

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE MINISTRY OF DEFENCE OF THE REPUBLIC OF ESTONIA

AND

THE MINISTRY OF DEFENCE OF THE REPUBLIC OF FINLAND

AND

THE MINISTRY OF DEFENCE OF THE KINGDOM OF NORWAY

AND

THE GOVERNMENT OF THE KINGDOM OF SWEDEN

CONCERNING

THE PRINCIPLES FOR THE ESTABLISHMENT AND OPERATION OF A

MULTINATIONAL

BATTLE GROUP TO BE MADE AVAILABLE TO THE EUROPEAN UNION

The Ministry of Defence of the Republic of Estonia, the Ministry of Defence of the Republic of Finland, the Ministry of Defence of the Kingdom of Norway and the Government of the Kingdom of Sweden, hereinafter referred to as the Participants,

Desiring to strengthen the EU's capability for crisis management and especially the rapid response capability;

Heeding the European Security Strategy, and the European Union's ambition to share in the responsibility for global security and in building a better world;

Recalling that the fundamental framework for international relations is the United Nations and that the United Nations Security Council has the primary responsibility for the maintenance of international peace and security;

Recalling the need to strengthen the United Nations and equipping it to fulfil its responsibilities;

Recalling the Declaration of 22 November 2004 on the establishment of a Battle Group, Estonia's subsequent joining of the Battle Group and the Participants' commitment and willingness to contribute to this common endeavour;

Stressing their commitment to contribute to the strengthening and further development of the European Security and Defence Policy (ESDP) by making it available to the EU for EU-led crisis management operations;

Considering the importance of rapidly deployable battle groups in the efforts of the EU to develop a rapid response capability for crisis management;

Acknowledging the Nice Council conclusions of 2000 and the Nice Implementation Document;

Desiring to strengthen Nordic co-operation in the area of crisis management and to enhance long-term security policy and military co-operation among Nordic countries;

Seeing the establishment of the Battle Group as an important contribution to an enhanced rapid response capability within NORDCAPS;

Stressing that international law will govern the Battle Group, taking into account the principles of the United Nations Charter, international humanitarian law and human rights law;

Having regard to relevant UN Security Council resolutions on inter alia protection of particularly vulnerable groups in times of conflict, including women and children;

Acknowledging each Participant's sovereign right and obligation to adhere to their national Constitution, legislation, policies and decisions as set out by the competent national authorities;

Acknowledging that the EU Battlegroups concept is complementary and mutually reinforcing with the NATO Response Force (NRF);

Taking into account the decision of Sweden to assume the role as Framework nation of the Battle Group;

Recalling the United Kingdom's offer to make their Multinational Headquarters located at Northwood available as the Operational Headquarters for the Battle Group;

Also having regard to the Agreement between the European Union and the Kingdom of Norway Establishing a Framework for the Participation of the Kingdom of Norway in European Union Crisis Management Operation, signed on 3 December 2004;

Have reached the following understandings:

Section 1

Definitions

In this Memorandum of Understanding (MOU) the expression:

1. EU means the European Union.
2. Battle Group means the Multinational Battle Group set up by the Participants to be made available to the EU.
3. Participant means the signatories to this MOU and any third party that becomes a Participant to this MOU in accordance with Section 19.
4. Battle Group Activities means activities under this MOU performed by Battle Group Personnel and/or units, prior to, during and after deployments and operations.
5. Battle Group Unit means a unit that a Participant designates as such.
6. Battle Group Personnel means civilian and military personnel of a Participant, designated to perform tasks under this MOU.
7. National Contingent means any national forces, including civilian and military personnel of one or more services, under the assignment of a EU commander after Transfer of Authority.
8. Operational Command means the authority granted to a commander to assign missions or tasks to subordinate commanders, to deploy units, to reassign forces, and to retain or delegate operational and/or tactical control as the commander deems necessary.
9. Operational Control means the authority delegated to a commander to direct forces assigned so that commander may accomplish specific missions or tasks which are usually limited by function, time, or location; to deploy units concerned, and to retain or assign tactical control of those units. It does not include authority to assign separate employment or components of the units concerned. Neither does it, of itself, include administrative or logistic control.
10. Tactical Command means the authority delegated to a commander to assign tasks to forces under his command for the accomplishment of the mission assigned by higher authority.
11. Tactical control means the detailed and, usually, local direction and control of movements or manoeuvres necessary to accomplish missions or tasks assigned.
12. Framework Nation means the nation, i.e. the Kingdom of Sweden, which assumes the overall responsibility under this MOU and its subordinate arrangements for providing support to and co-ordinating the Battle Group activities.

13. Transfer of Authority means the formal transfer between nations and commanders of a specified degree of authority over designated forces.
14. Third party means any state or entity not a Participant to this MOU.
15. Lead Nation means the nation that assumes responsibility for defined activities when the Framework Nation is not responsible.

Section 2

Reference documents

1. EU Declaration on European Military Capabilities of 22 November 2004.
2. Declaration by Sweden and Finland and Norway on the Establishment of a Joint EU Battle Group of 22 November 2004.
3. Outcome of Military Capabilities Commitment Conference on 22 November 2004 reflecting Estonia's intention to participate in the EU Battle Groups.
4. Agreement between the European Union and the Kingdom of Norway Establishing a Framework for the Participation of the Kingdom of Norway in the European Union Crisis Management Operations, signed in Brussels 3 December 2004.
5. Agreement between the Member States of the European Union concerning the status of military and civilian staff seconded to the Military Staff of the European Union, of the headquarters and forces which may be made available to the European Union in the context of the preparation and execution of the tasks referred to in Article 17(2) of the Treaty on European Union, including exercises, and of the military and civilian staff of the Member States put at the disposal of the European Union to act in this context (EU SOFA) of 17 November 2003.
6. Berlin Plus Framework Document, finalised on 17 March 2003.
7. Nice European Council Conclusions of 7-10 December 2000, and the Nice Implementation Document.
8. Agreement between Member States of the European Union concerning Claims introduced by each Member State against any other Member State for Damage to any Property owned, used or operated by it or Injury or Death Suffered by any Military or Civilian Staff of its Services, in the context of an EU Crisis Management Operation, signed 28 April 2004.
9. Agreement between the Kingdom of Norway and the European Union on Security Procedures for the Exchange of Classified Information, signed in Brussels 22 November 2004.
10. European Union Council security regulations, contained in the Council Decision 2001/264/EC of 19 March 2001.
11. Agreement on Security Protection within the Co-operation Agreement concerning Nordic Armament Co-operation between Denmark, Finland, Norway and Sweden, of 1 September 1995.
12. Memorandum of Understanding between the Ministry of Defence of the Kingdom of Denmark, the Ministry of Defence of the Republic of Finland, the Ministry of Foreign

Affairs of the Republic of Iceland, the Ministry of Defence of the Kingdom of Norway, and the Government of the Kingdom of Sweden Concerning Nordic Co-ordinated Arrangements for Military Peace Support (NORDCAPS).

13. Council Decision 2004/197/CFSP establishing a mechanism to administer the financing of common costs of the European Union operations having military or defence implications (ATHENA), with amendments.
14. All relevant EU concepts and documents in the field of crisis management operations.
15. The Agreement among the States Parties to the North Atlantic Treaty and the other States participating in the Partnership for Peace regarding the Status of their Forces, done in Brussels on 19 June 1995 (PfP SOFA), which refers to the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, done in London on 19 June 1951 (NATO SOFA).
16. The Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, done in London on 19 June 1951 (NATO SOFA).
17. The Additional Protocol to the Agreement among the States Parties to the North Atlantic Treaty and the Other States participating in the PfP regarding the Status of their Forces, done in Brussels on 19 June 1995.

Section 3

Purpose of the MOU

1. The purpose of this MOU is to provide a framework document that defines the overall aim, structure, working principles, decision procedures, and security arrangements for the Battle Group.
2. The MOU conforms to all European Union agreed guidelines relating to Battle Groups.

Section 4

Scope of the MOU

1. This MOU and its subordinate arrangements apply to all Battle Group Activities, if not otherwise specified. If one or more Participant(s) decide(s) not to take part in a given Battle Group operation or exercise, this MOU will apply between the remaining Participants.
2. The commitment of forces to the Battle Group will be without prejudice to each Participant's' sovereign right to make an autonomous decision on whether to deploy its forces to a specific crisis management operation.
3. This MOU is not intended to conflict with the national law of any Participant or with international law. In case such a conflict arises, applicable national and/or international law will apply. The Participants will notify each other promptly in the event of any such conflict.
4. This MOU does not constitute a treaty in accordance with the Vienna Convention on the Law of Treaties of 23 May 1969.

5. Technical Arrangements (TA) will supplement this MOU. In case of inconsistency between the MOU and any TA to this MOU, the text of the MOU will prevail.

Section 5

Purpose of the Nordic Battle Group

1. The overall purpose of the Battle Group is to contribute to the strengthening and further development of the European Security and Defence Policy (ESDP), by making it available to the EU for EU-led crisis management operations.
2. The aim of the cooperation is to develop a militarily effective, credible, rapidly deployable, and coherent force package capable of stand-alone operations, or for the initial phase of larger operations. The development will be based on the EU Battle Group Concept and other relevant EU documents. Standards, practical methods and procedures will be compatible with those defined by NATO, wherever practicable and applicable.
3. The Participants aim at strengthening and expanding the Nordic co-operation in the field of crisis management, including political and military consultations.

Section 6

Principles for the Decision to Deploy the Nordic Battle Group

1. While the Battle Group will be deployed following relevant EU decisions, any commitment by the Participants to deploy their forces will only take place after a decision by the respective and competent national authorities in accordance with their national Constitution, legislation and policy decisions.
2. Deployment of the Battle Group will be in accordance with the purposes and principles of the United Nations Charter and other provisions and principles of international law.
3. Decisions to deploy the Battle Group will be made by consensus among the Participants. If, however, on the decision of its competent national authority, a Participant decides not to deploy its forces, it will not obstruct the deployment of elements of the Battle Group by the other Participants.

Section 7

Principles for the Decision to Withdraw the Nordic Battle Group

1. Notwithstanding each Participant's sovereign right to withdraw its own National Contingent in consultation with the other Participants and the EU, decisions to withdraw the Battle Group or any part thereof will be made by consensus among the Participants, following relevant EU decisions.

Section 8

Principles and Procedures for Political-Military Consultations

1. The Participants will, in addition to discussions and contacts between all relevant and competent authorities, using existing channels to the largest extent possible including structures for Nordic co-operation such as NORDCAPS as appropriate, engage in political-military consultations. In addition consultations may be convened upon request by one of the Participants and will address foreign, security and defence policy issues and military issues related to the Battle Group.
2. Shortly before and during stand-by periods, the Participants will consult on a regular basis. Particular attention will be given to emerging crises that may result in a request from the EU for deployment of the Battle Group, in order to enable parallel decision-making and timely response to a request by the EU by the Participants' competent authorities.
3. All decisions will be made by consensus.
4. The Framework Nation will as a rule lead these consultations and provide the necessary support.
5. These consultations may also involve representatives of Third Parties that contribute to the Battle Group, when so decided by the Participants.

Section 9

Principles, Procedures and Consultations for the Establishment Phase

1. Overall co-ordination of defence policy and military issues related to the establishment of the Battle Group will be exercised by representatives of the Participants in the NORDCAPS Steering Group (NSG), who will provide guidance as necessary.
2. Co-ordination on military matters related to the establishment of the Battle Group will be exercised by the representatives of the participants in the NORDCAPS Military Co-ordination Group (NMCG). Technical Arrangements (TA) will be concluded by the Participants as necessary. NSG will initiate work on TAs and give guidance as appropriate.
3. The cooperation between the Participants will be based on consensus.
4. A Lead Nation may be appointed for appropriate activities, when the Framework Nation is not responsible.
5. Participants not members of NORDCAPS will be expected to take part in meetings when issues regarding the establishment of the Battle Group are discussed.

Section 10

Force Contribution, Force Generation and Force Tailoring

1. The Participants' force contributions will be offered and committed as a Battle Group Package in a Battle Group co-ordination conference in accordance with the agreed Battle Group Generation Process, and as agreed among the Participants.

2. The Participants' force contributions to the Battle Group will be laid down in a Technical Arrangement.
3. The Force Commander may undertake appropriate force tailoring following guidance provided by the Operation Commander.

Section 11

Command and Control During Operations

1. Sweden will be the Framework Nation for the Battle Group and will lead the Force Headquarters (FHQ) following relevant EU Council decisions, or as otherwise agreed by the Participants. All Participants will have the right to hold positions in the FHQ.
2. National Contingents to the Battle Group will remain under full command of the respective Participant. Participants will delegate the appropriate level of command and control, normally operational control, to the Operational Commander in accordance with national procedures.
3. Transfer Of Authority (TOA) to the Operation Commander will take place no later than upon arrival of the forces in theatre. Each Participant will distribute a copy of their TOA to the Force Commander Battle Group.
4. The command and control arrangements for the Battle Group will follow relevant EU concepts and will be exercised in accordance with relevant EU decisions, or as otherwise agreed by the Participants.
5. Practical command arrangements regarding the use of Operational Headquarters will be established in separate arrangements.

Section 12

Exercises and Training

1. The Battle Group will conduct exercises, courses and other co-operative arrangements in order to ensure interoperability and readiness for operations.
2. To qualify as an EU Battlegroup the Battle Group will meet EU defined and agreed standards and criteria.
3. Principles for exercises and training will adopt EU defined standards. Details, including command and control arrangements, will be laid down in Technical Arrangements.

Section 13

Certification

1. Certification of the Battle Group will be undertaken in accordance with EU agreed procedures.

Section 14

Status of Forces, Jurisdiction and Discipline

1. The provisions of this Section apply to Battle Group Activities performed by a Participant on the territory of another Participant.
2. The Status of the Battle Group Personnel, jurisdiction and discipline will be dealt with in accordance with the NATO/PfP SOFA with regard to reservations and statements made by State Parties to this agreement.

Section 15

Claims and Liabilities

1. The provisions of this Section apply to Battle Group Activities performed by a Participant on the territory of another Participant.
2. Claims and liabilities will be dealt with in accordance with the NATO/PfP SOFA with regard to reservations and statements made by State Parties to this agreement.

Section 16

Finance

1. Costs related to Battle Group Activities will be borne by the individual Participant, unless otherwise agreed by the Participants.
2. The Participants may also agree to finance certain costs in common.
3. Costs borne by the Participants that are common to the EU operation as defined in the provisions for the EU mechanism Athena, will be presented to Athena for reimbursement.
4. Further financial regulations will be laid down in Technical Arrangements.

Section 17

Logistics

1. Logistics regulations will be laid down in Technical Arrangements.

Section 18

Security Regulations

1. EU classified information will be protected in accordance with European Union Council's security regulations, and in accordance with further guidance issued by competent authorities, including the EU Operation Commander, to the extent compatible with the Participants' legislation.
2. Exchange of EU Classified information between the Norwegian Participant and the other Participants will be handled in accordance with the reference document in Section 2 paragraph 9 in this MOU.

3. The Participants accept that national classified information exchanged between the Participants will be handled in accordance with European Union Council's security regulations.
4. Each Participant will appoint a Designated Security Authority (DSA) responsible for security issues arising from Battle Group Activities.
5. Detailed security arrangements for specific purposes may be regulated in separate instructions or in Technical Arrangements.

Section 19

Additional Participation

1. Third parties may become Participants to this MOU, based on consensus between the Participants.

Section 20

Entry into effect, withdrawal and termination

1. This MOU will enter into effect upon the date of the last signature.
2. Technical Arrangements to this MOU constitute integral and subordinate parts of this MOU.
3. Any Participant may withdraw from this MOU by giving a six (6) months written notice to the other Participants.
4. If the MOU is terminated, or if any of the Participants withdraw from the MOU, the Framework Nation will initiate negotiations to settle all outstanding mutual financial obligations, disputes and security issues in accordance with this MOU.

Section 21

Modifications, amendments and disputes


1. The Participants will enter into consultations and, when necessary, review this MOU upon the request of one or more Participant(s).
2. This MOU may be modified and amended at any time by mutual written consent by the Participants.
3. Any dispute regarding the interpretation or application of this MOU will be resolved through negotiations between the Participants and will not be referred to any national or international tribunal or other third party for settlement.

Signed in four official copies in the English language.

For the Ministry of Defence of the Republic of Estonia


_____ Dated: _____

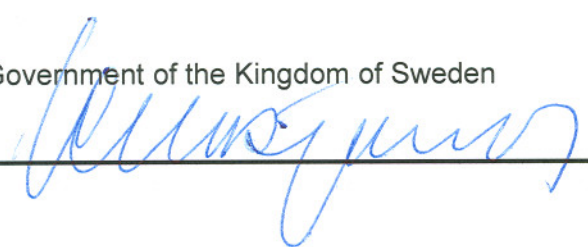
For the Ministry of Defence of the Republic of Finland


_____ Dated: _____

For the Ministry of Defence of the Kingdom of Norway


_____ Dated: _____

For the Government of the Kingdom of Sweden


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