

No. 19683

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

Memorandum of Understanding for co-operation within the area of army tactical data systems for the purpose of standardization and interoperability. Signed at Washington on 6 January 1980 and at Bonn on 14 April 1980

Authentic texts: English and German.

Registered by the United States of America on 27 March 1981.

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

Mémorandum d'accord relatif à la coopération dans le domaine des systèmes de données militaires tactiques en vue de leur standardisation et de leur utilisation réciproque. Signé à Washington le 6 janvier 1980 et à Bonn le 14 avril 1980

Textes authentiques : anglais et allemand.

Enregistré par les États-Unis d'Amérique le 27 mars 1981.

MEMORANDUM OF UNDERSTANDING¹ BETWEEN THE SECRETARY OF THE DEPARTMENT OF THE ARMY OF THE UNITED STATES OF AMERICA AND THE FEDERAL MINISTER OF DEFENSE OF THE FEDERAL REPUBLIC OF GERMANY FOR COOPERATION WITHIN THE AREA OF ARMY TACTICAL DATA SYSTEMS FOR THE PURPOSE OF STANDARDIZATION AND INTEROPERABILITY

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PREAMBLE

This Memorandum of Understanding (MoU), entered into pursuant to the provision of the Mutual Weapons Development Data Exchange Agreement, MWDDEA A-73-G-1175, will be the basis for close cooperation in sales, possible joint development and co-production between the participants in the area of Army Tactical Data Systems, their subsystems and parts subject to the US Arms Export Control Act and other relevant US Government statutes and regulations. The objective is particularly to achieve interoperability between US Army and German Armed Forces Tactical Data Systems via standardization.

Article I. OBJECTIVES

1.1 The Signatories agree to seek a form, fit, and function level of standardization of equipment and data exchange procedures used with Army Tactical Data Systems with the goal of achieving interoperability between United States, German, and other NATO national systems. The underlying objective is a

¹ Came into force on 14 April 1980 by signature, in accordance with article 14 (1).

significant improvement of joint capabilities of command and control systems within the Armed Forces in Europe.

1.2 Within the 1980 timeframe, Germany intends to develop a testbed (for the German Führungsgrundsystem Heer—a TOS-like system) by using readily available militarized hardware and software, and by developing additional software to perform the special needs of the German Armed Forces. This testbed will also provide a facility for testing the TOS-FüGruSys H interface and for demonstrating interoperability with TOS.

Article II. REFERENCE AGREEMENTS

2.1 This project will be carried out within the framework of the following agreements and arrangements:

- a. Memorandum of Understanding on Cooperative Research and Development Program between the United States and the Federal Republic of Germany dated 1 August 1963.
- b. Agreement between the United States and the Federal Republic of Germany to Facilitate Interchange of Patent Rights and Technical Information for Defense Purposes dated 4 January 1956.¹
- c. United States/German Security Agreement of 24 January 1960.
- d. NATO Agreement on the Communication of Technical Information for Defense Purposes.²
- e. Memorandum of Understanding for a Cooperative Research and Development Project for a Tactical Interactive Computer Presentation panel between the United States and the Federal Republic of Germany dated 9 January 1975.
- f. United States/German Mutual Defense Assistance Agreement of June 30, 1955.³
- g. Memorandum of Understanding between the Federal Minister of Defense of the Federal Republic of Germany and the Secretary of Defense of the United States of America concerning the Principles Governing Mutual Cooperation in the Research, Development, Production, Procurement and Logistic Support of Defense Equipment dated 17 October 1978.

Article III. STANDARDIZATION OF MILITARIZED HARDWARE AND SOFTWARE PRODUCTS

3.1 The Signatories will make available for each other all technical descriptions and documentation such as A-, B-, and C-Level specifications* and related documents for the systems, subsystems, and parts of those systems mentioned in Article I under terms to be specified in supplemental agreements within the constraints of applicable laws.

3.2 The Signatories will exchange test data, test procedures, and support functions and will allow military and/or government/contractor personnel of the other nation to participate in Training courses and tests of the systems covered herein under terms to be specified in supplemental agreements within the constraints of applicable laws.

* As described in US MIL-STD-490 (Foot-note added by the Department of State).

¹ United Nations, *Treaty Series*, vol. 268, p. 144.

² *Ibid.*, vol. 800, p. 5.

³ *Ibid.*, vol. 240, p. 47.

3.3 Both Signatories will provide for timely forwarding of information concerning training, test schedules, test results and evaluation data when such agreements are reached, to allow ample time for necessary approvals and arrangements.

3.4 The Signatories agree to inform each other about the implementation of new standards in hardware, software, firmware, procedures, and doctrine concerning the Army Tactical Data Systems pertinent to their cooperative efforts.

3.5 Furnishing of hardware and software and rendering of services under this MoU by the US Government, and Foreign Military Sales (FMS) to Germany, and vice versa, shall be subjects of separate Letters of Offer and Acceptance (LOA) in each case.

In the event of a discrepancy between this Memorandum of Understanding and a particular LOA, the LOA shall be binding. The prices quoted in the LOA's shall include appropriate compensation for license fees, royalties, shared recovery of development costs, production costs, and other applicable costs.

Article IV. GERMAN GOVERNMENT PURCHASES

4.1. In accordance with and subject to United States laws and regulations the US Dep. of the Army will sell or permit sales to Germany and its contractors of militarized equipment and components which are already available or under development as may be agreed. Included are common software packages and appropriate Integrated Logistics Support (ILS) as part of the devices (sub-systems).

4.2 The US DoA will make available or permit sales to Germany for usage within German testbeds of standards and procedures for data transmission, including data formats and protocols, etc., which have been approved by the Director of the US Program for Joint Interoperability of Tactical Command and Control Systems (JINTACS).

4.3 In accordance with and subject to United States laws and regulations the US DoA agrees to permit Germany to award separate contracts to its contractors in order to modify hardware and software functions required for application within the German testbeds, subject to considerations of standardization and Interoperability and the other terms of this agreement.

4.4 The US DoA will permit the usage of Government owned software development facilities by personnel of the Federal Minister of Defence and its contractor, subject to the provision of separate LOA's.

Article V. US GOVERNMENT PURCHASES

5.1 The Federal Minister of Defence agrees that the US DoA will have the right to make purchases in Germany of those systems, subsystems, and parts of Tactical Data Systems developed in or by Germany.

Article VI. COOPERATION IN DEVELOPING ARMY TACTICAL ADP SUBSYSTEMS

6.1 The signatories agree to cooperate closely in the development of a militarized overlay-reproducer for large screen displays. If there will be a joint development of such a device, it will be specified at such time and a supplemental agreement will be drafted and made a part of this MoU.

6.2 If additional areas of cooperation in any phase of the life cycle of Army Tactical Data Systems are desired by both signatories, modifications of this MoU will be considered prior to establishing additional MoU's.

Article VII. PERSONNEL EXCHANGE

7.1 The signatories agree to exchange personnel when such exchanges will enhance the cooperative efforts under this MoU.

7.2 Personnel will be exchanged in accordance with arrangements to be agreed upon by the signatories.

Article VIII. SECURITY

8.1 To the extent that any items, plans, specifications, technology, equipment, or other information furnished in connection with this transaction are classified by the US DoA for security purpose, the Federal Minister of Defense shall maintain a similar classification and employ all measures necessary to preserve such security equipment to those measures employed by the US DoA throughout the period during which the US DoA may maintain such classification and vice versa.

8.2 The operating procedures for the implementation of the General Security Agreement between the two governments, dated 29 December 1960, including the Industrial Security Agreement between the US Department of Defense and the Federal Republic of Germany Ministry of Defense, dated 16 April 1970, apply to activities under this MoU.

Article IX. AUTHORIZED USE OF DOCUMENTATION

9.1 Both signatories will use their best efforts to furnish each other information in accordance with all the terms of this agreement that is accurate, adequate, and complete. However, they cannot guarantee the accuracy, adequacy, or completeness of these documentations.

9.2 The signatories agree that any direct procurement by them from each other's national contractors will be subject to laws and regulations of that country. Neither signatory can guarantee the accuracy, adequacy, or completeness of any documentation provided by a contractor(s) under terms of direct procurement agreements.

9.3 Within the scope of Article III, both signatories are authorized to use for evaluation, production, maintenance, repair, training, and overhaul purposes documentation furnished by the other signatory to the extent of his rights therein.

9.4 This authorization does not in any way constitute a license to make, use, or sell the subject matter of: any inventions, technical information, or knowhow owned by third parties which may be embodied or described in the documentation. Such agreements, if any, shall be in accordance with separate agreements and will be included as an Annex to this MoU.

9.5 Both signatories agree that all technical data and documentation provided each other, in accordance with this MoU, related LOA's, or by national manufacturers as mentioned under Articles III, IV and V, will be used subject to paragraph 9.3 above only for the purposes of this MoU. To achieve this end, both signatories may release the technical data and documentation to its contractors involved in the development of their systems, provided that the signatories

and their contractors expressly agree that they will not further release or use such data and documentation for any purpose other than the purpose of this MoU without written approval.

Article X. IMPLEMENTATION

10.1 As soon as possible after signature of this MoU, the authorized representatives of both signatories shall meet and agree upon an implementing arrangement. This arrangement will include procedures necessary to comply with provision of this MoU, such as joint responsibilities, exchange of information and communication, designation of a Project Officer for each country, and may provide for liaison offices within each country as needed.

10.2 In order to achieve interoperability, necessary joint configuration control agreements will be drafted and included as an Annex to this MoU.

Article XI. RESOLUTION OF DIFFERENCES

11.1 Any differences regarding the interpretation or application of this MoU will be resolved by consultation between the Participating Parties concerned and will not be referred to an International Tribunal or third party for settlement.

11.2 The procedure for the resolution of differences will be covered by an implementing arrangement mentioned in Article X. Major differences will be reported to the respective national authorities.

Article XII. THIRD PARTY

12.1 Should additional government or governments desire to participate in this arrangement, the two signatories will consult together on whether it is to their mutual advantage to accede to the request, and they will jointly negotiate with the applicant government on the terms of participation.

12.2 The release of information to a third party on any aspect of this agreement will be by mutual consent of both signatories until completion or termination of this project.

12.3 Upon completion or termination of this MoU, release or disposal of any information or data generated under this MoU, is subject to the provisions of Articles VIII and IX.

Article XIII. TERMINATION

13.1 It is the intention of both signatories to implement the actions taken pursuant to this MoU to completion. Either signatory may unilaterally withdraw from this MoU at any time by informing the other signatory in writing, giving a six (6) month notice prior to the effective date of the withdrawal. Any such withdrawal will be pr[o]spective only and without prejudice to agreements or arrangements taken or in existence at the time of the notice of withdrawal.

13.2 The provisions of Articles VIII and IX, above, shall continue in full force and effect after the termination of this MoU.

Article XIV. EFFECTIVE DATE AND SIGNATURE

14.1 This MoU will be effective on the date of the last signature.

14.2 The English and German versions of this MoU are likewise authentic.

14.3 IN WITNESS WHEREOF, the representatives of the Minister of Defense of the Federal Republic of Germany and the Department of the Army of the United States of America have signed this Memorandum of Understanding.

For the Minister of Defense,
Federal Republic of Germany:

[Signed]

Dr. MUNK MinRat

Date: 14.4.80

Effective date:

For the Secretary of the Department of
the Army of the United States of
America:

[Signed]

Date: 1-6-80

BRYANT R. DUNETZ
Assistant Deputy
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