its authority shall be responsible for developing Security Arrangements for the protection and safeguarding of classified information provided to the EU under this Agreement.
3. The European Commission Security Directorate, acting in the name of the European Commission and under its authority, shall be responsible for developing security arrangements for the protection of classified information provided or exchanged under this Agreement within the European Commission and its premises.

Article 12

The Security Arrangements to be established pursuant to Article 11 in agreement between the four offices concerned will lay down the standards of the reciprocal security protection for classified information subject to this Agreement. For the EU, these standards shall be subject to approval by the Council Security Committee.

Article 13

The Authorities defined in Article 11 shall establish procedures to be followed in the case of proven or suspected compromise of classified information subject to this Agreement.

Article 14

Prior to the provision of classified information subject to this Agreement between the Parties, the responsible security auth-

orities defined in Article 11 must agree that the receiving Party is able to protect and safeguard the information subject to this Agreement in a way consistent with the arrangements to be established pursuant to Articles 11 and 12.

Article 15

This Agreement in no way prevents the Parties from concluding other Agreements relating to the provision or exchange of classified information subject to this Agreement provided that they do not conflict with the provisions of this Agreement.

Article 16

All differences between the Parties arising out of the interpretation or application of this Agreement shall be dealt with by negotiation between them.

Article 17

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 may be reviewed for consideration of possible amendments at the request of either Party.

3. Any amendment to this Agreement shall only be made in writing and by common agreement of the Parties. It shall enter into force upon mutual notification as provided under paragraph 1.

Article 18

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, but shall not affect obligations already contracted under the provisions of this Agreement. In particular, all classified information provided or exchanged pursuant to this Agreement shall continue to be protected in accordance with the provisions set forth herein.

IN WITNESS WHEREOF the undersigned, respectively duly authorised, have signed the present Agreement.

Done at Brussels, **28 -04- 2008**, in two copies each in the English language.

For the Swiss Confederation

Handwritten signature in black ink, appearing to read 'J de W...'. The signature is written in a cursive style.

For the European Union

Handwritten signature in black ink, appearing to read 'J...'. The signature is written in a cursive style and ends with a long, sweeping underline.
