

AGREEMENT
BETWEEN NEW ZEALAND
AND THE EUROPEAN UNION
ON THE PARTICIPATION OF NEW ZEALAND
IN THE EUROPEAN UNION POLICE MISSION
IN AFGHANISTAN (EUPOL AFGHANISTAN)

NEW ZEALAND,

of the one part, and

THE EUROPEAN UNION (EU),

of the other part,

hereinafter referred to as the "Parties",

TAKING INTO ACCOUNT:

- the adoption by the Council of the European Union of Joint Action 2007/369/CFSP of 30 May 2007 on establishment of the European Union Police Mission in Afghanistan (EUPOL AFGHANISTAN),
- the invitation to New Zealand to participate in EUPOL AFGHANISTAN,
- the decision by New Zealand to participate in EUPOL AFGHANISTAN,
- the Political and Security Committee Decision on the acceptance of New Zealand's contribution to EUPOL AFGHANISTAN,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Participation in the operation

1. New Zealand shall associate itself with the Joint Action 2007/369/CFSP of 30 May 2007 on establishment of the European Union Police Mission in Afghanistan (EUPOL AFGHANISTAN) and with any Joint Action or Decision by which the Council of the European Union decides to extend EUPOL AFGHANISTAN, in accordance with the provisions of this Agreement and any required implementing arrangements.

2. The contribution of New Zealand to EUPOL AFGHANISTAN is without prejudice to the decision-making autonomy of the European Union.

3. New Zealand shall ensure that its personnel participating in EUPOL AFGHANISTAN undertake their mission in consistency with:

- Joint Action 2007/369/CFSP and possible subsequent amendments,
- the Operation Plan,
- implementing measures.

4. Personnel seconded to EUPOL AFGHANISTAN by New Zealand shall carry out their duties and conduct themselves solely with the interest of EUPOL AFGHANISTAN in mind.

5. New Zealand shall inform in due time the EUPOL AFGHANISTAN Head of Mission and the General Secretariat of the Council of the European Union of any change to its contribution to EUPOL AFGHANISTAN.

6. Personnel seconded to EUPOL AFGHANISTAN shall undergo a medical examination, vaccination and be certified medically fit for duty by a competent authority from New Zealand. Personnel seconded to EUPOL AFGHANISTAN shall produce a copy of this certification.

ARTICLE 2

Status of personnel

1. Without prejudice to any arrangement concluded between the Government of New Zealand and the Government of the Islamic Republic of Afghanistan, the status of the personnel contributed to EUPOL AFGHANISTAN by New Zealand shall be governed by the Agreement on the status of mission concluded between the European Union and the Islamic Republic of Afghanistan.

2. Without prejudice to the Agreement referred to in paragraph 1, New Zealand shall exercise jurisdiction over its personnel participating in EUPOL AFGHANISTAN.

3. New Zealand shall be responsible for responding to any claims from, linked to or concerning the participation of its personnel in EUPOL AFGHANISTAN. New Zealand shall be responsible for bringing any action, in particular legal or disciplinary, against any of its personnel, in accordance with its laws and regulations.

4. New Zealand undertakes to make a declaration as regards the waiver of claims against any State participating in EUPOL AFGHANISTAN, and to do so when signing this Agreement. A model for such a declaration is annexed to this Agreement.

5. The European Union shall ensure that its Member States make a declaration as regards the waiver of claims for the participation of New Zealand in EUPOL AFGHANISTAN and to do so when signing this Agreement.

ARTICLE 3

Classified information

1. New Zealand 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/EC¹, and in accordance with further guidance issued by competent authorities, including the EUPOL AFGHANISTAN Head of Mission.

¹ OJ L 101, 11.4.2001, p. 1. Decision as last amended by Decision 2007/438/EC (OJ L 164, 26.6.2007, p. 24).

2. Where the European Union and New Zealand 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 EUPOL AFGHANISTAN.

ARTICLE 4

Chain of command

1. All personnel participating in EUPOL AFGHANISTAN shall remain under the full command of their national authorities.
2. National authorities shall transfer Operational control to the EUPOL AFGHANISTAN Head of Mission, who shall exercise that command through a hierarchical structure of command and control.
3. The Head of Mission shall lead EUPOL AFGHANISTAN and assume its day-to-day management.
4. New Zealand shall have the same rights and obligations in terms of the day-to-day management of EUPOL AFGHANISTAN as participating European Union Member States taking part in the operation, in accordance with the legal instruments referred to in Article 1(1) of this Agreement.

5. The EUPOL AFGHANISTAN Head of Mission shall be responsible for disciplinary control over EUPOL AFGHANISTAN personnel. Where required, disciplinary action shall be taken by the national authority concerned.

6. A National Contingent Point of Contact (NPC) shall be appointed by New Zealand to represent its national contingent in EUPOL AFGHANISTAN. The NPC shall report to the EUPOL AFGHANISTAN Head of Mission on national matters and shall be responsible for day-to-day contingent discipline.

7. The decision to end the operation shall be taken by the European Union, following consultation with New Zealand, provided that New Zealand is still contributing to EUPOL AFGHANISTAN at the date of termination of the operation.

ARTICLE 5

Financial aspects

1. New Zealand 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.

2. Subject to any arrangement concluded between the Government of the Islamic Republic of Afghanistan and the Government of New Zealand, in case of death, injury, loss or damage to natural or legal persons from Afghanistan, New Zealand shall, when its liability has been established, pay compensation under the conditions provided for in the Agreement on status of mission, if available, as referred to in Article 2(1) of this Agreement.

ARTICLE 6

Contribution to operational budget

As the participation by New Zealand constitutes a significant contribution which is essential for the operation, New Zealand is exempted from contributions to the operational budget of EUPOL AFGHANISTAN.

ARTICLE 7

Arrangements to implement this Agreement

Any necessary technical and administrative arrangements in pursuance of the implementation of this Agreement shall be concluded between the Secretary-General/High Representative and the appropriate authorities of New Zealand.

ARTICLE 8

Non-compliance

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

ARTICLE 9

Dispute settlement

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

ARTICLE 10

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 provisionally applied from the date of signature.
3. This Agreement shall remain in force for the duration of New Zealand's contribution to the operation.

Done at Brussels, on the third day of October in the year two thousand and seven in the English language in two copies.



For New Zealand



For the European Union

DECLARATIONS

Referred to in Article 2(4) and (5)

Declaration by the EU Member States:

"The EU Member States applying Joint Action 2007/369/CFSP of 30 May 2007 on establishment of the European Union Police Mission in Afghanistan (EUPOL AFGHANISTAN) will endeavour, insofar as their internal legal systems so permit, to waive on a reciprocal basis, as far as possible claims against New Zealand for injury, death of their personnel, or damage to, or loss of, any assets owned by themselves and used by EUPOL AFGHANISTAN if such injury, death, damage or loss:

- was caused by personnel from New Zealand in the execution of their duties in connection with EUPOL AFGHANISTAN, except in case of gross negligence or wilful misconduct,
- or arose from the use of any assets owned by New Zealand, provided that the assets were used in connection with the operation and except in case of gross negligence or wilful misconduct of EUPOL AFGHANISTAN personnel from New Zealand using those assets."

Declaration by New Zealand:

"New Zealand being associated with Joint Action 2007/369/CFSP of 30 May 2007 on establishment of the European Union Police Mission in Afghanistan (EUPOL AFGHANISTAN) will endeavour, insofar as its internal legal system so permits, to waive on a reciprocal basis, as far as possible claims against any other State participating in EUPOL AFGHANISTAN for injury, death of their personnel, or damage to, or loss of, any assets owned by itself and used by EUPOL AFGHANISTAN if such injury, death, damage or loss:

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