(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL DECISION 2003/222/CFSP

of 21 March 2003

concerning the conclusion of the Agreement between the European Union and the Former Yugoslav Republic of Macedonia on the status of the European Union-led Forces (EUF) in the Former Yugoslav Republic of Macedonia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 24 thereof,

Having regard to the recommendation from the Presidency,

Whereas:

(1) On 27 January 2003, the Council adopted Joint Action 2003/92/CFSP on the European Union military operation in the Former Yugoslav Republic of Macedonia (FYROM) ([1]).

(2) Article 12 of that Joint Action provides that the status of the EU-led forces in FYROM shall be the subject of an agreement with the Government of the Former Yugoslav Republic of Macedonia to be concluded on the basis of Article 24 of the Treaty on European Union.

(3) Following the Council Decision of 27 February 2003 authorising the Presidency to open negotiations, the Presidency negotiated an agreement with FYROM on the status of the EU-led forces in FYROM.

(4) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Union and the Former Yugoslav Republic of Macedonia (FYROM) on the status of the European Union-led forces in FYROM is hereby approved on behalf of the European Union.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered to sign the Agreement in order to bind the European Union.

Article 3

The Decision shall be published in the *Official Journal of the European Union*.

Article 4

The Decision shall take effect on the day of its adoption.

Done at Brussels, 21 March 2003.

For the Council

The President

G. PAPANDREOU

([1]) OJ L 34, 11.2.2003, p. 26.

ANNEX

AGREEMENT

between the European Union and the Former Yugoslav Republic of Macedonia on the status of the European Union-led forces in the Former Yugoslav Republic of Macedonia

THE EUROPEAN UNION (hereinafter referred to as the EU),

on the one hand, and

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA (hereinafter referred to as the Host Party),

on the other hand,

together hereinafter referred to as the 'Parties',

TAKING INTO ACCOUNT:

— the invitation of the President of the Host Party dated 17 January 2003, and the reply of the Secretary General/High Representative for EU common foreign and security policy on 28 January,

— the letters of the President of the Host Party and of the Secretary General/High Representative,

— the adoption by the Council of the European Union on 27 January 2003 of Joint Action 2003/92/CFSP on the European Union military operation in the Host Party,

— the signature on 9 April 2001 in Luxembourg of a Stabilisation and Association Agreement between the Host Party and the European Communities and their Member States,

— the wish of the Host Party to promote stability, contributing to the further integration of the Host Party with the European Union,

— the preparedness of the EU to further enhance, including through the use of instruments of the European security and defence policy, efforts to support the rapprochement of the Host Party with the European Union,

— the shared desire that the Host Party be part of a region of peaceful, prosperous countries, cooperating closely with each other and with a view to further integration with the European Union,

— that the purpose of the privileges and immunities as provided for in this Agreement are not to benefit individuals but to ensure the efficient performance of the EU operation,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of application and definitions

1. The provisions of the present Agreement shall apply to the European Union-led forces and European Union-led forces personnel.

2. The provisions of the present Agreement shall apply only in the territory of the Host Party.

3. For the purpose of this Agreement, the following definitions shall have the meanings hereunder assigned to them:

(a) 'Government' means the Government of the Host Party;

(b) 'Territory' means the territory of the Host Party;

(c) 'European Union-led forces' (EUF) means EU military headquarters and national units/elements contributing to the operation, their assets and their means of transport;

(d) 'Operation' means the preparation, establishment, execution and support of a mission consisting in contributing to a stable, secure environment, in particular in the former crisis areas;

(e) 'EUF Commander' means the EU Force Commander at Skopje;

(f) 'EU military headquarters' means military headquarters and elements thereof, whatever their location, under the authority of EU military commanders exercising the military command and control of the operation;

(g) 'national elements/units' means units and elements belonging to the Member States of the European Union and other States participating in the operation;

(h) 'EUF personnel' means the civilian and military personnel assigned to the EUF, present, except as otherwise provided in the agreement, in the territory of the Host Party, with the exception of personnel locally hired, including contractors;

(i) 'Facilities' means all premises and land required for the EUF, as well as for accommodation of the EUF personnel;

(j) 'Competent authorities' means the authorities competent according to the law of the Host Party to address specific issues.

Article 2

General provisions

EUF shall respect the laws and regulations of the Host Party and shall refrain from any action or activity incompatible with the impartial and international nature of the operation.

EUF shall notify the Government of the Host Party of the location of its Headquarters, the name of the EUF Commander, and the overall number of EUF personnel.

EUF shall regularly, and in a timely manner, inform the Government of the Host Party on the number, name, military rank, and nationality of EUF personnel stationed in the territory of the Host Party.

Article 3

Identification

1. EUF personnel shall be identified by an EUF identification card, which they are to carry with them at all times. The Government of the Host Party shall be provided with a specimen of the EUF identification card.

2. Vehicles and other means of transport of the EUF shall carry a distinctive EUF identification marking, which shall be notified to the relevant authorities of the Host Party.

3. EUF may display the flag of the European Union alone or together with the flag of the Host Party.

4. EUF may display its markings such as coat of arms, title and official symbols, on its premises, vehicles and transport facilities. Uniforms of EUF personnel shall carry a distinctive EUF emblem.

5. The official nameplate on EUF premises shall appear in the official language of the Host Party with identical character size as the EUF appropriate language or languages.

Article 4

Border crossing, movement, and presence on the territory of the Host Party

1. EUF personnel and EUF assets and means of transport shall cross the border of the Host Party at official border crossings and via the international air corridors.

2. EUF personnel shall enter the territory of the Host Party only on the basis of the identification card issued pursuant to Article 3 or, in the case of first entry, an individual or collective movement order or a valid travel document. They shall be exempt from passport and visa regulations and immigration inspections on entering or leaving the territory of the Host Party.

3. EUF personnel shall be exempt from the regulations of the Host Party on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territory of the Host Party.

4. The EUF shall provide a certificate of exemption accompanied by an inventory for EUF assets and means of transport entering, transiting or exiting the Host Party territory in support of the operation. They shall be exempt from any other customs documentation as well as from any inspection. A copy of the certificate shall be transmitted to the competent authorities when entering or exiting the Host Party. The format of the certificate shall be agreed between EUF and the competent authorities of the Host Party.

5. The EUF personnel may drive motor vehicles in the territory of the Host Party provided they have a valid national, international or military driving licence. EUF shall provide the Host Party with a list of the motor vehicles, including identification data and number of registration plates, used by EUF on the territory of the Host Party.

6. The Host Party shall guarantee to EUF and EUF personnel freedom of movement and travel in its territory.

7. Organised large movements of EUF personnel, equipment and vehicles through airports, or on railways or roads used for general traffic within the territory of the Host Party shall be previously announced to and coordinated with the Joint Coordination Group set up pursuant to Article 13.

8. For the purpose of the operation, EUF may use public roads, bridges and airports without payment of duties, fees, tolls, taxes and similar charges. The EUF shall not be exempt from reasonable charges, under the same conditions as those provided to the Host Party armed forces, for services requested and received.

Article 5

Immunities and privileges of EUF

1. The premises and accommodations of the EUF shall be inviolable. The agents of the Host Party shall not enter them, except with the consent of the EUF Commander.

2. The premises and accommodations of the EUF, their furnishings and other assets thereon as well as their means of transport shall be immune from search, requisition, attachment or execution.

3. The archives and documents of the EUF shall be inviolable at any time and wherever they may be.

4. Correspondence of the EUF shall be granted a status equivalent to that of official correspondence granted under the Vienna Convention on diplomatic relations dated 18 April 1961.

5. For imported goods and services and in respect of its premises and accommodation, provided these are intended for the purpose of the operation, EUF shall be exempt from all national and communal dues and taxes and charges of similar nature.

6. For goods purchased and services contracted on the domestic market, provided these are intended for the purpose of the operation, EUF shall be reimbursed by the Host Party for all national and communal dues and taxes, including VAT, and charges of similar nature according to the laws of the Host Party.

7. The Host Party shall permit entry of and grant exemption from all custom duties, taxes and related charges other than charges for storage, cartage and similar services on articles for the operation.

Article 6

Immunities and privileges of EUF personnel

1. EUF personnel shall be granted treatment, including immunities and privileges, equivalent to that of diplomatic agents granted under the Vienna Convention on diplomatic relations dated 18 April 1961.

2. EUF personnel has the right to purchase and/or import free of duty or other restrictions items required for their personal use, and to export such items. For goods and services purchased on the domestic market, the Host Party shall reimburse VAT and taxes according to the laws of the Host Party.

Article 7

Uniform and arms

1. The wearing of uniform will be subject to rules issued by the EUF Commander.

2. Military EUF personnel may carry arms and ammunitions on condition that they are authorised to do so by their orders.

Article 8

Host Party Support and Contracting

1. The Host Party agrees, if requested, to assist the EUF in finding suitable facilities.

2. If required and available, facilities owned by the Host Party shall be provided free of charge.

3. Within its means and capabilities, the Host Party will assist and support the preparation, establishment, execution and support of the operation. The assistance and the support from the Host Party to the operation shall be provided under the same conditions as those provided to the Host Party armed forces.

4. EUF will endeavour, to the maximum extent possible, to contract locally for services, goods, and personnel, subject to the requirements of the operation.

Article 9

Protection of the environment and cultural heritages

1. The EUF will, in consultation with the Host Party and subject to the requirements of the operation, respect international conventions and laws of the Host Party regarding the protection of the environment (air, water, land), management of waste, prevention of damaging noise, protection from radiation (ionic and non-ionic), protection of nature, natural heritages, protected natural heritages as well as regarding the sustainable use of natural resources.

2. The EUF will, in consultation with the Host Party and subject to the requirements of the operation, respect international conventions and laws of the Host Party regarding the protection of cultural heritages and cultural values.

Article 10

Deceased EUF personnel

1. The EUF Commander shall have the right to take charge of and make suitable arrangements for the repatriation of any deceased EUF personnel, as well as that of the person's personal property.

2. Autopsy shall not be performed on deceased members of the EUF without the agreement of the State concerned and the presence of a representative of the EUF and/or the State concerned.

Article 11

Military police and mutual assistance

The EUF Commander may establish a military police unit in order to maintain order on EUF facilities.

Outside these facilities, the military police unit may, in consultation and cooperation with the military police or the police of the Host Country, act to ensure the maintenance of good order and discipline among EUF personnel.

Article 12

Communications

1. The EUF shall have the right to install and operate radio sending and receiving stations, as well as satellite systems, using appropriate frequencies, subject to arrangements in Article 16.

2. The EUF shall enjoy the right to unrestricted communication by radio (including satellite, mobile or hand-held radio), telephone, telegraph, facsimile and other means, as well as the right to install the necessary means for maintaining such communications within and between EUF facilities, including the laying of cables and ground lines for the purpose of the operation in consultation with the Host Party.

Article 13

Claims for death, injury, damage or loss

1. Claims arising out of activities in connection with civil disturbances, protection of the EUF or which are incidental to operational necessities shall not be the subject of any reimbursement by Member States or other States participating in the operation or by the operational financing mechanism set up by decision of the Council of the European Union dated 27 January 2003 in order to fund the common costs of the operation.

2. All other claims will be dealt with by a Joint Claims Commission established by the Joint Coordination Group referred to in Article 14, composed of representatives of the EUF and the competent authorities of the Host Party. Settlement of claims will occur after previous consent of the State concerned or the mechanism.

Article 14

Liaison and disputes

1. All issues arising in connection with the application of this Agreement shall be discussed by a Joint Coordination Group. This Group shall be composed of representatives of the EUF and the competent authorities of the Host Party.

2. Failing any prior settlement, disputes with regard to the interpretation or application of the present Agreement shall be settled between the Host Party and EU representatives by diplomatic means.

Article 15

Other provisions

1. Whenever the present Agreement refers to the immunities, privileges, and rights of the EUF and the EUF personnel, the Government of the Host Party shall be responsible for the implementation and fulfilment of such immunities, privileges and rights by the appropriate local authorities of the Host Party.

2. Nothing in this Agreement is intended or shall be construed to derogate from any rights that may attach with respect to an EU Member State or any other State contributing to EUF or their personnel, under other agreements.

3. The Host Party accepts that, where appropriate, EUF may receive assistance and support from NATO Forces and NATO HQ Skopje whose establishment and status are defined in the Exchange of Letters between the North Atlantic Treaty Organisation and the Government of the Former Yugoslav Republic of Macedonia dated 18 May 2001 regarding the status of HQ KFOR REAR and KFOR personnel permanently stationed or temporarily present in the territory of the Former Yugoslav Republic of Macedonia, including where appropriate the use of the official documents, forms and procedures agreed between NATO/KFOR and the authorities of the Former Yugoslav Republic of Macedonia for such purposes.

Article 16

Implementing Arrangements

In order to implement this Agreement, operational, administrative and technical matters will be dealt with in separate arrangements to be concluded between the EUF Commander and the administrative authorities of the Host Party. These arrangements will cover, *inter alia*:

— status of local staff and contractors,

— visits of officials,

— communication and information systems, including radio communications system,

— coordination of information activities,

— exchange of information,

— medical services of all kinds, including dental services,

— protection of the environment (wildlife and nature),

— Host-nation support,

— procedures for addressing and settling claims,

— modalities and procedures for the Joint Coordination Group,

— transport arrangements.

Article 17

Entry into force and termination

1. This Agreement shall enter into force upon written notification of the Parties that the internal requirements for the entry into force have been complied with.

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

3. The Agreement shall remain in force until the final departure of EUF or all national elements/units thereof.

4. This Agreement may be denounced by written notification to the other Party. The denunciation shall take effect 45 days after receipt by the other Party of the notification of denunciation.

5. Termination or denunciation of this Agreement shall not affect any rights or obligations arising from the execution of this Agreement prior to its termination or denunciation.

6. This Agreement is done in two originals in English.

A. *Letter from the European Union*

Skopje, 21 March 2003

Dear Sir,

I have the honour to propose that, if it is acceptable to your Government, this letter and your confirmation shall together take the place of signature of the Agreement between the European Union and the Former Yugoslav Republic of Macedonia on the status of the European Union-led forces in the Former Yugoslav Republic of Macedonia.

The text of the aforementioned Agreement, herewith annexed, has been approved by decision of the Council of the European Union on 21 March 2003.

This letter also constitutes the notification, on behalf of the European Union, in accordance with Article 17.1 of the Agreement.

Please accept, Sir, the assurance of my highest consideration.

For the European Union,
Alexis BROUHNS
EU Special Representative

B. *Letter from the Former Yugoslav Republic of Macedonia*

Skopje, 21 March 2003

Dear Sir,

On behalf of the Government of the Republic of Macedonia I have the honour to acknowledge receipt of your letter of today's date regarding the signature of the Agreement between the Republic of Macedonia and the European Union on the status of the European Union-led forces in the Republic of Macedonia, together with the attached text of the Agreement.

I confirm the acceptance by the Government of the text of the Agreement, and consider this exchange of Letters as equivalent of signature.

However, I declare that the Republic of Macedonia does not accept the denomination used for my country in the abovementioned Agreement, having in mind that the constitutional name of my country is the Republic of Macedonia.

Please accept, Sir, the assurances of my highest consideration.

State Secretary
Risto NIKOVSKI

C. *Letter from the European Union*

Skopje, 21 March 2003

Dear Sir,

I have the honour to acknowledge receipt of your letter of today's date.

The European Union notes that the Exchange of Letters between the European Union and the Former Yugoslav Republic of Macedonia, which takes the place of signature of the Agreement between the European Union and the former Yugoslav Republic of Macedonia on the status of the European Union-led Forces in the former Yugoslav Republic of Macedonia, has been accomplished and that this cannot be interpreted as acceptance or recognition by the European Union in whatever form or content of a denomination other than the 'Former Yugoslav Republic of Macedonia'.

Please accept, Sir, the assurance of my highest consideration.

For the European Union
Alexis BROUHNS
EU Special Representative