

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (CFSP) 2016/2360

of 28 November 2016

on the signing and conclusion of the Acquisition and Cross-Servicing Agreement between the European Union and the United States of America

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 37 thereof, in conjunction with Article 218(5) and (6) of the Treaty on the Functioning of the European Union,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) By virtue of Article 42 TEU, the Union may carry out military operations outside the Union. With a view to preparing those operations, military exercises could also take place outside the Union.
- (2) Such operations may require logistic support, and supplies and services for the benefit of the deployed headquarters and the deployed national contingents of the operation that the Member States are not always able to provide.
- (3) There is also a possibility that the deployed headquarters or the deployed national contingents of the operation may be asked and be ready to provide logistic support, and supplies and services to units of the United States of America present in the theatre of the operation.
- (4) Pursuant to Article 41(2) TEU, operating expenditure to which military operations give rise is to be charged to the Member States. In view of that provision, the Union is not allowed to make commitments which could result in financial consequences for the Member States.
- (5) The Athena Mechanism set up by Council Decision (CFSP) 2015/528 ⁽¹⁾ is authorised to act on behalf of the Member States in the field of the financing of the Union military operations.
- (6) Following the adoption of a Decision by the Council on 17 November 2015 authorising the opening of negotiations, the High Representative of the Union for Foreign Affairs and Security Policy negotiated the Acquisition and Cross-Servicing Agreement between the European Union and the United States of America ('the Agreement').

⁽¹⁾ Council Decision (CFSP) 2015/528 of 27 March 2015 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) and repealing Decision 2011/871/CFSP (OJ L 84, 28.3.2015, p. 39).

- (7) In accordance with Article 5 Protocol No 22 on the position of Denmark annexed to the TEU and to the TFEU, Denmark does not participate in the elaboration and implementation of decisions and actions of the Union which have defence implications. Consequently, Denmark is not participating in the adoption of this Decision, is neither bound by it nor subject to its application.
- (8) The Agreement should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Acquisition and Cross-Servicing Agreement between the European Union and the United States of America is hereby approved on behalf of the 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(s) empowered to sign the Agreement in order to bind the Union.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 28 November 2016.

For the Council
The President
P. ŽIGA
