THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES

DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL

of 28 April 2004

concerning privileges and immunities granted to ATHENA

(2004/582/EC)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union (TEU), and in particular Title V thereof;

Whereas:

(1) ATHENA is the mechanism established by Council Decision 2004/197/CFSP [1] to administer the financing of the common costs of European Union operations having military or defence implications. Certain privileges and immunities are necessary to facilitate the proper functioning of ATHENA in the sole interest of the European Union and its Member States.

(2) For tax purposes, Member States consider that Athena fulfils the criteria for an exemption under Article 15(10) of the sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment [2] and under Article 23(1) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products [3],

HAVE DECIDED AS FOLLOWS:

Article 1

The property, funds and assets belonging to ATHENA, or administered on behalf of the Member States by it, wherever located on the territories of the Member States and by whomsoever held, shall be immune from search, seizure, requisition, confiscation or any other form of administrative or legal measure of constraint.

Article 2

The archives of ATHENA shall be inviolable.

Article 3

1. Within the scope of its official activities, the assets, income and other property belonging to ATHENA, or administered on behalf of the Member States by it, shall be exempt from all direct taxes.

2. Purchases or acquisitions made by ATHENA shall be exempt from all indirect taxes included in the price of movable and immovable property and services purchased for official use and involving considerable expenditure. The exemption may be granted by way of a refund or remission.

3. No exemption shall be granted on taxes which amount merely to charges for public utility services.

Article 4

Member States shall permit ATHENA to communicate freely and without need for permission, for all official purposes, and shall protect its right to do so. ATHENA shall have the right to use codes and to dispatch and receive official correspondence and other official communications by courier or in sealed bags, which shall be subject to the same privileges and immunities as diplomatic couriers and bags.

[1] OJ L 63, 28.2.2004, p. 68.
[2] OJ L 145, 13.6.1977, p. 1. Directive as last amended by Commission Regulation (EC) No 290/2004 (OJ L 50, 20.2.2004, p. 5).
[3] OJ L 76, 23.3.1992, p. 1. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

Article 5

Articles 1 to 4 shall apply except in so far as ATHENA's Special Committee has expressly waived the immunity or privilege in any particular case.

Article 6

This Decision shall enter into force on 1 November 2004, provided that all Member States have informed the General Secretariat of the Council by that date that the procedures required for the final or provisional implementation of this Decision in their national legal systems have been completed.

Article 7

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

Hecho en Bruselas, el veintiocho de abril de 2004.

Udfærdiget i Bruxelles den otteogtyvende april to tusind og fire.

Geschehen zu Brüssel am achtundzwanzigsten April zweitausendundvier.

Έγινε στις Βρυξέλλες, στις είκοσι οκτώ Απριλίου δύο χιλιάδες τέσσερα.

Done at Brussels on the twenty-eighth day of April in the year two thousand and four.

Fait à Bruxelles, le vingt-huit avril deux mille quatre.

Fatto a Bruxelles, addì ventotto aprile duemilaquattro.

Gedaan te Brussel, de achtentwintigste april, tweeduizendvier.

Feito em Bruxelas, em vinte e oito de Abril de dois mil e quatro.

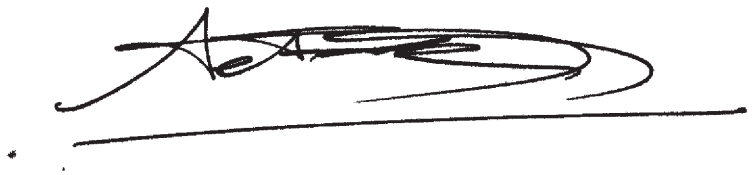
Tehty Brysselissä kahdentenakymmenentenäkahdeksantena päivänä huhtikuuta vuonna kaksituhattaneljä.

Som skedde i Bryssel den tjugoåttonde april tjugohundrafyra.

Pour le gouvernement du Royaume de Belgique

Voor de Regering van het Koninkrijk België

Für die Regierung des Königreichs Belgien



For regeringen for Kongeriget Danmark



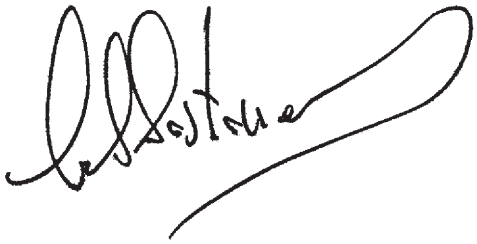
Für die Regierung der Bundesrepublik Deutschland



Για την Κυβέρνηση της Ελληνικής Δημοκρατίας



Por el Gobieno del Reino de España



Pour le gouvernement de la République française

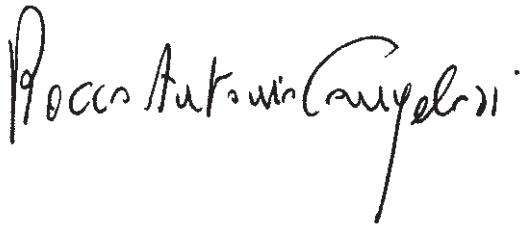


Thar ceann Rialtas na hÉireann

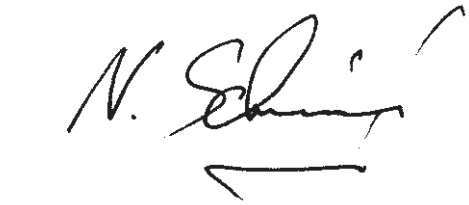
For the Government of Ireland



Per il Governo della Repubblica italiana



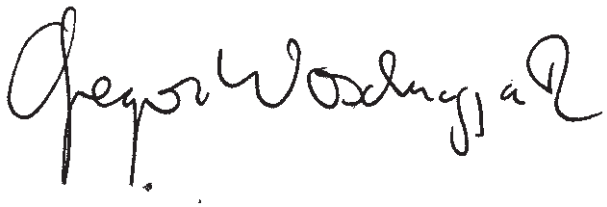
Pour le gouvernement du Grand-Duché de Luxembourg



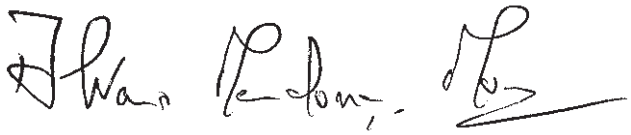
Voor de Regering van het Koninkrijk der Nederlanden



Für die Regierung der Republik Österreich



Pelo Governo da República Portuguesa



Suomen hallituksen puolesta

På finska regeringens vägnar



På svenska regeringens vägnar



For the Government of the United Kingdom of Great Britain and Northern Ireland

