

No. 19459

MULTILATERAL

**Memorandum of Understanding for the co-operative support of the North Atlantic Treaty Organization Seasparrow Surface Missile System (with attached exhibit).
Concluded on 20 May 1977**

Authentic text: English.

Registered by the United States of America on 9 December 1980.

MULTILATÉRAL

Mémorandum d'accord pour la fourniture en coopération d'un appui au système de missiles de surface Seasparrow de l'Organisation du Traité de l'Atlantique Nord (avec pièce jointe). Conclu le 20 mai 1977

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 9 décembre 1980.

MEMORANDUM OF UNDERSTANDING¹ FOR THE COOPERATIVE SUPPORT OF THE NATO SEASPARROW SURFACE MISSILE SYSTEM

TABLE OF CONTENTS

<i>Section</i>	<i>Section</i>
I Introduction	XI Sales and transfers
II Objectives	XII Access to establishments
III Scope of the Cooperative Support Stage	XIII Participation of additional Governments
IV Management	XIV Security
V Configuration management	XV Taxes, duties and other charges
VI Supply support	XVI Inspection
VII Technical support	XVII Termination
VIII Missile support	XVIII Effective date of the Memorandum of Understanding
IX Finance and commitments	
X Exchange of technical information and user rights	Exhibit A

Section I. INTRODUCTION

1. The Governments signatory to this Memorandum of Understanding are Participating Governments under the Memorandum of Understanding for International Development and Production of the NATO Seasparrow Surface Missile System (NSSMS) dated 10 June 1968, as amended (hereinafter referred to as the "Development and Production MOU").

2. The development objective of the Development and Production MOU has been accomplished and deliveries of the Participating Governments' NATO Seasparrow Surface Missile System (hereinafter referred to as "NSSM System") have commenced.

3. The signatory Governments desire to extend the scope of their cooperation as a NATO Project to encompass the logistic support of delivered NSSM System production requirements and for that purpose desire to establish a Support Stage of their cooperative project.

4. Accordingly, the signatory Governments (hereinafter referred to as the Participating Governments") agree to establish the NSSMS Cooperative Support Stage and to conduct the same as a NATO Project upon the terms of this Memorandum of Understanding together with such subsequent annexes or amendments made as pro-

¹ Came into force on 31 May 1977, i.e., by signature by the Government of the United States of America and one or more European Participating Governments, in accordance with section XVIII.

<i>State</i>	<i>Date of signature</i>
United States of America	20 May 1977
Norway	31 May 1977

Subsequently, definitive signatures of the Memorandum of Understanding were affixed as indicated below, with effect from the respective dates of signature:

<i>State</i>	<i>Date of definitive signature</i>	<i>State</i>	<i>Date of definitive signature</i>
Denmark	2 June 1977	Italy	22 July 1977
Netherlands	6 June 1977	Germany, Federal Republic of	1 December 1977
Belgium	12 June 1977		

vided herein. The Participating Governments other than the United States are hereinafter referred to as the "European Participating Governments."

Section II. OBJECTIVES

1. The following are the objectives which the Participating Governments desire to achieve during the Cooperative Support Stage:

- a. Increase the military effectiveness of the NSSM System equipments acquired by the Participating Governments.
- b. Support the military readiness of deployed NSSM System equipments of the Participating Governments.
- c. Obtain the economic advantages of a cooperative endeavor.
- d. Maintain the standardization of all configuration elements.
- e. Evaluate and implement proposed configuration changes on a cooperative basis.
- f. Reduce supply support lead-times to a practical minimum.
- g. Utilize most effectively the military, industrial, scientific, and technical resources of the Participating Governments.

Section III. SCOPE OF THE COOPERATIVE SUPPORT STAGE

1. The following are the services which will be cooperatively rendered to the Participating Governments during the Cooperative Support Stage:

- a. Configuration Management: as described in section V of this Memorandum.
- b. Supply Support: as described in section VI of this Memorandum.
- c. Technical Support: as described in section VII of this Memorandum.
- d. Missile Support: as described in section VIII of this Memorandum.

Section IV. MANAGEMENT

1. Each reference made in this Memorandum to the NATO Seasparrow Project Steering Committee or NSPSC shall be understood to be a reference made only to the entity established under the following provisions and possessing the responsibilities, powers and authorities conferred in this Memorandum.

2. A NATO Seasparrow Project Steering Committee (NSPSC) composed of one member from each of the Participating Governments is hereby established. The NSPSC will be responsible for implementation of the Cooperative Support Stage in accordance with this Memorandum. Each member of the NSPSC will be responsible for the necessary coordination with the appropriate authorities of his own nation.

3. The NSPSC shall promulgate its own rules consistent with the terms of this Memorandum for the conduct of its business and the performance of its responsibilities. A chairman and vice-chairman of the NSPSC shall be selected by and from among the members. The NSPSC shall establish its own procedures for the selection of successor chairmen and vice-chairmen and their terms of service. The NSPSC will meet approximately every six months at places of meeting to be agreed by the members. Additional meetings will be held as agreed by the members.

4. a. The following decisions of the NSPSC shall be made by unanimous vote of the members. If agreement cannot be reached on any matter requiring unanimous decision, the matter will be referred by each member without delay to his Government for resolution:

- (1) Approval of the annual budgets for NATO Seasparrow Support Shared Costs and any revisions thereof.
- (2) Questions concerning the allocation of costs between NATO Seasparrow Support Shared Costs and NATO Seasparrow Support individual Costs (as defined in section IX).

b. All other decisions shall be made by a majority vote of the members, all votes being equally weighted. The chairman or the vice-chairman, in the absence of the chairman, shall have one additional vote solely for the purposes of resolving any tied vote of the membership.

c. Decisions of the NSPSC shall be in writing, serially numbered and distributed as required.

5. There shall be a Project Manager who will be responsible to the NSPSC for the execution of the Cooperative Support Stage in accordance with the terms of this Memorandum and such instructions from the Steering Committee, consistent with the terms of this Memorandum, as may be necessary from time to time. Each incumbent Project Manager shall be an individual designated by the United States Government. There shall be a NATO Seasparrow Project Office (NSPO) which will serve as staff to, and be headed by, the Project Manager. The NSPO shall be located in the Washington, D.C., metropolitan area. The NSPO staff will be the minimum size recommended by the Project Manager, and approved by the NSPSC, to be necessary for the successful administration and operation of the Cooperative Support Stage.

6. Each of the European Participating Governments shall furnish one staff member in a specialty to be agreed with the Project Manager for service in the NSPO; provided however that the furnishing of one staff member on behalf of up to two (2) European Participating Governments shall be deemed to satisfy the foregoing requirement as it concerns the Governments on whose behalf the staff member is furnished. With respect to any period during the Cooperative Support Stage during which a staff member is not furnished by a European Participating Government, as aforesaid, that Government shall disburse to the United States Government a portion of the cost incurred by the United States Government for the salaries of United States Government personnel (other than the Project Manager) assigned to the NSPO determined by multiplying said cost by the fraction described in section IX, paragraph 2(a) of this Memorandum. An NSPO staff member furnished by a European Participating Government shall have such duties as may be assigned by the Project Manager. In addition such staff member shall have such duties with respect to matters affecting his Government's interests in the conduct of the Cooperative Support Stage as may be assigned by that Government. A European Participating Government may assign additional duties unrelated to NSPO duties to its NSPO staff member so long as the staff member remains available for service in the NSPO for at least one-half of his usual work week. The status of staff members furnished by a European Participating Government for service on the NSPO, who meet the definition of members of the "force" or the "civilian component" contained in the Agreement between the Parties to the North Atlantic Treaty regarding the status of their forces signed at London on June 19, 1951,¹ and the "dependents" of such members shall be governed by that Agreement.

¹ United Nations, *Treaty Series*, vol. 199, p. 67.

7. *a.* Each sale of defense articles and defense services under this Memorandum of Understanding by the United States Government to a European Participating Government shall be in accordance with the United States Arms Export Control Act.

b. The United States Government agrees to accomplish, on behalf of the Participating Governments, the procurement of supplies and services connected with the Cooperative Support Stage. This function, which will be performed by the Department of the Navy with the advice and assistance of the NSPO, will include the selection and solicitation of sources and the preparation, award and administration of contracts. In carrying out this undertaking, the United States Government will use, to the extent possible, established Department of Defense contracting procedures. As used herein, the term "Contracting Government" refers to the United States Government acting in the aforementioned procurement capacity and also to any other Participating Government acting in that capacity pursuant to the request of the NSPSC or the Project Manager. Each Participating Government shall provide such assistance as requested by the Contracting Government as may be necessary for the negotiation and administration of contracts and subcontracts placed within its respective country. This assistance shall include, but not be limited to, obtaining and verifying cost and other data for the conduct of negotiations by the Contracting Government.

c. Each contract and subcontract for supplies and services connected with the Cooperative Support Stage will contain suitable provisions:

- (1) For the obtaining of all the information, rights and assurances required by this Memorandum.
- (2) For notification of the Contracting Government immediately if the contractor or subcontractor is subject to any license or other agreement which will operate to restrict the Contracting Government's freedom to disclose information under section X or permit its use; and to use all reasonable efforts, if requested, to secure the relaxation of such restrictions. If a Contracting Government is unable to secure from any of its proposed contractors any of the rights to be secured or sought for the benefit of other Participating Governments in accordance with this Memorandum of Understanding, the member of the NSPSC of the Contracting Government will consult with the NSPSC prior to placing the proposed contract. In that event the NSPSC may suggest alternative rights to be sought by the Contracting Government or approve making the proposed contract without securing the rights in question.

Section V. CONFIGURATION MANAGEMENT

1. The configuration of the NSSM System, as defined in the Production Data Package describing the System as of the completion of its First Production Article Inspection (and including the Production Data Package describing the Missile Improvements as of September 1974), as changed from time to time by unanimous agreement of the Participating Governments, is hereinafter referred to as the "NSSM System Standard Configuration." The Participating Governments undertake to adhere to the NSSM System Standard Configuration to the maximum extent practicable and to cooperatively investigate, initiate and implement any changes thereto in accordance with the procedures set forth in this section.

2. The Project Manager shall furnish such liaison and technical assistance as may be required by Participating Governments for the investigation and consideration of potential changes to the NSSM System Standard Configuration.

3. *a.* Except as provided in paragraph 3, *b* of this section, a Participating Government desiring to make a change to the NSSM System Standard Configuration shall delay the issuance of that change until the expiration of a period of sixty (60) calendar days after an Engineering Change Proposal in accordance with United States Military Standard MIL-STD-480 (hereinafter referred to as an "ECP") describing such change has been provided to the Project Manager. The Project Manager or a Participating Government may request an extension of such sixty (60) day period, in which case the same shall be extended. During such period, the Project Manager: (1) shall perform an evaluation of the proposed change and shall prepare recommendations with respect to its adoption as a change to the NSSM System Standard Configuration; and (2) shall furnish a copy of such ECP together with his evaluation thereof and his recommendations thereon to each of the other Participating Governments for their information and evaluation.

b. A proposed change to the NSSM System Standard Configuration which is initiated with an "Emergency" priority designation (as that priority is defined in U.S. Military Standard MIL-STD-480) may be issued by the initiating Participating Government without deferral as provided for in paragraph *a*. A proposed change to the NSSM System Standard Configuration which is initiated with an "Urgent" priority designation (as that priority is defined in U.S. Military Standard MIL-STD-480) may be issued by the initiating Participating Government after the expiration of fifteen (15) calendar days after the ECP describing such change has been provided to the Project Manager.

4. Whenever the Project Manager considers that a change to the NSSM System Standard Configuration is necessary in order to improve or better assure the military effectiveness, military readiness, or economical operation or support of the NSSM System, an ECP shall be prepared describing such proposed change, and the Project Manager shall furnish the same with his recommendations to the Participating Governments for their information and evaluation.

5. If a proposed change to the NSSM System Standard Configuration is accepted for implementation by each of the Participating Governments, the Project Manager shall take such actions as are necessary for the implementation of the change by or for all the Participating Governments, including the preparation of technical documentation and the procurement of required alteration kits, additional spare parts and other materials. In the event that the costs of preparing the ECP describing such change have been incurred by an individual Participating Government, the Project Manager shall arrange for sharing of such preparation costs among the Participating Governments in accordance with section IX of this Memorandum.

6. If a proposed change to the NSSM System Standard Configuration is accepted by some, but not all of the Participating Governments, the Project Manager, upon request of any Participating Government desiring to proceed with issuance of such change may furnish to that Government such assistance and services as may be agreed to be feasible and appropriate.

7. The Project Manager shall maintain Configuration Status Accounts for the NSSM Systems for all the Participating Governments. The Participating Governments shall make available to the Project Manager such technical information, addi-

tional to technical information under his management pursuant to this section, as may be required to fulfill the responsibilities provided for in this paragraph.

8. Nothing in this section shall be construed as requiring a Participating Government to make any disclosure of classified information or material which is prohibited by its national laws or regulations.

Section VI. SUPPLY SUPPORT

1. The scope of cooperation under the Development and Production MOU includes the delivery to each Participating Government of an initial inventory of NSSM System spare and repair parts. Such initial inventory will consist of the quantity of spare and repair parts listed in the following documents:

- a. *Coordinated Shipboard Allowance List (COSAL)*: The listed quantity of spare and repair parts constituting an estimated ninety (90) days organizational maintenance for each acquired NSSM System.
- b. *Coordinated Shorebased Material Allowance List (COSMAL)*: The listed quantity of spare and repair parts constituting an estimated 24 months stock level for replenishment of COSAL spare and repair parts and for the support of maintenance through the intermediate level for the total quantity of NSSM Systems acquired by a Participating Government.

2. The scope of cooperative support under this Memorandum of Understanding includes the establishment and implementation of the arrangements described in paragraphs 3, 4, 5 and 9 of this section and such agreed alternative or supplemental cooperative arrangements as are necessary or advantageous in order to ensure that the requirements of the Participating Governments for replenishment of stocks of NSSM System spare and repair parts and for repair or modification of NSSM System items or equipments are satisfied. The responsibilities of the Project Manager for execution of this Memorandum of Understanding shall include the performance of such functions with respect to the initiation, establishment, implementation and monitoring of the foregoing arrangements as may be directed by the NSPSC. The authority to sign, on its behalf, an agreement or other document implementing, or relating to, these cooperative arrangements may be delegated by a European Participating Government to any person permitted by his national laws, regulations and policies to accept and execute such delegation.

3. a. The European Participating Governments will be afforded NSSM System spare and repair parts support equivalent to that provided to the United States. To this end, arrangements will be made by the Project Manager to augment United States stocks as necessary and thereafter to maintain such stocks at appropriate levels. These stocks together with such other items as may be procured at the direction of the NSPSC shall constitute a common pool to which all Participating Governments will have equal access.

b. The European Participating Governments will be charged for augmentation of United States stocks, for all spare and repair parts drawn from such augmented stocks, and for all relevant United States costs and expenses in accordance with the pricing and costing policies applicable to sales to other Governments and international organizations as set forth in the United States Department of Defense directives and instructions in effect during the term of this Memorandum of Understanding.

4. Subject to its national laws, each Participating Government issuing a solicitation for the procurement of spares and repair parts unique to the NSSM System will:

- a. To the extent it deems practicable, ensure that the firm which has supplied any such spares and repair parts for equipments produced under the Development and Production MOU ("original supplier") will be invited to submit an offer in response to such solicitation.
- b. Evaluate an original supplier's low otherwise acceptable offer of NSSM System unique spare and repair parts manufactured in another Participating Government's country without the addition, to the offered prices, of differentials otherwise applicable to offers of items not manufactured in the soliciting Government's country.

5. In accordance with directions of the NSPSC, arrangements will be made by the Project Manager for the accomplishment of modification, repair and return, and repair and exchange of NSSM Systems components. Any Participating Government accomplishing such work independently of such arrangements shall be responsible for the application of identical configuration and quality standards. If a repairable spare is returned, credit at a fixed percentage of the standard stock price will be given except for an item beyond economical repair.

6. The United States shall be responsible for the assignment of national and NATO Stock Numbers to all NSSM System items provisioned pursuant to United States Department of Defense provisioning standards.

7. Subject to the provisions of paragraph 1 of section XI of this Memorandum, each European Participating Government agrees that it will resell to another Participating Government such parts previously procured under the provisions of this section as the selling Government considers may be so resold without impairment of the logistic readiness of its NSSM Systems. Pursuant to its Arms Export Control Act, the United States hereby consents to the sale or transfer of United States furnished spare and repair parts among European Participating Governments pursuant to this paragraph 7. The resale price shall be a fair price as agreed between the selling Government and buying Government, but in no event shall the resale price include any amount of profit to the selling Government nor exceed the price which would be quoted by the U.S. Navy Supply System pursuant to its then current regulations. The selling Government shall also be reimbursed by the buying Government for the cost of transportation, storage, maintenance and modifications (if any) of the item and the costs of shipment thereof from the place of storage to the destination designated by the buying Government.

8. If, at any time during the Cooperative Support Stage, the Project Manager considers that an expansion of existing facilities or the acquisition of additional capability is required for the implementation of this Memorandum, he shall prepare and present to the NSPSC a written proposal describing the necessary additional facilities or capabilities, cost and schedule estimates therefor, and recommendations with respect to apportionment of said costs as NATO Seasparrow Support Shared Cost among the Participating Governments. Any agreements among the Governments with respect to expansion of facilities or acquisition of additional capability shall be set forth in a written decision of the NSPSC.

9. In accordance with the directions of the NSPSC, arrangements will be made by the Project Manager for accomplishment of material requirements related to NSSM System installation and overhaul.

Section VII. TECHNICAL SUPPORT

1. In accordance with its own laws, the Participating Governments will cooperatively furnish, or procure the furnishing of, the following types of technical assistance and services:

- a. Installation and checkout assistance in support of the Development and Production MOU.
- b. Failure analyses, engineering studies, maintenance and distribution of technical documentation and directives, in-service engineering support.
- c. Engineering studies, planning, and technical assistance as required for the performance of NSSM Systems overhaul and refurbishment.
- d. Analyses in furtherance of increased military effectiveness of the NSSM System equipments.
- e. Such other technical assistance and services which the Participating Governments may, from time to time, agree can be most effectively performed by cooperative arrangements.

2. The Project Manager shall be responsible for implementation and management of technical assistance and services programs as directed by the NSPSC and shall promulgate procedures for processing and fulfilling requests of Participating Governments for technical assistance or technical services. Requests for technical assistance or technical services within the scope of these programs shall be fulfilled in the order in which received, except that the Project Manager is authorized to grant priority of fulfillment to those requests determined to be urgent.

3. Each Participating Government shall be responsible for training its own personnel in the operation and maintenance of its NSSM Systems. The Project Manager shall cause to be prepared standards, specifications, manuals and other publications as necessary to establish such uniform requirements for training and maintenance as are agreed by the Participating Governments to be necessary or useful.

Section VIII. MISSILE SUPPORT

1. Each Participating Government will establish its own arrangements for intermediate level handling and check-out of its Seasparrow missiles, for training of personnel in the maintenance of the missile, for overhaul and repair of the missile, and for other technical services and support with respect to the missile. The Project Manager shall render such assistance as may be practicable for the coordination of orders of Participating Governments with cognizant U.S. Navy activities and the fulfillment of such orders in accordance with their stated military priorities.

2. The Government of Italy is willing to assist other Participating Governments in the placement of contracts to be performed in Italy for the overhaul of Seasparrow missiles. Such assistance is contemplated to consist primarily of coordination of requirements and facilitating necessary contractual arrangements.

Section IX. FINANCE AND COMMITMENTS

1. NATO Seasparrow Support Shared Costs

The costs which are enumerated and described in this paragraph (hereinafter referred to as "NATO Seasparrow Support Shared Costs") shall be shared between the Participating Governments in accordance with paragraph 2 of this section:

- a. The costs of operating the NSPSC.
- b. The costs of operating the NSPO.
- c. The cost of work which the NSPSC has determined to be necessary to the overall operation of the Cooperative Support Stage.
- d. The costs of work relating to one or more elements of the NSSM System Standard Configuration which costs the NSPSC has determined can be distributed among the Participating Governments in reasonable proportion to the benefits received through application of the methods of sharing described in paragraph 2 of this section.

2. *Method of Sharing NATO Seasparrow Support Shared Costs*

a. Except as provided in subparagraph *b* of this paragraph 2, each Participating Government's share of the NATO Seasparrow Support Shared Costs shall be calculated as follows:

$$S = \frac{A}{B} (C)$$

where:

- S equals each Participating Government's share of the NATO Seasparrow Support Shared Costs.
- A equals the cost of producing the Production Requirements of each Participating Government.
- B equals the sum of the A's of all the Participating Governments.
- C equals the total amount of NATO Seasparrow Support Shared Costs.
- b. The Participating Governments whose Production Requirements do not include the following subsystems shall not be required to bear any NATO Seasparrow Support Shared Costs uniquely related to said subsystems; the Digital Computer, the Signal Data Converter, the Director Group, the Radar Target Data Processor, the Radar Set Console, the Firing Officer's Console and the Low Light Level Television System.

c. As used in paragraph *a* of this section, the term "Production Requirements" means the quantity of subsystems included in the NSSM System Standard Configuration and individual items of equipment of which the subsystem is comprised which are acquired by the Participating Governments through the Development and Production MOU and during the follow-on (national) Production Stage. The cost of producing the Production Requirements of the Participating Governments shall be calculated using the unit system and subsystem prices set forth in exhibit "A" to the Memorandum. The NSPSC may, by unanimous decision, supersede the foregoing provisions of this paragraph *c* in whole or in part for the purposes of prospective sharing of NATO Seasparrow Support Shared Costs so as to take into account actual quantities and configurations of the aforesaid material.

3. *NATO Seasparrow Support Individual Costs*

The NATO Seasparrow Support Shared Costs do not, and shall not, include the following costs (hereinafter collectively referred to as the "NATO Seasparrow Support Individual Costs") which shall be borne directly and individually by the individual Participating Governments:

- a. The costs of maintaining the individual members of the NSPSC, including their communication and travel costs.

- b. Subject to the provisions of paragraph 6 of section IV of this Memorandum, the costs of maintaining the Participating Governments' personnel on the NSPO staff including their salaries, communication and travel costs.
- c. The following costs:
 - (1) Processing and implementation of changes to the NSSM System Standard Configuration which are accepted by some, but not all, Participating Governments.
 - (2) Supplies and services which are furnished under agreements entered into by the Project Manager on behalf of individual Participating Governments.
 - (3) Supplies, services, and facilities which, with the concurrence of the Participating Governments concerned, are determined by the Project Manager either not to apply to all the Participating Governments, or to be properly chargeable on an individual basis.
- 4. *Submission, approval, and revision of NATO Seasparrow Support Shared Cost Estimates*

a. Commencing with the period consisting of the balance of the U.S. Government Fiscal Year remaining after entry into effect of this Memorandum and with respect to each subsequent period comprising a U.S. Government Fiscal Year, the Project Manager shall prepare and submit to the NSPSC, for its approval, an estimate (hereinafter referred to as a "periodic estimate") of the total NATO Seasparrow Support Shared Costs to be incurred during such period. Each such periodic estimate shall contain such details and descriptions as are reasonably necessary to substantiate treatment of cost as NATO Seasparrow Support Shared Costs and the method used in allocation thereof among the Participating Governments. The periodic estimate covering the first period after entry into effect of this Memorandum shall be submitted to the NSPSC within ninety (90) days after entry into effect of this Memorandum. The periodic estimates covering the second and each subsequent period during the Cooperative Support Stage shall be submitted to the NSPSC not later than 180 calendar days prior to the commencement of the estimate period. Contemporaneously with the submission of the second periodic estimate, and thereafter contemporaneously with the submission of each subsequent periodic estimate, the Project Manager shall submit a forecast of the NATO Seasparrow Support Shared Costs and the shares thereof of the Participating Governments for the two subsequent periods.

b. The approval by the NSPSC of a periodic estimate shall be deemed to signify the agreement of each Participating Government to the treatment of costs included therein as NATO Seasparrow Support Shared Costs and to the method of sharing of such costs stated in such estimate. Within ninety (90) days after the approval by the NSPSC of a periodic estimate, each Participating Government will notify the Project Manager of its acceptance or non-acceptance of a commitment for its allocated share of the NATO Seasparrow Support Shared Cost included in the approved estimate. In the event of non-acceptance by a Participating Government of such a commitment, the other Participating Governments may call upon such Government to discontinue its participation in accordance with the provisions of the "Termination" section of this Memorandum.

c. In accordance with procedures to be promulgated by the NSPSC, the Project Manager shall prepare and submit to the NSPSC, for its approval, any necessary revisions and updates of periodic estimates described in paragraph 4.a of this sec-

tion. Approval by the NSPSC of any such revisions and updates shall have the same force and effect as prescribed for the approvals provided for in paragraph 4.b of this section. In the event that any revision or update of a periodic cost estimate submitted by the Project Manager includes increases from estimates previously approved, the members of the NSPSC whose Governments will thereby be required to share increases in cost shall immediately thereafter seek such authority as they may individually require from their respective Governments to proceed with those items of cost to which the cost increases related. Within 90 days after the receipt by the NSPSC of revisions and updates stating any such increases, the Participating Governments will notify the Project Manager of their acceptance or non-acceptance of the additional financial commitment involved. In the event that any Participating Government is not prepared to approve a further commitment, the other Participating Governments may call upon such Government to discontinue its participation in accordance with the provisions of the "Termination" section.

5. *Submission, approval, and revision of NATO Seasparrow Support Individual Cost Estimates*

a. Simultaneously with the submission to the NSPSC of periodic cost estimates for NATO Seasparrow Support Shared Costs, the Project Manager shall submit to the individual Participating Governments cost estimates covering supplies, services and facilities described in paragraph 3.c of this section. Such estimates shall cover the same time periods as the periodic cost estimates for NATO Seasparrow Support Shared Costs. The approval, by a Participating Government, of a cost estimate for NATO Seasparrow Support Individual Costs shall constitute the authorization to the Project Manager to proceed with the work described therein. The provisions of paragraph 4.c of this section relating to updates and revisions of cost estimates shall be applicable to cost estimates for NATO Seasparrow Support Individual Costs.

6. *Payments*

a. Payments of the amounts of the shares of the Participating Governments of NATO Seasparrow Support Shared Costs and amounts of increases in estimated costs which have been accepted in accordance with paragraph 4.b shall be made in accordance with schedules contained in each approved periodic estimate. Payments of the amounts of NATO Seasparrow Support Individual Costs shall be made in accordance with schedules agreed between the Project Manager and the Participating Government(s) to be charged.

b. Each Participating Government, other than the Government of the United States of America, shall effect payments by deposit of the amounts thereof in the United States of America dollars in a fiduciary account which shall be established for the Project and shall be administered by the Project Manager in accordance with rules established by the NSPSC. Payments of shares of the Government of the United States of America shall be deemed to have been effected upon the receipt by the Project Manager of a statement indicating that funds in the requisite amounts are available for obligation and expenditure. The funds deposited in the fiduciary account shall be available to meet NATO Seasparrow Support Shared Costs and NATO Seasparrow Support Individual Costs. All transfers of funds out of the fiduciary account shall be certified by the Project Manager, or a duly authorized representative appointed by the Project Manager to make such certification in his absence, as being for payment of depositors, shares determined in accordance with and for the purposes contemplated by this Memorandum of Understanding. If, at

any time, the unencumbered balance in the fiduciary account falls short of the sums that will be needed to meet the foreseeable financial obligations of the Cooperative Support Stage, each Participating Government will, in accordance with rules established by the NSPSC, pay into the fiduciary account such additional sums as will make up its full committed shares of the NATO Seasparrow Support Shared Costs and its full commitments for NATO Seasparrow Support Individual Costs.

7. *Financial Records*

The NSPSC will maintain continuing records, through the Project Manager, of costs incurred and actual expenditures made. The records will be maintained in accordance with accounting procedures established by the NSPSC. Such records will be available, including copies, for audit upon reasonable prior notice given by a representative of a Participating Government.

Section X. EXCHANGE OF TECHNICAL INFORMATION AND USER RIGHTS

In consideration of the obligations mutually undertaken in the present Memorandum, each Participating Government will secure the availability of information and rights in accordance with the following provisions of this section to be provided to the other Participating Governments.

1. *Definitions*

a. "Technical information" includes experimental and test data, specifications, design, processes, techniques, inventions whether patentable or not, and any other relevant technical data in whatever form presented and whether or not copyrighted.

b. "Defense purposes" refers to manufacture and use in any part of the world by or for the armed forces of a Government, and in the case of a Participating Government includes the furnishing of assistance by it on a grant basis to nonparticipating Governments and international organizations for mutual defense purposes.

c. "Patents" include utility patents, design patents, registered designs and other similar protection.

d. "First actually reduced to practice" refers to the demonstration of the operability of an invention for its intended purpose in some physical form.

e. "Defense sales" refers to sales by a Participating Government or its contractor to nonparticipating Governments for their defense purposes.

f. "Foreground information" is that technical information generated in the course of or under the Cooperative Support Stage and includes any invention or discovery, whether or not patentable, conceived or first actually reduced to practice in the course of or under this project.

g. "Background information" is that technical information necessary to or useful in the Cooperative Support Stage generated (1) in Government establishments or (2) by contractors employed to work on the Cooperative Support Stage to the extent that such information pertains to the specific tasks undertaken by such contractors under the Cooperative Support Stage but not generated under the Cooperative Support Stage.

2. *Foreground information—Disclosure*

a. Each Participating Government will secure the prompt availability to the other Participating Governments of all foreground information generated by its con-

tractors or in its Government-operated or Government-controlled facilities under the Cooperative Support Stage.

b. As part of the disclosures referred to in the immediately preceding paragraph *a*, each Participating Government will also use its best efforts to obtain and furnish to the other Participating Governments copies of patent applications filed in respect to inventions conceived or first actually reduced to practice in the course of the work performed under the Cooperative Support Stage.

c. Use of the technical information, including information contained in such patent applications, provided under this paragraph, will be subject to the provisions of paragraph 3.

3. *Foreground information—Use*

a. Each Participating Government will, in respect of work performed by its contractors in its Government-operated or Government-controlled facilities under the Cooperative Support Stage, grant or cause to be granted to each of the other Participating Governments the following rights:

- (1) The right for its defense purposes, to use and authorize its contractors to use royalty-free all technical information provided under paragraph 2.*a* and to obtain royalty-free, nonexclusive, irrevocable licenses under patents for inventions conceived or first actually reduced to practice in the course of work performed under the Cooperative Support Stage.
- (2) The right to obtain for itself or for its contractors on request and on fair and reasonable terms the licensing of the technical information and patents referred to in paragraph 3.*a* (1) for the purpose of defense sales.

b. The Participating Governments may mutually decide, after consultation with one another, to exclude any specified invention from the foregoing paragraph 3.*a*. Such an exclusion will be made only under extraordinary circumstances and when:

- (1) A patent application covering the invention has been filed prior to the time when the owner of the invention and a Government enter into a contract relating to the invention, and;
- (2) The relative efforts expended or to be expended by the contractor and the Government(s) in developing the invention and reducing it to practice would make it inequitable to require a royalty-free license on the basis of first actual reduction to practice under the Cooperative Support Stage.

c. Nothing in the foregoing paragraph 3.*a* will confer any rights under a patent for an invention both conceived and first actually reduced to practice prior to the commencement of work under the Cooperative Support Stage.

4. *Background information—Disclosure*

a. At the request of the NSPSC, each Participating Government will furnish a status report summarizing (1) the background information, on any subsystem or sub-component thereof specified in such request, which it can make available to the other Participating Governments, and (2) to the extent known, the rights which the reporting Participating Governments may already have established with respect to the dissemination and use of such background information.

b. At the request of the NSPSC, each Participating Government will, in respect of any subsystem or component thereof specified in such request, secure the prompt availability to the other Participating Governments of all background infor-

mation necessary for development purposes under the Cooperative Support Stage to the extent that such information can be obtained and may without breach of confidence or liability to a third party be disclosed to the other Governments.

c. Each Participating Government will secure the availability to the other Participating Governments of all background information necessary for manufacture and use of any subsystem developed under the Cooperative Support Stage to the extent that such information can be obtained and may without breach of confidence or liability to a third party be disclosed to the other Governments.

d. Use of the information provided under this paragraph will be subject to the provisions of paragraph 5 below or of licenses obtained pursuant thereto, as appropriate.

5. Background information—Use

a. Each Participating Government may use and authorize its contractors to use royalty-free for its defense purposes and defense sales related to the Cooperative Support Stage, that background information provided under paragraph 4.c above which is not subject to limitations on the rights of disclosure and use inconsistent with the aforesaid use.

b. Each Participating Government will use its best efforts to secure for each of the other Participating Governments the right to obtain for itself and its contractors on fair and reasonable terms the license to use for its defense purposes and defense sales related to the Cooperative Support Stage, that background information provided under paragraph 4.c above, which is subject to limitations on the rights of disclosure and use that are inconsistent with use as aforesaid, without payment, together with any necessary license under patents owned or controlled by the suppliers of the information.

6. Filing of Patent Applications

The Participating Government whose employees or whose contractors' employees shall have made an invention in the performance of work under the Cooperative Support Stage will, in others' countries, file, cause to be filed, or provide the other Participating Governments the opportunity on behalf of said Government to file patent applications covering any such inventions conceived or first actually reduced to practice during the performance of the work under the Cooperative Support Stage.

7. Protection of the owners' rights

a. Control of use and of further disclosures: None of the Participating Governments will use or disclose information which is subject to the limited rights of use or disclosure except within the scope of the rights accorded to it, or except as may be subsequently agreed. Information so limited in disclosure or use will be so marked at the time it is supplied. Such restrictions and marking will be passed on to the contractors and to any other parties to whom such information is subsequently transferred.

b. Compensation: Claims for compensation arising from any failure on the part of any of the Participating Governments to observe conditions on which information is made available to them under the project and claims based upon the failure of a contractor to observe the said conditions will, upon the request of one of the Governments, be the subject of discussions between the Participating Governments with the object of ensuring, subject to applicable laws, treaties, and international agreements, proper compensation to the injured owner of the information.

8. *Levy (extra charge)*

a. Each of the Participating Governments will arrange for the imposition of a levy (extra charge) on its defense sales by way of recovery of shared nonrecurring costs to the Participating Governments of changes to the NSSMS Standard Configuration and such other shared nonrecurring costs to the Participating Governments of establishing NSSM System support as the Project Manager may, from time to time, recommend and the NSPSC approve to be recovered under these provisions. The rate of such levy (extra charge) will be mutually determined by the Participating Governments, provided that such determination shall not be unnecessarily delayed. Recoveries under this paragraph will be divided among the Participating Governments in proportion to their shares of the NATO Seasparrow Support Shared Costs as determined pursuant to section IX of this Memorandum and will continue until 100 percent of the nonrecurring costs which are the object of the levy (extra charge) under this paragraph have been recovered.

b. None of the Participating Governments will, by way of recovery of NATO Seasparrow Support Shared Costs incurred by it under this Memorandum, impose any levy (extra charge) on sales made to, or require any share of royalties payable under licenses granted to, other Participating Governments for use in the Cooperative Support Stage or for their own defense purposes.

9. *Proprietary and manufacturing rights*

Notwithstanding any other provision of this Memorandum, none of the Participating Governments will be required to furnish to the others or to grant any rights to the others in proprietary items (including inventions, information or copyright material) owned or controlled by parties other than the Participating Governments and the contractors engaged to work on the Cooperative Support Stage. Each Participating Government will, however, at the request of another, use all reasonable efforts to secure for the others a right to produce for defense purpose and defense sales on fair and reasonable terms any such proprietary items incorporated in or used in the production of any item developed in the course of the work performed under the Cooperative Support Stage.

Section XI. SALES AND TRANSFERS

1. All sales or transfers to other than Participating Governments and their contractors of any classified or unclassified information or materials resulting from work in furtherance of the Cooperative Support Stage performed in facilities operated or controlled by a Participating Government and not otherwise available in the public domain will be subject to the prior concurrence of that Participating Government and to the provisions of section X and XII of this Memorandum and to any privately-owned rights; provided that, subject as aforesaid, sales or transfers of unclassified information and materials may be made to NATO nations by any Participating Government separately; provided, further, that any sale or transfer by a European Participating Government of material or information furnished by the United States to that European Participating Government pursuant to Foreign Military Sales Case(s) shall be governed by the terms of said Case(s).

2. Any NSSM System or sub-system support requirements which may arise under a defense sale by a Participating Government to a non-Participating Government may, at the election of the selling Participating Government, and with the concurrence of, and in coordination with, the Participating Government furnishing such

support, be included within the selling Participating Government's own support requirements under the Cooperative Support Stage.

Section XII. ACCESS TO ESTABLISHMENTS

1. Each Participating Government will, within reason and upon request, provide access to government establishments, agencies and laboratories, and contractors' industrial facilities in which the work under the Cooperative Support Stage is being performed, for the purpose of studying such work, to personnel authorized by one of the other Governments who are (a) either its own employees or employees of contractors participating in the Cooperative Support Stage, and (b) have the appropriate security clearance. These visits will be carried out in such a manner as not to delay the work.

2. Requests for visits by personnel of one country to an establishment of another country will be coordinated through the Project Manager. After approval in principle, a formal visit request forwarding the requisite certificate of security clearance for the personnel making the visit will be transmitted to the host country.

3. All such visiting personnel will comply with all security regulations, and any trade secrets and proprietary technical data disclosed to visitors will be treated as if supplied to the Participating Government sponsoring the visiting personnel.

Section XIII. PARTICIPATION OF ADDITIONAL GOVERNMENTS

1. Should an additional Government or Governments desire to participate in the Cooperative Support Stage, and if the Participating Governments are agreeable to such participation, they will consult together and will jointly negotiate with the applicant Government reasonable and equitable conditions of such participation.

Section XIV. SECURITY

1. All classified material and information exchanged, held or used in connection with this project will be stored, handled, transmitted and safeguarded in a manner no less stringent than that provided for NATO classified material as set forth in the NATO document C-M (55)15 (final) dated 31 July 1964, including all supplements and amendments thereto. The following security rules will apply.

2. The Project Manager will draw up the necessary implementing regulations. The regulations in force during the Development and Production Stage, as they may from time to time be revised or supplemented by the Project Manager with the approval of the NSPSC, shall constitute the implementing regulations under this Memorandum. All security responsibility within the NSPSC and the NSPO will be exercised by the Project Manager. No classified or unclassified information shall be released by the Project Manager to other than Participating Governments without the prior unanimous approval of the NSPSC.

3. Each Participating Government will undertake to maintain the security classifications assigned to information or material by the releasing Participating Government and will afford to such information or material the same degree of security protection provided by the releasing Participating Government. A recipient Participating Government will not disclose classified or unclassified information or material obtained under the provisions of this Memorandum to a non-participating state or party without the consent of the originating Participating Government.

4. *Security Classification.* The Participating Government in whose territory work under this Memorandum is carried out will determine the security classification

to be applied to information and material originating within that country. If any such item contains or discloses identifiable classified information contributed by any of the Participating Governments, the security classification of that item will not be lower than the security classification assigned to such identifiable information by the originating Participating Government.

5. For any facility wherein classified information furnished by another Participating Government is to be used, the receiving Participating Government shall assign a person of sufficient rank to exercise effectively the responsibilities for safeguarding at such facility the information pertaining to the Cooperative Support Stage. After consultation with the appropriate security agencies, this officer or official shall be responsible for limiting access to classified material involved in the Cooperative Support Stage to those persons who have been properly cleared and are under a need-to-know obligation. No receiving Participating Government shall provide, without prior consent of the originating Participating Government, information furnished by the originating Participating Government, to any facility whose financial, administrative, policy or management control is directed by persons or entities who are nationals of any non-participating country.

Section XV. TAXES, DUTIES AND OTHER CHARGES

1. It is intended that there will be duty-free entry (except dues and taxes which are no more than charges for services rendered) into all participating countries of systems, assemblies, components, equipment, technical documents and other information or materials necessary for the accomplishment of the Cooperative Support Stage.

2. To the extent not otherwise available under agreements between the Participating Governments concerned, relief from taxes or similar charges or quantitative restrictions on imports or exports will be granted to the extent permitted by the legislation of the respective Governments valid at the time of the importation or exportation.

3. The Participating Governments concerned will use their best efforts to ensure that any taxes, duties or similar charges from which relief is available, as aforesaid, do not enter into the price of technical information or materials produced in furtherance of the accomplishment of the Cooperative Support Stage.

4. The provisions of this Memorandum shall not preclude the application of prohibitions or restrictions imposed under national laws and regulations on grounds of public morality or order, public security, public hygiene or health, or for veterinary or phytopathological considerations, or relating to protection of patents, trademarks and copyrights except as specified in this Memorandum.

Section XVI. INSPECTION

1. The NSPSC will approve the inspection criteria for the Cooperative Support Stage. At the request of the NSPSC, each of the Participating Governments will provide adequate inspection services to ensure that equipment manufactured in that Government's country will meet the criteria for acceptability approved by the NSPSC. Where specified quality control requirements are not imposed for the NSSMS, each Participating Government will ensure by its normal procedures that contractors or subcontractors, who manufacture equipment in that Government's country, will use the same quality control procedures which that Government usually requires to be used for equipment of similar complexity which that Government procures for its own use.

2. Representatives of other Participating Governments may observe such inspection and may request and receive copies of inspection reports.

Section XVII. TERMINATION

1. The Participating Governments have entered into the foregoing arrangements with the firm intention of carrying through the Cooperative Support Stage to completion.

2. *Unilateral termination of participation*

If, however, any of the Participating Governments considers it necessary to terminate its participation in the Cooperative Support Stage, it shall issue a written proposal for termination and deliver a copy thereof to each of the other Participating Governments. Thereafter, the following provisions will apply:

- a. The proposal for termination will be subject to immediate consultation among the Participating Governments to enable them to fully evaluate the consequences of such termination.
- b. If, after such consultation, the remaining Participating Governments decide to continue the Cooperative Support Stage, the Terminating Government shall give written notice to the other Participating Governments of its intention to terminate unilaterally, and:
 - (1) Will continue its participation, financial and otherwise, in the Cooperative Support Stage in accordance with this Memorandum until the effective date of the termination.
 - (2) Will pay its share of the NATO Seasparrow Support Shared Costs determined in accordance with section IX and its NATO Seasparrow Individual Costs, both as incurred as of the effective date of the termination.
 - (3) Will make funds available to pay such damages and costs that accrue from the cancellation or suspension of existing procurement contracts or United States Government agency work orders involved which were awarded under the Cooperative Support Stage.
 - (4) Will submit to the other Participating Governments final reports on the status of work being performed in its country under the Cooperative Support Stage as of the effective date of termination.
- c. The Terminating Government will not be liable for any payments for work carried out under this Memorandum after the effective date of termination except for liability incurred under paragraph 8 of this section XVII.
- d. Rights and licenses in respect of technical information:
 - (1) The rights and licenses in respect of technical information received from a Terminating Government by the Continuing Governments pursuant to the terms of this Memorandum from the commencement of the Cooperative Support Stage up to the effective date of the unilateral termination shall remain in full force and effect and may be utilized subsequent to the termination by the Continuing Governments in accordance with such terms.
 - (2) The rights and licenses in respect of technical information received by a Terminating Government from the other Participating Governments pursuant to the terms of this Memorandum from the commencement of the Cooperative Support Stage up to the effective date of the unilateral termination shall remain in full force and may be utilized subsequent to the Terminating Government in accordance with such terms.

3. *Multilateral termination*

If all the Participating Governments agree to terminate the Cooperative Support Stage on a multilateral basis, their obligations for the payment of costs will be as provided for in paragraph 2 of this section. The Participating Governments will enter into arrangements satisfactory to all Governments covering the other terms on which the Cooperative Support Stage will be terminated.

4. *Settlement of common pool equities*

In the event of unilateral or multilateral termination, the Project Manager shall:

- a. Coordinate, as requested, the processing of requisitions of a Terminating Participating Government for the withdrawal of its common pool equity.
- b. Assist, as requested, in the resale by a Terminating Participating Government to another Participating Government of such portion of the Terminating Government's common pool equity as may be mutually agreed.
- c. Assist, as requested, in the negotiation and conclusion of such cooperative logistic support arrangements between the United States Government and the Terminating Government as may be desired with respect to the continued support of the NSSM Systems or subsystems of the Terminating Government.

5. *Facilities equity*

The interest of a Terminating Participating Government in any facility acquired especially for the Cooperative Support Stage (the "Facilities Equity") shall be determined by the Project Manager in the event of unilateral or multilateral termination. The value of the Facilities Equity of a Terminating Government shall be computed by multiplying the fraction constituting the share of the acquisition cost of a facility borne by the Terminating Government by the fair residual value of the facility. In the event of a unilateral termination, the continuing Participating Governments and the Terminating Participating Government shall negotiate fair and reasonable terms for the acquisition of the Terminating Government's Facilities Equity. In the event of multilateral termination, the Participating Governments shall negotiate such agreements with respect to the transfer or disposal of facilities acquired especially for the Cooperative Support Stage as may be consistent with their respective needs for continuing NSSM Systems Support.

6. *Continuation of work after termination*

If, in the event of termination of participation in the Cooperative Support Stage whether unilateral or multilateral, one or more of the Participating Governments wishes to continue the work being performed in a Terminating Government's country, then such Terminating Government will use its good offices, subject to its own laws, policies and defense requirements, to ensure that such work is satisfactorily performed. The Continuing Government or Governments will assume full liability for the cost incurred in continuing such work including fair and reasonable management costs.

7. *Security measures*

The arrangement regarding security measures and protection by the Participating Governments of privately-owned rights in inventions and technical information will continue irrespective of any withdrawal or termination of the Cooperative Support Stage.

8. *Foreign Military Sales Cases*

The provisions of this section are not applicable to termination of Foreign Military Sales Cases entered into between the United States Government and European Participating Governments. Such cases shall be terminable only in accordance with their express terms.

Section XVIII. EFFECTIVE DATE OF THE MEMORANDUM OF UNDERSTANDING

The Memorandum of Understanding will be effective upon signatures by the Government of the United States of America and one or more European Participating Governments. Subsequent annexes as agreed to by the NSPSC shall form an integral part of this Memorandum of Understanding.

For the Government of Belgium:

• [Signed — Signé]¹
Date: 12/6/77²

For the Government of Denmark:

[Signed — Signé]³
Date: 2/6/1977⁴

For the Government of the Federal Republic of Germany:

[Signed — Signé]⁵
Date: 1.XII.77

For the Government of Italy:

[Signed — Signé]⁶
Date: 22.7.77

For the Government of the Netherlands:

[Signed — Signé]⁷
Date: 6.6.77

¹ Signed by Van de Boeynants — Signé par Van de Boeynants.

² 12 June 1977 — 12 juin 1977.

³ Signed by Verner Christiansen — Signé par Verner Christiansen.

⁴ 2 June 1977 — 2 juin 1977.

⁵ Signed by Sadtler — Signé par Sadtler.

⁶ Signed by Gino de Giorgi — Signé par Gino de Giorgi.

⁷ Signed by R. Stermerdink — Signé par R. Stermerdink.

For the Government of Norway:

[Signed — Signé]¹

Date: 31/5.77

For the Government of the United States of America:

[Signed — Signé]²

Date: 20 May 1977

EXHIBIT A
NATO SEASPARROW UNIT PRICES
(\$000)

NSSMS Guided Missile Weapons System (Single-Director) Mk 57 Mod 0	\$1,350
NSSMS Guided Missile Weapons System (Dual-Director) Mk 57 Mod 1	\$1,930
Transmitter Group Mk 73 Mod 0	\$ 170
Guided Missile Launching System Mk 29 Mod 0	\$ 487
NSSMS Low Light Level Television Mk 6 Mod 0	\$ 105

¹ Signed by R. Halsne — Signé par R. Halsne.
² Signed by Harold Brown — Signé par Harold Brown.