

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1959 Nr. 53

A. TITEL

Overeenkomst tussen het Koninkrijk der Nederlanden en de Verenigde Staten van Amerika tot samenwerking op het gebied van het gebruik van atoomenergie voor de wederzijdse verdediging; 's-Gravenhage, 6 mei 1959

B. TEKST

Agreement between the Government of the Kingdom of the Netherlands and the Government of the United States of America for cooperation on the uses of atomic energy for mutual defense purposes

The Government of the Kingdom of the Netherlands and the Government of the United States of America,

Considering that they have concluded a Mutual Defense Assistance Agreement, pursuant to which each Government will make available to the other equipment, materials, services, or other military assistance in accordance with such terms and conditions as may be agreed;

Considering that their mutual security and defense require that they be prepared to meet the contingencies of atomic warfare;

Considering that they are participating together in an international arrangement pursuant to which they are making substantial and material contributions to their mutual defense and security;

Recognizing that their common defense and security will be advanced by the exchange of information concerning atomic energy and by the transfer of certain types of equipment;

Believing that such exchange and transfer can be undertaken without risk to the defense and security of either country; and

Taking into consideration the United States Atomic Energy Act of 1954, as amended, and all applicable statutes of the Netherlands, which were enacted or prepared with these purposes in mind;

Have agreed as follows:

Article I

General Provision

While the United States and the Netherlands are participating in an international arrangement for their mutual defense and security and making substantial and material contributions thereto, each Party will communicate to and exchange with the other Party information and transfer non-nuclear parts of atomic weapons systems involving Restricted Data to the other Party in accordance with the provisions of this Agreement, provided that the communicating or transferring Party determines that such cooperation will promote and will not constitute an unreasonable risk to its defense and security.

Article II

Exchange of information

Each Party will communicate to or exchange with the other Party such classified information as is jointly determined to be necessary to:

- A. the development of defense plans;
- B. the training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy;
- C. the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy; and
- D. the development of delivery systems compatible with the atomic weapons which they carry.

Article III

Transfer of non-nuclear parts of atomic weapons systems

The Government of the United States will transfer to the Government of the Netherlands, subject to terms and conditions to be agreed, non-nuclear parts of atomic weapons systems involving Restricted Data as such parts are jointly determined to be necessary for the purpose of improving the Netherlands' state of training and operational readiness.

Article IV

Conditions

A. Cooperation under this Agreement will be carried out by each of the Parties in accordance with its applicable laws.

B. Under this Agreement there will be no transfer by either Party of atomic weapons, non-nuclear parts of atomic weapons, or special nuclear materials.

C. The information communicated or exchanged, or non-nuclear parts of atomic weapons systems transferred, by either Party pursuant to this Agreement shall be used by the recipient Party exclusively for the preparation or implementation of defense plans in the mutual interests of the two countries.

D. Nothing in this Agreement shall preclude the communication or exchange of classified information which is transmissible under other arrangements between the Parties.

Article V

Guarantees

A. Classified information and non-nuclear parts of atomic weapons systems communicated or transferred pursuant to this Agreement shall be accorded full security protection under applicable security arrangements between the Parties and applicable national legislation and regulations of the Parties. In no case shall either Party maintain security standards for safeguarding classified information, and non-nuclear parts of atomic weapons systems, made available pursuant to this Agreement less restrictive than those set forth in the applicable security arrangements in effect on the date this Agreement comes into force.

B. Classified information communicated or exchanged pursuant to this Agreement will be made available through channels existing or hereafter agreed for the communication or exchange of such information between the Parties.

C. Classified information, communicated or exchanged, and any non-nuclear parts of atomic weapons systems transferred pursuant to this Agreement shall not be communicated, exchanged or transferred by the recipient Party or persons under its jurisdiction to any unauthorized persons or, except as provided in Article VI of this Agreement, beyond the jurisdiction of that Party. Each Party may stipulate the degree to which any of the information and non-nuclear parts of atomic weapons systems communicated, exchanged or transferred by it or persons under its jurisdiction pursuant to this Agreement may be disseminated or distributed; may specify the categories of persons who may have access to such information or non-nuclear parts of atomic weapons systems; and may impose such other restrictions on the dissemination or distribution of such information or non-nuclear parts of atomic weapons systems as it deems necessary.

Article VI

Dissemination

Nothing in this Agreement shall be interpreted or operate as a bar or restriction to consultation or cooperation in any field of defense by either Party with other nations or international organizations. Neither Party, however, shall so communicate classified information or transfer or permit access to or use of non-nuclear parts of atomic weapons systems made available by the other Party pursuant to this Agreement unless:

A. It is notified by the originating Party that all appropriate provisions and requirements of the originating Party's applicable laws, including authorization by competent bodies of the originating Party, have been complied with which would be necessary to authorize the originating Party directly so to communicate to, transfer to, permit access to or use by such other nation or international organization; and further that the originating Party authorizes the recipient Party so to communicate to, transfer to, permit access to or use by such other nation or international organization;

B. The originating Party has informed the recipient Party that the originating Party has so communicated to, transferred to, permitted access to or use by such other nation or international organization.

Article VII

Classification policies

Agreed classification policies shall be maintained with respect to all classified information and non-nuclear parts of atomic weapons systems communicated, exchanged or transferred under this Agreement.

Article VIII

Responsibility for use of information and non-nuclear parts of atomic weapons systems

The application or use of any information (including design drawings and specifications) or non-nuclear parts of atomic weapons systems communicated, exchanged or transferred under this Agreement shall be the responsibility of the Party receiving it, and the other Party does not provide any indemnity or warranty with respect to such application or use.

Article IX

Patents

The recipient Party shall use the classified information communicated, or revealed by equipment transferred hereunder, for the purposes specified herein only. Any inventions or discoveries resulting from possession of such information on the part of the recipient

Party or persons under its jurisdiction shall be made available to the other Party for all purposes without charge in accordance with such arrangements as may be agreed and shall be safeguarded in accordance with the provisions of Article V of this Agreement.

Article X

Definitions

For the purposes of this Agreement:

A. „Atomic weapon” means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

B. „Classified information” means information, data, materials, services, or any other matter with the security designation of „Confidential” or higher applied under the legislation or regulations of either the United States or the Netherlands, including that designated by the Government of the United States as „Restricted Data” or „Formerly Restricted Data” and that designated by the Government of the Netherlands as „Atomic”.

C. „Non-nuclear parts of atomic weapons” means parts of atomic weapons which are specially designed for them and are not in general use in other end products and which are not made of, in whole or in part, special nuclear material; and „non-nuclear parts of atomic weapons systems involving Restricted Data” means parts of atomic weapons systems, other than non-nuclear parts of atomic weapons, which contain or reveal atomic information and which are not made of, in whole or in part, special nuclear material.

D. As used in this Agreement, the term „atomic information” means:

1. So far as concerns information provided by the Government of the United States, information which is designated „Restricted Data” and „Formerly Restricted Data”.

2. So far as concerns information provided by the Government of the Netherlands, information which is designated „Atomic”.

Article XI

Duration

This Agreement shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all legal requirements for the entry into force of this Agreement, and shall remain in force until terminated by agreement of both Parties except that either Party

may terminate its cooperation under Articles II of III upon the expiration of the North Atlantic Treaty.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement.

DONE at The Hague, in duplicate, in the English language, this 6th day of May, 1959.

For the Government of the Kingdom of the Netherlands:

(Sd.) J. LUNS

For the Government of the United States of America:

(Sd.) PHILIP YOUNG

G. INWERKINGTREDING

De bepalingen van de Overeenkomst zullen ingevolge artikel XI in werking treden op de dag waarop beide Partijen elkaar zullen hebben medegedeeld, dat is voldaan aan alle wettelijke vereisten ter zake.

Wat het Koninkrijk der Nederlanden betreft, zal de Overeenkomst alleen voor Nederland gelden.

J. GEGEVENS

De onderhavige Overeenkomst strekt tot uitvoering van het op 27 januari 1950 te Washington tussen het Koninkrijk der Nederlanden en de Verenigde Staten van Amerika gesloten Verdrag tot wederzijdse hulpverlening inzake verdediging, en met name van artikel I, eerste lid, van dat Verdrag. De tekst van het Verdrag, hetwelk wordt genoemd in de preambule tot de onderhavige Overeenkomst, is opgenomen in *Stb.* K 84; zie ook *Trb.* 1952, 19.

Met de internationale regeling aan welke de Overeenkomstsluitende Partijen beide deelnemen en welke wordt genoemd in de preambule en in artikel I van de Overeenkomst, is bedoeld het op 4 april 1949 te Washington gesloten Noordatlantische Verdrag. Tekst en vertaling van dat Verdrag, dat tevens wordt genoemd in artikel XI van de onderhavige Overeenkomst, zijn opgenomen in *Stb.* J 355; zie ook, laatstelijk, *Trb.* 1955, 106.

Uitgegeven de vijftiengintste mei 1959.

De Minister van Buitenlandse Zaken,

J. LUNS.