

No. 5847

**UNITED STATES OF AMERICA
and
NETHERLANDS**

**Exchange of notes constituting an agreement relating to a
weapons production program. The Hague, 24 March
1960**

Official text: English.

Registered by the United States of America on 5 September 1961.

**ÉTATS-UNIS D'AMÉRIQUE
et
PAYS-BAS**

**Échange de notes constituant un accord relatif à un pro-
gramme de production d'armes. La Haye, 24 mars 1960**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 5 septembre 1961.

No. 5847. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND THE NETHERLANDS RELATING TO A WEAPONS PRODUCTION PROGRAM. THE HAGUE, 24 MARCH 1960

I

The American Ambassador to the Netherlands Minister of Foreign Affairs

THE FOREIGN SERVICE OF THE UNITED STATES OF AMERICA

No. 436

The Hague, March 24, 1960

Excellency :

I have the honor to refer to recent discussions between representatives of our two Governments concerning a Weapons Production Program, the purpose of which is to increase the capacity of North Atlantic Treaty² Organization countries, jointly and severally, to produce, maintain, repair, and overhaul equipment and materials needed for their mutual defense.

As a result of these discussions, the following understandings were reached :

1. The Government of the United States of America will furnish under the Weapons Production Program to the Government of the Kingdom of the Netherlands such equipment, materials, services, and information as may be mutually arranged in accordance with paragraph 8 hereof, to assist in the production, maintenance, repair, and overhaul of equipment and materials needed for the common defense.

2. The assistance furnished by the Government of the United States of America under this program will be made available in accordance with the terms and conditions of the Mutual Defense Assistance Agreement between the United States of America and the Netherlands signed on January 27, 1950³ and agreements amendatory and supplementary thereto.

3. The Weapons Production Program shall be carried on through mutually agreed projects, which may include projects carried on solely by the Netherlands as well as joint projects of coordinated production. Such joint projects may include those in which

¹ Came into force provisionally on 24 March 1960, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, Vol. 34, p. 243; Vol. 126, p. 350, and Vol. 243, p. 308.

³ United Nations, *Treaty Series*, Vol. 80, p. 219.

NATO countries carry out the project work through the North Atlantic Treaty Organization, including subsidiary bodies of the North Atlantic Council. Accordingly, assistance furnished by the Government of the United States of America under this agreement may, at the request of the Government of the Kingdom of the Netherlands, be furnished to the North Atlantic Treaty Organization or such a subsidiary body. The undertakings of the Government of the Kingdom of the Netherlands set forth in this agreement will extend to all joint projects in which the Netherlands participates as well as to projects carried out exclusively by the Government of the Kingdom of the Netherlands.

4. *a.* The Government of the Kingdom of the Netherlands, in connection with assistance intended to create or expand facilities under this program, will :

- (1) Maintain or cause to be maintained those facilities which the Government of the United States of America has assisted to establish or expand so that they will be in a condition properly to produce, maintain, repair, and overhaul equipment and materials, when they may be required. Pending such time, such additional facilities and equipment furnished by the Government of the United States of America may be used for other agreed purposes, provided that such use will not interfere with the ready availability of such facilities for use for the purpose for which they were established or expanded.
- (2) Furnish all of the land, buildings, equipment, materials, and services required for such additional facilities, except for the equipment, materials, services, and information to be furnished either by the Government of the United States of America or by other governments participating in joint projects, and take whatever measures are required to establish or expand such facilities in good operating order.
- (3) Use its best efforts to maintain or cause to be maintained in usable condition a total capacity of facilities for the production or fabrication, for military purposes, of equipment and materials of the same type as those which may be produced or fabricated in a facility established or expanded with the assistance of the Government of the United States of America, which shall not be less than the aggregate of the capacity of such facilities already existing, those already programmed for construction in the Netherlands under public or private ownership on the date of the conclusion of the project arrangements for such a corresponding facility, and those established or expanded with United States assistance.
- (4) Maintain or cause to be maintained in usable condition a total capacity of facilities for the maintenance, repair, or overhaul of military equipment or materiel of the same type as those established or expanded with the assistance of the Government of the United States of America, which shall not be less than the aggregate of the capacity of such facilities already existing, those already programmed for construction in the Netherlands under public ownership on the date of the conclusion of the project arrangement for such a corresponding facility, and those established or expanded with United States assistance.

b. The undertakings in this paragraph with respect to the maintenance of facilities are subject to the understanding that should changed conditions make continued com-

pliance with these undertakings either unnecessary as a matter of defense, or impracticable, the Government of the Kingdom of the Netherlands may, after consultation with the Government of the United States of America, modify those undertakings to accord with these changed conditions.

5. The Government of the Kingdom of the Netherlands also will :

a. Sell the products and services resulting from this program to other NATO nations at fair and reasonable prices, and shall not discriminate among such nations in terms of the price charged for, or the quality of, such products or services, the time within which such products or services are delivered and performed, or in any other manner, provided, however, that the defense requirements of the Netherlands and other countries participating in the production may be satisfied first.

b. Sell the products and services resulting from this program to non-NATO nations only in such cases as may be mutually agreed upon.

c. Exclude as an element of the price of the products and services sold any charge which is attributable in any way to the initial cost of equipment, materials, or services furnished by the Government of the United States of America.

d. Permit the importation and exportation free from customs duties, taxes, or other similar charges of equipment and materials sent to the Netherlands for production, maintenance, repair, or overhaul in any facility expanded or established with United States assistance, and permit the exportation free from customs duties, taxes, or other similar charges of the products and services of such facilities sold to other nations in accordance with the provisions of this note.

6. Agreement of our two Governments shall be a prerequisite to the sale or transfer to any other nation by the Netherlands of the following :

a. Items produced under this program to which the Government of the United States of America has contributed, either directly or indirectly, classified information essential to their manufacture, use or maintenance;

b. Any classified information of United States origin furnished in connection with the production, maintenance, repair, overhaul, or use of items produced under this program.

7. The Government of the Kingdom of the Netherlands will furnish without cost to the Government of the United States of America for defense purposes technical information (proprietary or other) developed in or essential to the production, maintenance, repair, overhaul, or development of military items under this program, and will grant to the Government of the United States of America for defense purposes a royalty-free license on inventions, improvements, and discoveries made in connection with the work carried out under this program, to the extent to which, and subject to the conditions under which, the Government of the Kingdom of the Netherlands has the right so to do without the payment of royalties or other compensation to others. The Government of the Kingdom of the Netherlands undertakes that, in entering into contracts subsequent to the effective date of this agreement for the production, maintenance, repair, overhaul, or development of military items under this program, it will obtain for the Government

of the United States of America rights to technical information (proprietary or other) and to inventions, improvements and discoveries equal to those obtained under such contracts by the Government of the Kingdom of the Netherlands for itself.

8. In carrying out this program, our two Governments, acting through their appropriate contracting officers, will enter into supplementary arrangements covering the specific projects involved, which will set forth the nature and amounts of the contributions to be made by each Government, the description and purpose of the facilities to be established, appropriate security arrangements, and other appropriate details. Joint projects may be covered by supplementary arrangements entered into between the Government of the United States of America and the North Atlantic Treaty Organization, including subsidiary bodies of the North Atlantic Council.

9. The Agreement effected by an exchange of notes signed on April 29, 1955, and concerning a special program of facilities assistance¹ is hereby terminated. However, individual project arrangements executed prior to the effective date of this Weapons Production Program Agreement shall continue in full force and effect subject to the provisions of this Agreement, excepting those contained in paragraph 7 hereof.

I have the honor to suggest that if these understandings meet with the approval of the Government of the Kingdom of the Netherlands, this note and Your Excellency's note in reply concurring therein shall constitute detailed arrangements pursuant to Article I, paragraph 1, of the Mutual Defense Assistance Agreement, as amended and supplemented, superseding, except as provided in paragraph 9 of this note, the Agreement concluded in the exchange of notes signed at The Hague on April 29, 1955.

As far as the Kingdom of the Netherlands is concerned, the provisions of this Agreement shall apply to the Realm in Europe only.

The present Agreement shall enter into force on the date the Embassy of the United States is notified that the approval constitutionally required in the Netherlands has been obtained. Meanwhile, I suggest that the parties to the present Agreement shall apply its provisions from the date of Your Excellency's reply.

Please accept, Excellency, the renewed assurances of my highest consideration.

Philip YOUNG

His Excellency J. M. A. H. Luns
Minister of Foreign Affairs
The Hague

¹ United Nations, *Treaty Series*, Vol. 219, p. 105, and Vol. 358, p. 286.

II

The Netherlands Minister of Foreign Affairs to the American Ambassador

MINISTRY OF FOREIGN AFFAIRS
THE HAGUE

Excellency :

I have the honour to acknowledge receipt of Your Excellency's Note dated March 24, 1960 and reading as follows :

[*See note I*]

I have the honour to inform Your Excellency that the Netherlands Government accept the foregoing provisions and will regard Your Excellency's Note and the present reply as constituting an agreement between our two Governments, pursuant to Article I, paragraph 1, of the Mutual Defense Assistance Agreement, as amended and supplemented, superseding, except as provided in paragraph 9 of this note, the Agreement concluded in the exchange of notes signed at The Hague on April 29, 1955.

As far as the Kingdom of the Netherlands is concerned, the provisions of this Agreement shall apply to the Realm in Europe only.

The present Agreement shall enter into force on the date the United States Embassy is notified that the approval constitutionally required in the Netherlands, has been obtained. I accept your suggestion that, meanwhile, the parties to the present Agreement shall apply its provisions from the date of this Note of Reply.

Please accept, Excellency, the renewed assurances of my highest consideration.

J. M. A. H. LUNS
The Hague, March 24, 1960

His Excellency P. Young
United States Ambassador
The Hague