

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1979 Nr. 72

A. TITEL

*Memorandum van overeenstemming tussen het Koninkrijk der
Nederlanden en de Verenigde Staten van Amerika over
samenwerking inzake defensiematerieel;
Washington/'s-Gravenhage, 25 juli/24 augustus 1978*

B. TEKST

De tekst van het Memorandum van overeenstemming is geplaatst
in *Trb.* 1978, 121.

D. PARLEMENT

Bij brieven van 1 december 1978 is het onderhavige Memorandum
van overeenstemming in overeenstemming met artikel 60, tweede lid,
van de Grondwet medegedeeld aan de Eerste en de Tweede Kamer
der Staten-Generaal.

De in rubriek J hieronder afgedrukte en op 21 december 1978 te
Washington tot stand gekomen Bijlagen I, II en III behoeven inge-
volgde artikel 62, eerste lid, letter b, van de Grondwet niet de goed-
keuring der Staten-Generaal.

G. INWERKINGTREDING

Zie *Trb.* 1978, 121.

J. GEGEVENS

Zie *Trb.* 1978, 121.

In overeenstemming met artikel VI van het Memorandum van
overeenstemming zijn op 21 december 1978 te Washington enkele

bijlagen tot stand gekomen behorende bij het onderhavige Memorandum van overeenstemming.

De tekst van deze bijlagen luidt als volgt:

Annex I to Memorandum of Understanding between the Government of the Kingdom of the Netherlands and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in the Research and Development, Production and Procurement of Defense Equipment, dated 24 August 1978

PRINCIPLES GOVERNING IMPLEMENTATION

1. Introduction

On 24 August 1978, the Governments of the United States and the Kingdom of the Netherlands signed a Memorandum of Understanding (MoU) relating to the principles governing mutual cooperation in research and development, production and procurement of defense equipment. This document sets forth the agreed implementing procedures for carrying out the MoU.

2. Major Principles

A. The U.S. Department of Defense (DoD) and the Ministry of Defense of the Netherlands (MoD) will consider for their defense requirements qualified defense items and services developed or produced in the other country.

B. It will be the responsibility of government and/or industry representatives in each country to acquire information concerning the other country's proposed research, developments, and purchases and to respond to requests for proposals in accordance with the prescribed procurement procedures and regulations. However, the responsible government agencies in each country will assist sources in the other country to obtain information concerning intended research and development, proposed purchases, necessary qualifications and appropriate documentation.

3. Action

DoD and MoD will review and, where considered necessary, revise policies, procedures and regulations to ensure that the principles and objectives of this MoU, which are intended to be compatible with the broad aims of NATO Rationalization/Standardization, are taken into account. DoD and MoD agree that the following measures shall be taken, recognizing that among other factors, delivery date require-

ments for supplies, the interest of security and the timely conduct of the procurement process, are considerations related to insure free and full competition for the award of contracts:

A. Ensure that their respective requirements offices are familiar with the principles and objectives of this MoU.

B. Ensure that their respective research and development offices and institutes are familiar with the principles and objectives of this MoU.

C. Ensure that their respective procurement offices are familiar with the principles and objectives of this MoU.

D. Ensure wide dissemination of the basic understanding of this MoU to their respective industries producing and/or developing defense items and/or services.

E. Ensure that, consistent with national laws and regulations, offers of defense items produced in the other country will be evaluated without applying to such offers, either price differentials under buy-national laws and regulations, or the cost of import duties. Full consideration will be given to all qualified industrial and/or governmental sources in each other's country. Provisions will be made for duty-free entry certificates and related documentation to the extent that existing laws and regulations permit.

F. Assist industries in their respective countries to identify and advise the other government of their production capabilities and assist such industries in carrying out the supporting actions to maximize industrial participation.

G. Review defense items and requests for services submitted by the other country as candidates for respective requirements. Identify requirements and proposed purchases to the other country in a timely fashion to ensure that the industries of such country are afforded adequate time to be able to participate in the research and development production and procurement processes.

H. Use best efforts to assist in negotiating licences, royalties, and technical information exchanges among their respective industries, and research and development institutes.

I. Ensure that those items and services excluded from consideration under this MoU for reasons of protecting national requirements, such as the maintenance of a defense mobilization base, (Appendix 3, Annex I), are limited to a small percentage of total annual defense procurement spending. It is intended that such defense items and services, as well as those items and services that must be excluded from consideration under this MoU because of legally imposed restrictions on procurement from non-national sources, be identified

as soon as possible by the MoD and the DoD, and that such defense items and services be kept under review at this level.

J. Insure that the balance of reciprocal purchases takes into consideration the levels of technology involved, as well as the monetary value of purchases hereunder.

K. DoD and MoD will from time to time arrange visits in order to actively explore possibilities for cooperation on research and development, procurement, and logistical support.

4. *Counting Procedures*

The following purchases, to be identified jointly by DoD and MoD will be included in the counting procedures:

A. Purchases of items and services funded from appropriate funds of the U.S. Department of Defense or budgeted funds of the Netherlands Ministry of Defense and which, either/are:

- (1) directly purchased by the MoD or DoD from one another;
or
- (2) directly purchased by the MoD or DoD from the industry of the other country; or
- (3) purchased by the industry of one country from the Government or industry of the other country; or
- (4) purchased as a result of jointly funded defense projects to which the United States and the Netherlands are the only contributors, to be credited in proportion to each other country's financial contribution to the project, and to work carried out in each country. The extent to which such purchases will be counted against the goals of the MoU will be agreed upon between MoD en DoD in each case;
- (5) licence fees, royalties and other associated income, when separately contracted, by industry and/or DoD or MoD with a licensor in the other country.

B. Purchases by the MoD or DoD from the industry of the other country, on behalf of other governmental departments and agencies.

C. Purchases by a third country government from the MoD or DoD or from industries of these two countries as direct result of the efforts of the government of the other country.

5. *Administration*

A. Each government will designate points of contact (procurement and logistics) at the Ministry of Defense level and in each purchasing service/agency and major acquisition activity.

B. Quality Assurance procedures outlined in STANAG 4107 and 4108 (subject to the USG reserve concerning reimbursement) will apply, unless other provisions are mutually agreed to on any specific contract. Reimbursement of services provided shall be afforded in accordance with the national laws and regulations of each country.

C. The terms of reference of the Netherlands/United States Committee of Procurement Cooperation are contained in Annex III.

*For the Government of the
United States of America*

(sd.) W. J. PERRY

*For the Government of the
Netherlands*

(sd.) J. HENSEN

Date: 21 December 1978

Date: 21 December 1978

De tekst van Aanhangsel 1, 2 en 3 behorende bij Bijlage I, is niet afgedrukt.

**Annex II to Memorandum of Understanding between the Government
of the Netherlands and the Government of the United States of
America concerning the Principles Governing Mutual
Cooperation in the Research and Development,
Production, and Procurement of Defense
Equipment, signed on the 24th of
August 1978**

**PRINCIPLES GOVERNING LOGISTIC SUPPORT OF
COMMON EQUIPMENT**

In implementing article I, para 13, of the MoU, the two Parties shall be governed by the following:

1. When developing or procuring defense equipment, both Parties will agree upon the basis for joint follow-on logistic support in areas such as configuration control, interchangeability of spare parts/components, maintenance, conversion, storage, and spare parts provisioning, etc.
2. Arrangements and procedures will be established concerning follow-on logistic support and other forms of logistic cooperation, e.g., joint utilization of facilities.

3. In the contracting procedure for logistic support, paragraph 9 of Article I of the MoU shall apply.

4. Both Parties will issue directives and guidelines to their respective armament and logistics agencies to achieve the described goals of this MoU.

*For the Government of the
United States of America*

(sd.) W. J. PERRY

*For the Government of the
Netherlands*

(sd.) J. HENSEN

Date: 21 December 1978

Date: 21 December 1978

Annex III to Memorandum of Understanding between the Government of the Kingdom of the Netherlands and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in the Research and Development, Production and Procurement of Defense Equipment, dated 24 August 1978

TERMS OF REFERENCES

1. The Netherlands/U.S. Committee for Procurement Cooperation (hereafter to be called "the Committee") will serve, under the direct responsibility of the authorities, listed in Article II sub 2 and 3 of the MoU respectively, as the main body in charge of the adequate implementation of the MoU.

2. In particular, the Committee will be responsible for ensuring that the guiding principles of the MoU governing the mutual cooperation in research and development, production, procurement and logistic support of conventional defense equipment are being implemented to facilitate a mutual flow of defense equipment. To this end the Committee will meet as required, but not less than annually, to review progress in implementing the MoU. In this review:

A. They will discuss research, development, production, procurement and logistic support needs of such country and the likely areas of cooperation including joint activities in those fields.

B. They will exchange information as to the way the stipulations of the MoU have been carried out and, if need be, prepare proposals for amendments of the MoU and/or its annexes.

C. They will agree to the financial statement of the current balance, give guidance for its yearly preparation and formulate conclusions from it, such conclusions to include any long term trends which may be established.

D. They will consider any other matters relevant to the MoU.

E. They will report after each meeting and advise as appropriate.

F. The Committee will alternately meet in the United States and in the Netherlands. The country in which a particular meeting will take place will provide the Chairman and the secretariat for that meeting.

*For the Government of the
United States of America*

(sd.) W. J. PERRY

Date: 21 December 1978

*For the Government of the
Netherlands*

(sd.) J. HENSEN

Date: 21 December 1978

Uitgegeven de zesentwintigste april 1979.

De Minister van Buitenlandse Zaken,
C. A. VAN DER KLAUW