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Delegations will find attached the partially declassified version of the above-mentioned document.



ANNEX

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 4 December 2009

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NOTE

From: European Union Military Staff
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Subject: EU Concept for the Use of Force in EU-led Military Operations

Delegations will find attached the EU Concept for the Use of Force in EU-led Military Operations, which was agreed by the EUMC on 21 October 2009.

This document supersedes the 'Use of Force Concept for EU-led Military Crisis Management Operations - 1st Revision' (6877/06).

NOT DECLASSIFIED

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
PART I	<u>INTRODUCTION</u>	6
A.	Introduction.....	6
B.	Aim	6
C.	Scope.....	7
PART II	<u>OVERALL APPROACH AND LEGAL FRAMEWORK</u>	9
D.	General aspects	9
E.	Legal framework	10
F.	Knowledge of HRL and the LOAC	16
PART III	<u>USE OF FORCE</u>	18
G.	Definition	18
H.	Legitimacy of use of force	24
I.	Rules of Engagement (ROE)	25
J.	Reporting.....	34
PART IV	<u>MISCELLANEOUS PROVISIONS</u>	36
 <u>Annexes</u>		
A.	NOT DECLASSIFIED).....	37
B.	Illustration of the ROE procedure.....	83
C.	List of Acronyms Used	84

REFERENCES¹

- A. Treaty on European Union.
- B. Council Decision 2001/78/CFSP of 22 January 2001 (OJ L 27, 30.1.2001, p. 1).
- C. North Atlantic Treaty (Washington DC, 4 April 1949).
- D. Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence (Brussels, 17 March 1948); as amended by the Protocol signed in Paris on 23 October 1954.
- E. Handbook for Police Officers Deployed in EU Police Missions (2004).
- F. Code of Conduct for Law Enforcement Officials (UN General Assembly Resolution 34/169 dated 17 December 1979).
- G. Basic Principles of the Use of Force and Firearms by Law Enforcement Officials (adopted at the 8th Congress on Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990).
- H. Charter of the United Nations (San Francisco, 26 June 1945).
- I. Code of Conduct on Politico-Military Aspects of Security (CSCE Budapest Document, dated 5 and 6 December 1994).
- J. An Agenda for Peace (UN Secretary General Report, dated 17 June 1992).
- K. European Security Strategy (Doc.15895/03, dated 8 December 2003).
- L. Council Framework Decision 2002/475/JHA of 13 June 2002 on Combating Terrorism (OJ L 164, 22.6.2002, p. 3).
- M. Suggestions for procedures for coherent, comprehensive EU crisis management (Doc. 11127/03, dated 03 July 2003).
- N. UN Security Council Resolution 1778 dated 25 September 2007.
- O. (European) Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950), as amended and supplemented.
- P. International Covenant on Civil and Political Rights (New York, 16 December 1966).
- Q. Convention against Torture, Cruel, Inhuman or Degrading Treatment or Punishment (New York, 10 December 1984).
- R. Charter of Fundamental Rights of the European Union (OJ C 364, 18.12.2000, p. 1).

¹ The use of this list of references does not in any way prejudice whether these texts have a legally binding character and the order of references does not reflect any hierarchy.

- S. Hague Conventions of 18 October 1907.
- T. Geneva Conventions (I-IV) of 12 August 1949.
- U. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (Geneva, 8 June 1977).
- V. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (Geneva, 8 June 1977).
- W. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III) (Geneva, 8 December 2005).
- X. Convention on the Safety of United Nations and Associated Personnel (New York, 9 December 1994).
- Y. UNMIK Regulation No. 1999/1 on the authority of the Interim Administration in Kosovo, dated 25 July 1999.
- Z. Guidelines on the Promotion of International Humanitarian Law (Doc. 15246/05, dated 5 December 2005).
- AA. Mainstreaming of Human Rights into ESDP (Doc. 11936/4/06 REV 4, dated 14 September 2006).
- BB. Council Conclusions on Gender Mainstreaming (Doc. 14779/06, dated 13 November 2006).
- CC. Check List to Ensure Gender Mainstreaming and Implementation of UNSCR 1325 in the Planning and Conduct of ESDP Operations (Doc.12068/06, dated 27 July 2006).
- DD. UN Security Council Resolution 1820 dated 19 June 2008.
- EE. EU Guidelines on Children and Armed Conflict (Doc. 10019/08, dated 5 June 2008).
- FF. Draft General Review of the Implementation of the Checklist for the Integration of the Protection of Children Affected by Armed Conflict into ESDP Operations (Doc. 9822/08, dated 23 May 2008).
- GG. Generic Standards of Behaviour for ESDP Operations (Doc. 8373/3/05 REV 3, dated 18 May 2005).
- HH. Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict (New York, 25 May 2000).

- II. Rome Statute of the International Criminal Court (Rome, 17 July 1998).
 - JJ. NATO Glossary of Terms and Definitions / Glossaire OTAN de termes et définitions (NATO Doc. AAP-6(2008)).
 - KK. Council Common Position 2003/444/CFSP of 16 June 2003 (OJ L 150, 18.6.2003, p. 68).
 - LL. Agreement between the International Criminal Court and the European Union on Cooperation and Assistance (Luxembourg, 10 April 2006, OJ L115, 28.4.2006, p. 50).
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PART I – INTRODUCTION

A. INTRODUCTION

1. The use of force is a necessary tool in EU-led military operations. The authorisation of, and guidance on, the use of force in such operations must be given by the competent political authorities on the basis of military and legal advice. This authorisation and guidance is an essential part of the political guidance and strategic direction over EU-led military operations, which is exercised by the Political and Security Committee (PSC) under the authority of the Council.¹
2. All use of force in EU-led military operations - in self-defence and under the Rules of Engagement (ROE) - must always be in conformity with international standards, especially international law as defined in applicable international treaties, customary international law and relevant decisions by international organisations. Competent authorities² at an international, regional and national level must ensure that the use of force policy and ROE remain within the mandate and do not jeopardise the execution of the military operation or put lives at stake unnecessarily. The EU will take the necessary measures to that end.

B. AIM

3. The purpose of this paper is to define the framework and principles for the use of force by military units and individuals in EU-led military operations. It also aims to serve as a reference document for defining principles of use of force, including ROE, for any EU-led military contribution to other military operations.

¹ See Article 25 TEU (Ref. A) and Council Decision 2001/78/CFSP (Ref. B).

² The generic term of competent authorities is used to denote that in the event an EU-led military operation is launched, different levels of competent decision-making will co-exist, including internal EU and external actors, including the UN Security Council.

C. SCOPE

4. This Use of Force concept describes the overall approach to the use of force and its legal framework, sets out the EU procedures for requesting, authorising and implementing ROE, and presents a compendium of ROE in Annex A.
5. This concept does not address or affect the remit of bodies within the Union by virtue of the relevant provisions in the Treaty on European Union (TEU, Ref. A). It does not affect the decision-making powers of national authorities in the exercise of full command over their armed forces, nor does it prejudice *ad hoc* decisions on the conditions under which contributing States may put forces at the disposal of the Union for performance of the tasks envisaged by Article 17 TEU.
6. The legal issues raised and policy choices made in this concept are not intended to create new bases for use of force under international law. Neither is this concept intended to affect the existing rules on the legality of the use of force in international law.
7. As the policy of the Union shall respect the obligations of certain Member States (MS), which see their common defence realised in the North Atlantic Treaty Organisation (NATO) under the North Atlantic Treaty (Ref. C), this concept does not address the use of force in the context of collective defence as foreseen in Article 5 of the North Atlantic Treaty or Article V of the modified Brussels Treaty (Ref. D), nor does it prejudice the specific character of the security and defence policy of any MS.¹

¹ Article 17, para. 1, 2nd alinea TEU (Ref. A).

8. EU-led military operations will not normally include the execution of law enforcement functions. In the present Use of Force concept, this situation is not elaborated upon.¹ However, should these functions have to be performed clear guidance and strict limitations will be issued regarding law enforcement tasks in the mission statement of the operation.² Specific planning will be taken up to ensure the correct execution of those functions.
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¹ The Police Unit of DGE IX of the Council General Secretariat has developed a handbook of police related documents on Operations, Training, Exercises and Logistics (latest version June 2004, Ref. E). Planning for operations may usefully draw on the documents contained in that handbook. Planning assistance will be made available as required by the Council General Secretariat through the EU Military Staff.

² For HRL guidance in this respect, see e.g. Refs. F and G.

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LIST OF ACRONYMS USED

AD	Air Defence
AEW	Airborne Early Warning
AOI	Area of Interest
AOO	Area of Operations
CAS	Close Air Support
CFSP	Common Foreign and Security Policy
CMC	Crisis Management Concept
CMO	Crisis Management Operation
CNA	Computer Network Attack
CND	Computer Network Defence
CNE	Computer Network Exploitation
CONOPS	Concept of Operations
CSCE	Conference on Security and Cooperation in Europe
DESIG	Designate/Designated/Designation
DRC	Democratic Republic of the Congo
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
ECJ	European Court of Justice
ECM	Electronic Counter Measures
ESDP	European Security and Defence Policy
ESS	European Security Strategy
EU	European Union
FAC	Forward Air Controller
FCdr	Force Commander
FHQ	Force Headquarters
HRL	Human Rights Law
ICAO	International Civil Aviation Organisation
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights

ICRC	International Committee of the Red Cross
IFF	Identification Friend or Foe
IHL	International Humanitarian Law
IMD	Initiating Military Directive
JOA	Joint Operations Area
LOAC	Law of Armed Conflict
MPA	Maritime Patrol Aircraft
MS	Member State/s
MSO	Military Strategic Option
NATO	North Atlantic Treaty Organisation
NFZ	No-Fly-Zone
NSE	National Support Element
OAS	Offensive Air Support
OpCdr	Operation Commander
OPCON	Operational Control
OPCOM	Operational Command
PDSS	Persons with Designated Special Status
PPI	Political Policy Indicator
PPS	Political Policy Statement
PRDSS	Property with Designated Special Status
PSC	Political and Security Committee
OHQ	Operation Headquarters
OpCdr	Operation Commander
OPLAN	Operation Plan
PPS	Political Policy Statement
ROE	Rules of Engagement
ROEAUTH	ROE Authorisation
ROEIMPL	ROE Implementation
ROEREQ	ROE Request
SAC	Scene of Action Commander
SEAD	Suppression of Enemy Air Defences
SOFA	Status of Forces Agreement
SOP	Standard Operating Procedures
TCN	Troop Contributing Nation

TEU	Treaty on European Union
UKHL	United Kingdom House of Lords Decision
UN	United Nations
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
WEU	Western European Union
