

NEOT 10-95

MUTUAL SUPPORT AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
AND
THE KINGDOM OF THE NETHERLANDS

PREAMBLE

The Government of the United States of America, and the Government of the Kingdom of The Netherlands, hereinafter referred to as the parties,

Desiring to implement further the Mutual Defense Assistance Agreement between the Kingdom of The Netherlands and the United States of America, done at Washington on 27 January 1950, especially Article 1, first paragraph,

Desiring to further the rationalization, interoperability, readiness, and effectiveness of their respective military forces through increased logistic cooperation,

Desiring to establish basic terms and conditions for provision of mutual logistic support, supplies, and services,

Have agreed as follows:

ARTICLE I
DEFINITIONS

As used in this Agreement and in any implementing arrangements which provide specific procedures, the following definitions apply:

- a. Logistic Support, Supplies, and Services: Logistic support, supplies and services include food, billeting, transportation and related services, petroleum, oils, lubricants, clothing, communication services, medical services, ammunition, base operations support (and construction incident thereto), storage services, use of facilities, training services (excluding training covered by STANAGs 6002 and 6003), spare parts and components, and repair and maintenance services.
- b. Implementing Arrangement: An implementing arrangement is a supplementary arrangement related to logistic support, supplies, and services, which sets forth the additional details, terms, and conditions which further define and carry out this Agreement.

c. Order: An order, when in its proper form and signed by an authorized official, is a request for the provision of specific logistic support, supplies, or services pursuant to this Agreement and an applicable implementing arrangement, if any.

d. Invoice: Invoices are those documents from the supplying party which request reimbursement or payment for specific logistic support, supplies, and services rendered pursuant to this Agreement and an applicable implementing arrangement, if any.

e. United States European Command (USEUCOM) Component Commands: The USEUCOM Component Commands include United States Army, Europe (USAREUR); United States Naval Forces, Europe (USNAVEUR); and United States Air Forces in Europe (USAFE).

f. The Netherlands' Forces Component Commands: The Netherlands' Forces Component Commands include Royal Netherlands Navy (RNLN); Royal Netherlands Army (RNLA); and Royal Netherlands Air Force (RNLAF).

g. Europe and Adjacent Waters: Europe and adjacent waters covers the North Atlantic Treaty area as defined in the North Atlantic Treaty (amended by The Protocols on the Accession of Greece and Turkey, the Federal Republic of Germany and Spain), excluding North America.

ARTICLE II

APPLICABILITY

1. This Agreement applies only to military forces of both parties in Europe and adjacent waters, and in the case of United States Forces to logistic support, supplies, and services in the inventory or otherwise under the jurisdiction and control of United States Forces deployed in Europe and adjacent waters.

2. The parties understand that this Agreement will not be employed in a manner to serve as a routine and normal source for logistic support, supplies and services: (a) reasonably available from United States or Netherlands commercial sources unless permitted by the country whose commercial services are involved; or (b) acquirable from the United States through Foreign Military Sales procedures under the current Arms Export Control Act.

ARTICLE III

BASIC TERMS AND CONDITIONS

1. Each party agrees to utilize its best endeavors, consistent with national priorities of the supplying country, not only in peacetime but also in periods of emergency or active hostilities to satisfy requests of the other party for logistic support, supplies, and services. When an implementing arrangement contains a stricter standard of compliance it shall apply over this paragraph.
2. The parties agree that the transfer of logistic support, supplies, and services between the parties shall be accomplished by orders issued and accepted under this Agreement and any applicable implementing arrangements. Orders will be issued under this Agreement alone without an implementing arrangement only in those cases set forth in Annex A. Implementing arrangements may be negotiated on the part of the United States by USEUCOM, USEUCOM Component Commands, and any other organization or agency authorized by USEUCOM. Implementing arrangements may be negotiated on the part of The Netherlands by the Director-General of Materiel of the Ministry of Defence and The Netherlands' Forces Component Commands. Whether the transfer is accomplished by orders under this Agreement alone or in conjunction with implementing arrangements, the documents taken together must set forth all necessary details, terms, and conditions to carry out the transfer including the data elements in Annex B. The parties will endeavor to adopt a standard order form and a standard invoice form which, when agreed, will become an annex to this Agreement. Implementing arrangements will generally identify those personnel authorized to issue and accept orders under the implementing arrangement. The parties will notify each other of specific authorizations or limitations on those personnel able to issue or accept orders directly under this Agreement or under an implementing arrangement when the implementing arrangement does not state this information. In the case of the United States, these notifications will go directly to and from the USEUCOM Component Command concerning personnel belonging to the Component Command as well as HQ USEUCOM.
3. For any transfer of logistic support, supplies, or services, the parties will agree on payment either in cash (a "reimbursable transaction") or payment in kind (an "exchange transaction"). Accordingly, the receiving party will pay the supplying party in conformance with either 3a or 3b below.
 - a. Reimbursable Transactions. The supplying party will submit invoices to the receiving party after delivery or performance of the logistic support, supplies, or services.

Both parties will maintain records of all transactions, and the parties will pay outstanding balances not less frequently than quarterly. In pricing reimbursable transactions, the parties agree to the following principles:

(1) In the case of specific acquisition by the supplying party for a receiving party, the price will be no less favorable than the prices charged the armed forces of the supplying party for identical items or services, less any amounts excluded by Article IV of this Agreement. The price charged will take into account differentials due to delivery schedules, points of delivery, and other similar considerations.

(2) In the case of transfer from the supplying party's own resources, the supplying party will charge the same price as the supplying party charges its own forces as of the date the order is accepted for identical logistic support, supplies, or services, less any amounts excluded by Article IV of this Agreement. In the case where a price has not been established or charges are not made for one's own forces, the parties will agree to a price in advance, excluding charges that are excluded under reciprocal pricing principles.

(3) The parties agree that these reciprocal principles exclude the charging (directly or indirectly) of indirect costs (including charges for plant and production equipment), administrative surcharges, and contract administration costs.

b. Exchange Transactions. Both parties will maintain records of all transactions, and the receiving party will pay the supplying party in kind by transferring to the supplying party logistic support, supplies, or services that are identical or substantially identical to the logistic support, supplies, or services delivered or performed by the supplying party and which are satisfactory to the supplying party. If the receiving party does not pay in kind within the terms of a replacement schedule, agreed to or in effect at the time of the original transaction with time frames which may not exceed 1 year from the date of the original transaction, the transaction shall be deemed a reimbursable transaction and governed by paragraph 3a above, except that the price will be established based upon the date the payment in kind was to take place.

4. When a definitive price is not agreed in advance on the order, the order, pending agreement on final price, will set forth a maximum limitation of liability for the party ordering the logistic support, supplies, or services. The parties will promptly enter into negotiations to establish the final price.

5. The invoice will contain an identification of this Agreement or an applicable implementing arrangement and will be in the format set forth by the supplying organizations. The invoice will be accompanied by evidence of receipt by the party receiving the logistic support, supplies, or services.
6. The parties agree to provide each other with information sufficient to verify, when applicable, that reciprocal pricing principles have been followed and prices do not include waived or excluded costs.
7. Nothing herein shall serve as a basis for an increased charge for logistic support, supplies, or services if such logistic support, supplies, or services would be available without charge or at a lesser charge under terms of another agreement.
8. In all transactions involving the transfer of logistic support, supplies, or services, the receiving party agrees that such logistic support, supplies, or services will not be retransferred, either temporarily or permanently, by any means to other than the forces of the receiving party or a NATO government or a NATO subsidiary body or agent thereof without the prior written consent of the supplying party.

ARTICLE IV EXCLUDED CHARGES

Provisions of tax and customs relief agreements applicable to the acquisition of materials, services, supplies, and equipment by the receiving party will apply to logistic support, supplies and services transferred under this Agreement. The parties will cooperate to provide proper documentation to maximize tax relief. In the case where taxes or customs duties for which a receiving party would ordinarily have an exemption have already been paid by the supplying party and the taxes or customs duties cannot be recovered by the supplying party, the supplying party will advise the receiving party prior to agreeing to the transaction. The transaction will be done on an exchange basis unless mutually agreed.

ARTICLE V
INTERPRETATION AND REVISION

1. The parties agree to make a good faith effort to resolve disagreements between them with respect to the interpretation or application of this Agreement. In the case of an implementing arrangement or transaction, the parties to the arrangement(s) or transaction(s) will make a good faith effort to resolve any disagreements with respect to interpretation or application of the arrangement or transaction. Resolution will be by negotiation, and will not be referred to an international tribunal or third party for settlement.

2. Either party may, at any time, request revision of this Agreement. In the event such a request is made, the two parties shall promptly enter into negotiations.

ARTICLE VI
EFFECTIVE DATE AND TERMINATION

This Agreement will enter into force on the date of the last signature and will continue in effect until terminated by either party giving six (6) months notice in writing to the other party.

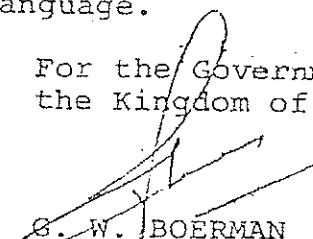
Done at Stuttgart on this 22nd day of February 1983
in two originals in the English language.

For the Government of the
United States of America



FRANCIS J. TONER
Major General, USA
Director of Logistics and
Security Assistance
HQ, US European Command

For the Government of
the Kingdom of The Netherlands



G. W. BOERMAN
Lieutenant General, RNLA
Director-General of Materiel
of the Ministry of Defence

ANNEX A

Pursuant to Article III, paragraph 2, orders may be issued against this Agreement alone in the following circumstances:

- a. Orders placed during times of tension and active hostilities;
- b. Orders for logistic support, supplies and services covered by both this Agreement and by a NATO logistics support STANAG (e.g., STANAG 1062, 2034, 2135, 3113). However, to the extent both parties have ratified and implemented a NATO logistics support STANAG, and have legal authority to use the STANAG, the order will be placed using the STANAG.
- c. Orders for logistic support, supplies and services urgently required and not covered by an implementing arrangement provided HQ USEUCOM or the applicable USEUCOM Component Command and The Netherlands' Forces Component Commands agree.

ANNEX B
MINIMUM ESSENTIAL DATA ELEMENTS

- (1) Support Agreement or implementing arrangement, if any.
- (2) Date of order.
- (3) Country, ministry, department or command to be billed.
- (4) Numerical listing of stock numbers of items, if any.
- (5) Quantity and description of material and/or services requested.
- (6) Quantity furnished.
- (7) Unit of measurement.
- (8) Unit price.
- (9) Quantity furnished (as at 6), multiplied by unit price (as at 8).
- (10) Currency of billing country.
- (11) Total order amount expressed in currency of billing country.
- (12) Name (typed or printed) and signature and title of authorized ordering representative.
- (13) Payee to be designated on remittance.
- (14) Designation and address of office to which remittance is to be sent.
- (15) Recipient's signature acknowledging services or supplies received on the order or a separate supplementary document.
- (16) Document number of order.
- (17) Receiving organization.
- (18) Issuing organization.
- (19) Transaction type.
- (20) Fund citation or certification of availability of funds when applicable under parties procedures.
- (21) Date and place of original transfer and in case of an exchange transaction, a replacement schedule including time and place of replacement transfer.
- (22) Signature, name, and title of authorized acceptance official.
- (23) Additional special requirements, if any, such as transportation, packaging, etc.
- (24) Limitation of government liability.
- (25) Name, signature, date and title of official of supplying party who actually issues supplies or services.