

No. 16061

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**UNITED STATES OF AMERICA  
and  
FEDERAL REPUBLIC OF GERMANY**

**Agreement concerning mutual assistance in the administration of justice in connection with the Lockheed Aircraft Corporation matter (with agreed minutes). Signed at Washington on 24 September 1976**

*Authentic texts: English and German.*

*Registered by the United States of America on 16 December 1977.*

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**ÉTATS-UNIS D'AMÉRIQUE  
et  
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Accord relatif aux modalités régissant l'assistance mutuelle dans l'administration de la justice en ce qui concerne l'affaire de la Lockheed Aircraft Corporation (avec procès-verbal approuvé). Signé à Washington le 24 septembre 1976**

*Textes authentiques: anglais et allemand.*

*Enregistré par les États-Unis d'Amérique le 16 décembre 1977.*

AGREEMENT<sup>1</sup> BETWEEN THE UNITED STATES DEPARTMENT OF JUSTICE AND THE FEDERAL MINISTER OF JUSTICE OF THE FEDERAL REPUBLIC OF GERMANY CONCERNING MUTUAL ASSISTANCE IN THE ADMINISTRATION OF JUSTICE IN CONNECTION WITH THE LOCKHEED AIRCRAFT CORPORATION MATTER

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1. The United States Department of Justice and the Federal Minister of Justice of the Federal Republic of Germany, hereinafter referred to as “the Parties”, agree to render, in accordance with the laws of their respective countries and with the provisions of this Agreement, mutual assistance to agencies with law enforcement responsibilities in their respective countries with respect to alleged illicit acts pertaining to the sales activities in the Federal Republic of Germany of the Lockheed Aircraft Corporation and its subsidiaries or affiliates.

2. Unless otherwise agreed, all requests for assistance shall be communicated between the Parties through the diplomatic channel.

3. Upon request, the Parties shall use their best efforts to make available to each other relevant and material information, such as statements, depositions, documents, business records, correspondence or other materials, available to them concerning alleged illicit acts pertaining to the sales activities in the Federal Republic of Germany of the Lockheed Aircraft Corporation and its subsidiaries or affiliates.

4. Such information shall be used exclusively for purposes of investigation conducted by agencies with law enforcement responsibilities and in ensuing criminal, civil and administrative proceedings, hereinafter referred to as “legal proceedings”.

5. Except as provided in paragraph 6, or unless otherwise agreed, all such information made available by the Parties pursuant to this Agreement, and all correspondence between the Parties relating to such information and to the implementation of this Agreement, shall be kept confidential and shall not be disclosed to third Parties or to Government agencies having no law enforcement responsibilities. Disclosure to other agencies having law enforcement responsibilities shall be conditioned on the recipient agency’s acceptance of the terms set forth herein.

In the event of breach of confidentiality, the other Party may discontinue cooperation under this Agreement.

6. Information made available pursuant to this Agreement may be used freely in ensuing legal proceedings in the requesting State in which an agency of the requesting State having law enforcement responsibilities is a Party, and the Parties shall use their best efforts to furnish the information for purposes of such legal proceedings in such form as to render it admissible pursuant to the rules of evidence in existence in the requesting State, including, but not limited to,

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<sup>1</sup> Came into force on 24 September 1976 by signature, in accordance with paragraph 16.

certifications, authentications, and such other assistance as may be necessary to provide the foundation for the admissibility of evidence.

7. The Parties shall give advance notice and afford an opportunity for consultation prior to the use, within the meaning of paragraph 6, of any information made available pursuant to this Agreement.

8. Upon request, a requested Party shall render, in accordance with the practice and procedure of the requested State, assistance to the law enforcement agencies of the requesting State, such as locating witnesses, interviewing of witnesses, taking of testimony or statements or the production of documents or other materials. Representatives of the requesting State may participate in the execution of the request if the competent authority of the requested State consents.

The requesting Party shall not pursue its request for an interview or for the production of documents and other materials if the requested Party considers that it would interfere with an ongoing investigation or proceeding being conducted by the authorities of the requested State.

9. The Parties shall use their best efforts to assist in the expeditious execution of letters rogatory issued by the tribunals of their respective countries in connection with any legal proceedings which may ensue in their respective countries. To the extent authorized by the competent court of the requested State, representatives of the requesting State may participate in the execution of the letter rogatory.

10. The assistance to be rendered to a requesting State shall not be required to extend to such acts by the authorities of the requested State as might result in the immunization of any person from prosecution in the requested State.

11. All actions to be taken by the authorities of a requested State will be performed subject to all limitations imposed by its domestic law. Execution of a request for assistance may be postponed, denied, or made subject to special conditions, if execution would interfere with an ongoing investigation or legal proceeding in the requested State.

12. Nothing contained herein shall limit the rights of the Parties to utilize for any purpose information which is obtained by the Parties independent of this Agreement.

13. The mutual assistance to be rendered by the Parties pursuant to this Agreement is designed solely for the benefit of their respective agencies having law enforcement responsibilities and is not intended or designed to benefit third Parties or to affect the admissibility of evidence under the laws of either the United States of America or of the Federal Republic of Germany.

14. This Agreement shall not affect any other conventions, agreements or arrangements in force between the United States of America and the Federal Republic of Germany regarding reciprocal assistance.

15. This Agreement shall also apply to Land Berlin provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the United States of America within three months from the date of entry into force of this Agreement.

16. This Agreement shall enter into force on the date of signature by both Parties.

DONE in Washington, D.C., this 24th day of September, 1975, in duplicate in the English and German languages, both texts being equally authentic.

For the United States  
Department of Justice:

[Signed]

JOHN C. KEENEY  
Deputy Assistant Attorney General  
Criminal Division

For the Federal Minister  
of Justice of the Federal  
Republic of Germany:

[Signed]

WILHELM SCHNEIDER  
Ministerialdirektor<sup>1</sup>

#### AGREED MINUTES

1. A delegation of the United States Department of Justice, headed by Deputy Attorney General Harold R. Tyler, Jr., and a delegation of the Federal Ministry of Justice of the Federal Republic of Germany, headed by Staatssekretär Dr. Guenther Erkel, conducted negotiations during the period September 20-24, 1976, which had begun in July 1976, and executed an agreement concerning mutual assistance in the administration of justice in connection with the Lockheed Corporation matter. The Agreement, which was signed on September 24, 1976, by Deputy Assistant Attorney General John C. Keeney on behalf of the United States Department of Justice and by Ministerialdirektor Wilhelm Schneider on behalf of the Federal Ministry of Justice of the Federal Republic of Germany, entered into force upon signature.

2. The delegations agree as follows:

a. The Agreement does not foreclose the use of information—furnished by the United States Department of Justice—by the Federal Minister of Justice in the discharge of obligations of the Federal Government arising out of the Basic Law for the Federal Republic of Germany, subject to prior consultation with, and consent of, the United States Department of Justice, as provided by paragraph 5 of the Agreement.

b. An extension of the Agreement to similar cases where investigations are conducted or contemplated by both the United States Department of Justice and by a competent authority of the Federal Republic of Germany could be accomplished by an exchange of letters between the Parties.

c. For purposes of the Agreement, the term “law enforcement agencies” means all agencies authorized to investigate alleged violations of law which may lead to criminal, civil or administrative proceedings, or to conduct such proceedings. The term “administrative proceedings” includes disciplinary proceedings.

<sup>1</sup> Ministerial Director.

DONE in Washington, D.C., this 24th day of September, 1976, in duplicate in the English and German languages, both texts being equally authentic.

For the United States  
Department of Justice:

[*Signed*]

JOHN C. KEENEY  
Deputy Assistant Attorney General  
Criminal Division

For the Federal Minister  
of Justice of the Federal  
Republic of Germany:

[*Signed*]

WILHELM SCHNEIDER  
Ministerialdirektor<sup>1</sup>

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<sup>1</sup> Ministerial Director.