

**AGREEMENT****between the European Union and the Republic of Uganda on the Status of the European Union-led Mission in Uganda**

THE EUROPEAN UNION,

hereinafter referred to as 'the Union',

of the one part, and

THE REPUBLIC OF UGANDA,

hereinafter referred to as 'the Host State',

of the other part,

together hereinafter referred to as the 'Parties',

TAKING INTO ACCOUNT:

- that in its Resolution 1897 (2009) on the situation in Somalia, adopted on 30 November 2009, the United Nations Security Council (UNSC) recalled its previous Resolutions in support of Somalia and reaffirmed its respect for the sovereignty, territorial integrity, political independence and unity of Somalia,
- that the UNSC further emphasised that Somalia's long-term security rests with the effective development by the Transitional Federal Government (TFG) of the National Security Force and Somali Police Force, in the framework of the Djibouti Agreement and in line with a national security strategy,
- the letter dated 5 January 2010, by which the Minister of Defence of the Host State welcomed the Union's envisaged mission in support of the Somali security sector and invited the Union to participate in the training of Somali security forces in the Host State for a period of at least one year,
- Council Decision 2010/96/CFSP of 15 February 2010 on a European Union military mission to contribute to the training of Somali security forces<sup>(1)</sup>,
- that this mission is a non-executive mission which does not entail the right to take coercive measures independently from the consent of the Host State,
- that this Agreement will not affect the Parties' rights and obligations under international agreements and other instruments establishing international courts and tribunals, including the Statute of the International Criminal Court,

HAVE AGREED AS FOLLOWS:

*Article 1*

**Scope and definitions**

1. This Agreement shall apply to the European Union-led Mission in Uganda (hereinafter referred to as 'EUTM Somalia') and to its personnel.

2. This Agreement shall apply only within the territory of the Host State.

3. For the purpose of this Agreement:

(a) 'EUTM Somalia' shall mean EU mission headquarters and national contingents contributing to the mission, their equipment and their means of transport;

(b) 'mission' shall mean the preparation, establishment, execution and support of EUTM Somalia;

(c) 'EU Mission Commander' shall mean the Commander in the theatre;

(d) 'EU mission headquarters' shall mean the military headquarters and elements thereof, whatever their location, under the authority of EU military commanders exercising the military command or control of the mission;

(e) 'national contingents' shall mean units and elements belonging to the Member States of the Union and to other States participating in the mission;

(f) 'EUTM Somalia personnel' shall mean the civilian and military personnel assigned to EUTM Somalia as well as personnel deployed for the preparation of the mission and personnel on mission for a Sending State or an institution of the Union in the framework of the mission, present, except as otherwise provided in this Agreement, within the territory of the Host State, with the exception of personnel employed locally and personnel employed by international commercial contractors;

<sup>(1)</sup> OJ L 44, 19.2.2010, p. 16.

- (g) 'personnel employed locally' shall mean personnel who are nationals of, or permanently resident in, the Host State;
- (h) 'facilities' shall mean all premises, accommodation and land areas required for EUTM Somalia and EUTM Somalia personnel;
- (i) 'Sending State' shall mean a State providing a national contingent for EUTM Somalia, including Member States of the Union and third States participating in the mission;
- (j) 'Host State' shall mean the Republic of Uganda;
- (k) 'official correspondence' shall mean all correspondence relating to the mission and its functions.

#### Article 2

##### General provisions

1. EUTM Somalia and EUTM Somalia personnel shall respect the laws and regulations of the Host State and shall refrain from any action or activity incompatible with the objectives of the mission.
2. EUTM Somalia shall regularly inform the government of the Host State of the number of EUTM Somalia personnel stationed within the Host State's territory.

#### Article 3

##### Identification

1. EUTM Somalia personnel shall carry passports or military identity cards with them at all times.
2. EUTM Somalia vehicles, aircraft and other means of transport shall carry distinctive EUTM Somalia identification markings and/or registration plates, of which the relevant Host State authorities shall be notified.
3. EUTM Somalia shall have the right to display the flag of the Union and markings such as military insignia, titles and official symbols, on its facilities, vehicles and other means of transport. The uniforms of EUTM Somalia personnel shall carry a distinctive EUTM Somalia emblem. National flags or insignia of the constituent national contingents of the mission may be displayed on the EUTM Somalia facilities, vehicles and other means of transport and uniforms, as decided by the EU Mission Commander.

#### Article 4

##### Border crossing and movement within the Host State's territory

1. EUTM Somalia personnel shall enter the Host State's territory only on presentation of the documents provided for

in Article 3(1) or, in the case of first entry, of an individual or collective movement order issued by EUTM Somalia. They shall be exempt from visa regulations, and the Host State shall facilitate EUTM Somalia personnel with immigration inspections and customs control requirements, on entering, leaving or within the Host State's territory.

2. EUTM Somalia personnel shall be exempt from the Host State's regulations on the registration and control of aliens, but shall not acquire any right to permanent residence or domicile within the Host State's territory.

3. The Host State shall be provided, for information purposes, with a general list of EUTM Somalia equipment entering its territory. This equipment shall carry EUTM Somalia identification markings. The procedure hereof shall be sufficient to satisfy all customs and inspection requirements.

4. EUTM Somalia personnel may drive motor vehicles and operate aircrafts within the Host State's territory provided they have valid national, international or military driving licences or pilot licences, as appropriate.

5. For the purpose of the mission, the Host State shall grant EUTM Somalia and EUTM Somalia personnel freedom of movement and freedom to travel within its territory, including its air space.

6. For the purpose of the mission, EUTM Somalia and the means of transport that it charters may use public roads, bridges, ferries and airports without the payment of duties, fees, tolls, taxes and similar charges. EUTM Somalia shall not be exempt from reasonable charges for services requested and received, under the conditions that apply to those provided to the Host State's armed forces.

#### Article 5

##### Privileges and immunities of EUTM Somalia granted by the Host State

1. EUTM Somalia's facilities shall be inviolable. The Host State's agents shall not enter them without the consent of the EU Mission Commander.

2. EUTM Somalia's facilities, their furnishings and other assets therein as well as its means of transport shall be immune from search, requisition, attachment or execution.

3. EUTM Somalia, its property and assets, wherever located and by whomsoever held as duly authorised by EUTM Somalia, shall enjoy immunity from every form of legal process.

4. EUTM Somalia's archives and documents shall be inviolable at any time, wherever they may be.

5. The official correspondence of EUTM Somalia shall be inviolable.

6. In respect of purchased and imported goods, services provided and facilities used by EUTM Somalia for the purposes of the mission, EUTM Somalia shall be exempt from all taxes and charges of a similar nature in the Host State. EUTM Somalia providers or contractors shall also be exempted from those taxes and charges of a similar nature concerning goods, services and facilities provided by them to EUTM Somalia. EUTM Somalia shall not be exempt from dues, taxes or charges that represent payment for services requested and rendered.

7. The Host State shall permit the entry and exit of articles for the mission and grant them exemption from all custom duties, fees, tolls, taxes and similar charges other than charges for storage, cartage and other services requested and rendered.

#### *Article 6*

#### **Privileges and immunities of EUTM Somalia personnel granted by the Host State**

1. EUTM Somalia personnel shall not be liable to any form of arrest or detention.

2. Papers, correspondence and property of EUTM Somalia personnel shall enjoy inviolability, except in case of measures of execution which are permitted pursuant to paragraph 6.

3. EUTM Somalia personnel shall enjoy immunity from the criminal jurisdiction of the Host State under all circumstances.

The immunity from criminal jurisdiction of EUTM Somalia personnel may be waived by the Sending State or the institution of the Union concerned, as the case may be. Such waiver shall always be in writing.

The immunity of EUTM Somalia personnel from the jurisdiction of the Host State shall not exempt them from the jurisdiction of the respective Sending State. In the event of an allegation of a criminal offence being committed by EUTM Somalia personnel, the Sending State shall inform the Host State of the outcome of such judicial procedure as it undertakes in connection with the alleged criminal offence.

4. EUTM Somalia personnel shall enjoy immunity from the civil and administrative jurisdiction of the Host State in respect of words spoken or written and all acts performed by them in the exercise of official functions. If any civil proceedings are

instituted against EUTM Somalia personnel before any Host State court, the EU Mission Commander and the competent authority of the Sending State or the institution of the Union shall be notified immediately. Prior to initiation of civil proceedings before the court, the EU Mission Commander and the competent authority of the Sending State or the institution of the Union shall certify to the court whether the act in question was committed by EUTM Somalia personnel in the exercise of official functions.

If the act was committed in the exercise of official functions, civil proceedings shall not be initiated and the provisions of Article 15 shall apply. If the act was not committed in the exercise of official functions, civil proceedings may continue. The certification by the EU Mission Commander and the competent authority of the Sending State or the institution of the Union shall be binding upon the jurisdiction of the Host State which may not contest it.

The initiation of civil proceedings by EUTM Somalia personnel shall preclude them from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

5. EUTM Somalia personnel shall not be obliged to give evidence as witnesses.

EUTM Somalia and the Sending State may produce statements of witnesses or affidavits by EUTM Somalia personnel about criminal acts witnessed in the context of training Somali security forces in Uganda.

6. No measures of execution may be taken in respect of EUTM Somalia personnel, except in the case where civil proceedings not related to official functions are instituted against them. Property of EUTM Somalia personnel, which is certified by the EU Mission Commander to be necessary for the fulfilment of official functions, shall be free from seizure for the satisfaction of a judgement, decision or order. In civil proceedings, EUTM Somalia personnel shall not be subject to any restrictions on their personal liberty or to any other measures of constraint.

7. EUTM Somalia personnel shall with respect to services rendered for EUTM Somalia be exempt from social security provisions which may be in force in the Host State.

8. EUTM Somalia personnel shall be exempt from any form of taxation in the Host State on the salary and emoluments paid to them by EUTM Somalia or the Sending States, as well as on any income received from outside the Host State.

9. The Host State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from, all customs duties, indirect and direct taxes, excise duties, and related charges other than charges for storage, cartage and similar services, on articles for the personal use of EUTM Somalia personnel.

Any inspection of personal baggage of EUTM Somalia personnel shall be conducted only in the presence of the EUTM Somalia personnel concerned or of an authorised representative of EUTM Somalia.

#### *Article 7*

##### **Personnel employed locally**

Personnel employed locally shall enjoy privileges and immunities only to the extent admitted by the Host State. However, the Host State shall exercise its jurisdiction over that personnel in such a manner as not to interfere unduly with the performance of the functions of the mission.

#### *Article 8*

##### **Criminal jurisdiction**

The competent authorities of a Sending State shall have the right to exercise on the territory of the Host State all the criminal jurisdiction and disciplinary powers conferred on them by the law of the Sending State with regard to all EUTM Somalia personnel subject to the relevant law of the Sending State.

#### *Article 9*

##### **Uniform and arms**

1. The wearing of uniform shall be subject to rules adopted by the EU Mission Commander.

2. EUTM Somalia military personnel may carry arms and ammunition on condition that they are authorised to do so by their orders which shall be communicated to the Host State.

#### *Article 10*

##### **Host State support and contracting**

1. The Host State agrees, if requested, to assist EUTM Somalia in finding suitable facilities.

2. The Host State shall provide, free of charge, facilities of which it is the owner, in so far as such facilities are requested for the conduct of administrative and operational activities of EUTM Somalia.

3. Within its means and capabilities, the Host State shall assist in the preparation, establishment, and execution of, and support for, the mission. The Host State's assistance and support of the mission shall be provided under the same conditions as the assistance and support given to the Host State's armed forces.

4. The law applicable to contracts concluded by EUTM Somalia in the Host State shall be determined by the contract.

5. The contract may stipulate that the dispute settlement procedure referred to in Article 15(3) and (4) shall be applicable to disputes arising from the application of the contract.

6. The Host State shall facilitate the implementation of contracts concluded by EUTM Somalia with commercial entities for the purposes of the mission.

#### *Article 11*

##### **Change to facilities**

1. EUTM Somalia shall be authorised to construct, alter or otherwise modify facilities as requested for its operational requirements.

2. No compensation shall be requested from EUTM Somalia by the Host State for those constructions, alterations or modifications.

3. Prior to the withdrawal of EUTM Somalia, where appropriate, the EU Mission Commander will enter into negotiations on an arrangement in application of Article 18 with a view to seeking reasonable residual value for fixed and/or moveable facilities provided or improved with EUTM Somalia funds that will remain after withdrawal of EUTM Somalia. If EUTM Somalia is taken over by a successor mission, the Host State shall make the facilities available to this successor mission free of charge.

#### *Article 12*

##### **Deceased EUTM Somalia personnel**

1. The EU Mission Commander shall have the right to take charge of, and make suitable arrangements for, the repatriation of any deceased EUTM Somalia personnel, as well as that of their personal property.

2. No autopsy shall be performed on any deceased EUTM Somalia personnel without the agreement of the State of nationality of the deceased person concerned and the presence of a representative of EUTM Somalia and/or the State of nationality of the deceased person concerned.

3. The Host State and EUTM Somalia shall cooperate to the fullest extent possible with a view to early repatriation of deceased EUTM Somalia personnel.

#### *Article 13*

##### **Security of EUTM Somalia and military police**

1. The Host State shall take all appropriate measures to ensure the safety and security of EUTM Somalia and its personnel, including those necessary to protect its facilities against any external attack or intrusion.

2. The EU Mission Commander may establish a military police unit in order to maintain order in EUTM Somalia facilities.

3. The military police unit may also, in consultation and cooperation with the military police or the police of the Host State, act outside EUTM Somalia facilities to ensure the maintenance of good order and discipline among EUTM Somalia personnel.

#### Article 14

##### Communications

1. EUTM Somalia may install and operate radio sending and receiving stations, as well as satellite systems. It shall cooperate with the Host State's competent authorities with a view to avoiding conflicts in the use of appropriate frequencies. The Host State shall grant access to the frequency spectrum free of charge.

2. EUTM Somalia shall enjoy the right to unrestricted communication by radio (including satellite, mobile and hand-held radio), telephone, telegraph, facsimile and other means, as well as the right to install the equipment necessary for the maintenance of such communications within and between EUTM Somalia facilities, including the laying of cables and land lines for the purpose of the mission.

3. Within its own facilities EUTM Somalia may make the arrangements necessary for the conveyance of mail addressed to and from EUTM Somalia and/or EUTM Somalia personnel.

#### Article 15

##### Claims for death, injury, damage and loss

1. EUTM Somalia and EUTM Somalia personnel shall not be liable for any damage to or loss of civilian or government property which are related to operational necessities or caused by activities in connection with civil disturbances or protection of EUTM Somalia.

2. With a view to reaching an amicable settlement, claims for damage to or loss of civilian or government property not covered by paragraph 1, as well as claims for death of or injury to persons and for damage to or loss of EUTM Somalia property, shall be forwarded to EUTM Somalia via the competent authorities of the Host State, as far as claims brought by legal or natural persons from the Host State are concerned, or to the competent authorities of the Host State, as far as claims brought by EUTM Somalia are concerned.

3. Where no amicable settlement can be found, the claim shall be submitted to a claims commission composed on an

equal basis of representatives of EUTM Somalia and representatives of the Host State. Settlement of claims shall be reached by common agreement.

4. Where no settlement can be reached within the claims commission, the dispute shall:

(a) for claims up to and including EUR 40 000, be settled by diplomatic means between representatives of the Host State and of the Union;

(b) for claims above the amount referred to in point (a), be submitted to an arbitration tribunal, the decisions of which shall be binding.

5. The arbitration tribunal shall be composed of three arbitrators, one arbitrator being appointed by the Host State, one arbitrator being appointed by EUTM Somalia and the third one being appointed jointly by the Host State and EUTM Somalia. Where one of the Parties does not appoint an arbitrator within two months or where no agreement can be found between the Host State and EUTM Somalia on the appointment of the third arbitrator, the arbitrator in question shall be appointed by the President of the Court of Justice of the European Union.

6. An administrative arrangement shall be concluded between EUTM Somalia and the administrative authorities of the Host State in order to determine the terms of reference of the claims commission and the arbitration tribunal, the procedure applicable within those bodies and the conditions under which claims are to be lodged.

#### Article 16

##### Liaison and disputes

1. All issues arising out of, or in connection with, the application of this Agreement shall be examined jointly by representatives of EUTM Somalia and of the Host State's competent authorities.

2. Failing any prior settlement, disputes concerning the interpretation or application of this Agreement shall be settled exclusively by diplomatic means between the representatives of the Host State and of the Union.

#### Article 17

##### Other provisions

1. Whenever this Agreement refers to the privileges, immunities and rights of EUTM Somalia and of EUTM Somalia personnel, the Government of the Host State shall be responsible for their implementation and for compliance with them on the part of the appropriate Host State local authorities.

2. Nothing in this Agreement is intended or may be construed as to derogate from any rights that may attach to a Member State of the Union or to any other State contributing to EUTM Somalia under other agreements.

#### *Article 18*

##### **Implementing arrangements**

For purposes of the application of this Agreement, operational, administrative and technical matters may be the subject of separate arrangements to be concluded between the EU Mission Commander and the Host State's administrative authorities.

#### *Article 19*

##### **Entry into force and termination**

1. This Agreement shall enter into force on the day on which it is signed and shall remain in force until the date of departure of the last EUTM Somalia element and of the last EUTM Somalia personnel, as notified by EUTM Somalia.

2. Notwithstanding paragraph 1, the provisions contained in Articles 4(6), 5(1) to (3), 5(6), 5(7), 6(1), 6(3), 6(4), 6(6), 6(7) to (9), 10(2), 11 and 15 shall be deemed to have applied from the date on which the first EUTM Somalia personnel were deployed if that date was earlier than the date of entry into force of this Agreement.

3. This Agreement may be amended by written agreement between the Parties.

4. Termination of this Agreement shall not affect any rights or obligations arising out of the execution of this Agreement before such termination.

Done at Kampala, in duplicate, in the English language, this 12th day of August 2010.

*For the European Union*  
Vincent DE VISSCHER

*For the Republic of Uganda*  
Crispus KIYONGA