

No. 18650

**UNITED STATES OF AMERICA
and
NETHERLANDS**

Agreement relating to criminal investigation: procedures for mutual assistance in connection with matters relating to the McDonnell Douglas Corporation. Signed at Washington on 21 March 1979

Authentic text: English.

Registered by the United States of America on 18 April 1980.

**ÉTATS-UNIS D'AMÉRIQUE
ET
PAYS-BAS**

Accord relatif aux enquêtes pénales : modalités d'assistance mutuelle dans l'affaire mettant en cause la McDonnell Douglas Corporation. Signé à Washington le 21 mars 1979

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 18 avril 1980.

AGREEMENT¹ ON PROCEDURES FOR MUTUAL ASSISTANCE
BETWEEN THE UNITED STATES DEPARTMENT OF JUSTICE
AND THE MINISTRY OF JUSTICE OF THE KINGDOM OF THE
NETHERLANDS IN CONNECTION WITH MATTERS RE-
LATING TO THE McDONNELL DOUGLAS CORPORATION

The United States Department of Justice and the Ministry of Justice of the Kingdom of the Netherlands, hereinafter referred to as "the parties", confirm the following procedures in regard to mutual assistance to be rendered to agencies with law enforcement responsibilities in their respective countries with respect to alleged illicit acts pertaining to the activities of the McDonnell Douglas Corporation and its subsidiaries or affiliates affecting KLM Airlines and/or the Kingdom of the Netherlands:

1. All requests for assistance shall be communicated between the parties through the diplomatic channel, unless otherwise agreed.

2. 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 activities of the McDonnell Douglas Corporation and its subsidiaries or affiliates affecting KLM Airlines and/or the Kingdom of the Netherlands.

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

4. Except as provided in paragraph 5, all such information made available by the parties pursuant to these procedures, and all correspondence between the parties relating to such information and to the implementation of these procedures, 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 these procedures.

5. Information made available pursuant to these procedures may be used freely in ensuing legal proceedings in the requesting state in which an agency 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, certifications, authentications, and such other assistance as may be necessary to provide the foundation for the admissibility of evidence.

6. The parties shall give advance notice and afford an opportunity for consultation prior to the use, within the meaning of paragraph 5, of any information made available pursuant to these procedures.

¹ Came into force on 21 March 1979 by signature, in accordance with paragraph 14.

7. 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 witnesses, taking testimony or statements, or securing the production of documents or other materials. Representatives of the requesting state may participate in the execution of the request if the requesting 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.

8. The parties shall use their best efforts to assist in the expeditious execution of letters rogatory issued by the judicial authorities in connection with any legal proceedings which may ensue in their respective countries.

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

10. All assistance by 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 conditions to be agreed upon, if execution would interfere with an ongoing investigation or legal proceeding in the requested state.

11. Nothing contained herein shall limit the rights of the parties to utilize for any purpose information obtained independently of these procedures.

12. The mutual assistance to be rendered by the parties pursuant to these procedures is designed solely for the benefit of their respective agencies having law enforcement responsibilities, and is not intended to benefit third parties or to affect the admissibility of evidence under the laws of either the United States of America or the Kingdom of the Netherlands.

13. An extension of this Agreement to similar cases where investigations are conducted or contemplated by both the United States Department of Justice and by the Ministry of Justice of the Kingdom of the Netherlands could be accomplished by an exchange of letters between the parties.

14. This Agreement shall enter into force on the date of signature by both parties.

DONE at Washington, D.C., this 21st day of March, 1979.

For the Ministry of Justice
of the Kingdom of the Netherlands:

[Signed]

HILBRAND P. A. NAWIJN
Head of the Section on Legal Assistance
in Criminal Matters

For the United States
Department of Justice:

[Signed]

PHILIP B. HEYMANN
Assistant Attorney General