

KAMERBRIEVEN

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Declaration of Principles (DoP) tussen NL en de VS

Ondertekenaar: minister mr. F.H.G. de Grave

Nederland hecht groot belang aan internationale samenwerking. Overeenkomstig de Defensienota 2000 streeft de Regering naar evenwichtige Europese en Transatlantische relaties. Zowel in Europa als in de Verenigde Staten zijn de laatste jaren initiatieven genomen om de mogelijkheden voor (industriële) defensiesamenwerking te verbeteren. Hierbij kan worden gedacht aan de Letter of Intent (LoI) en Organisation Conjointe de Coopération en matière d'Armement (Occar) in Europa en de Declaration of Principles (DoP) en Defense Trade and Security Initiative (DTSI) initiatieven in de Verenigde Staten. Besprekingen met de Verenigde Staten hebben onlangs geresulteerd in een DoP. Deze DoP is een intentieverklaring over betere materieelsamenwerking, toegang tot de wederzijdse defensiemarkten en verbeteringen op het gebied van informatie-uitwisseling met de daarbij behorende wederzijdse garanties ten aanzien van (industrie-)veiligheid. Mede met het oog op het notaoverleg over de vervanging F-16 op 2 april, bied ik u hierbij de tekst van de DoP aan. Mijn Amerikaanse ambtgenoot en ik zullen het DoP document op korte termijn ondertekenen. Daarna zullen diverse interdepartementale werkgroepen de initiatieven verder uitwerken en zo nodig voorbereidingen treffen om bestaande overeenkomsten te amenderen of nieuwe te sluiten. Ik zal u informeren over de resultaten hiervan. DE MINISTER VAN DEFENSIE, mr. F.H.G. de Grave

**United States Department of Defense and
the Netherlands Ministry of Defence
Declaration of Principles for**

Enhanced Cooperation in Matters of Defense Equipment and Industry

The Secretary of Defense for the United States Department of Defense (USDOD) and the Minister of Defence for the Netherlands Ministry of Defence (NLMOD), hereinafter referred to as "the Participants", recognize that their governments, as allies of longstanding, share cooperative relationships in such defense activities as strict enforcement of export policies for defense systems and technologies, strong industrial security systems, and compatible industrial security practices.

They value and intend to continue to support these relationships as well as their governments longstanding cooperation in intelligence sharing on matters of counterintelligence, law enforcement, and arms proliferation; industrial security; countering economic espionage; and export control violations.

They also recognize that they share security interests that may be advanced by the mutual acquisition of particular capabilities and technologies.

Where consistent with the aforementioned purposes, they desire to enhance the

environment for mutual defense equipment and industrial cooperation for their mutual benefit by establishing a framework that will facilitate greater integration of their defense companies. They envisage a more unified and stronger U.S. and Dutch industrial base that ensures reciprocal access to that base by both Participants.

The Participants intend to apply the provisions of this Declaration of Principles (DOP) to those matters within their respective areas of responsibility. They affirm the prerogatives of other agencies of their respective governments on certain matters related to this DOP and note that, for both Participants, the provisions of this DOP do not apply to matters that are under the jurisdiction of other agencies of their respective governments, including the U.S. Department of State and the NL Ministry of Foreign Affairs. They also note that within their respective governments there is ongoing work related to matters to further the objective of cooperation between their governments, the outcome of which is not prejudiced by the provisions of this DOP. They also affirm their desire to promote similar cooperation between each of them and other allies, both bilaterally and multilaterally.

Therefore, the Participants have reached the understandings reflected in this DOP. The principles established in this DOP are not legally binding and do not create new fiscal obligations for either Participant. These principles indicate how existing agreements, arrangements, or procedures may be implemented to best effect, and point the way to arriving at future agreements, arrangements, or procedures which may, when useful and appropriate, be legally binding.

Purpose

1. The purpose of this DOP is to indicate the areas in which the Participants intend to enhance cooperation for their mutual benefit, including finding common solutions to problems identified; defining the principles on which existing agreements, arrangements, or procedures may be implemented to best effect and on which appropriate follow-on agreements, arrangements, or procedures, or amendments to existing agreements or arrangements, will be based; and establishing a process to implement these principles.
2. This DOP is intended to establish principles for future agreements, arrangements, or procedures, or amendments to existing agreements or arrangements, which may cover the industrial, investment, and export sectors of defense in both countries.
3. The Participants intend to pursue the objectives of this DOP and to adopt, where appropriate, specific agreements, arrangements, or procedures, or amendments to existing agreements or arrangements, to underpin the effective application of the principles specified in this DOP.

Harmonization of Military Requirements and Acquisition Processes

1. The Participants will seek better means to harmonize the military requirements of their armed forces. To this end, and proceeding from a common understanding of respective operating concepts and architectures, and operational capabilities and associated tasks, the Participants will identify areas in which better harmonization is considered possible. In doing so, they will seek to make use of existing fora, wherever practicable.
2. The Participants will identify projects in their early stages that may be candidates for cooperative research, development, production, or procurement. (See Research and

Development, below.)

3. The Participants will examine the possibility of harmonizing the procedures applicable to armaments acquisition, so as to remove unnecessary or unreasonable impediments to effective cooperation.

Research and Development

1. The Participants recognize that technology, research, and development are indispensable for maintaining an effective defense industrial base and therefore recognize the need to use the limited resources available for governmental defense-related research and development in an efficient and effective manner.

2. In the context of this DOP, the Participants intend to make use of existing agreements, arrangements, or procedures, or to establish new agreements, arrangements, or procedures to:

(a) harmonize research and development programs and exchange information about national research activities where there are common interests with a view towards setting common objectives for research and development, avoiding unnecessary duplication of effort

or major gaps in technology and technical capability, and making the most effective use of dual-use and commercial off-the-shelf technology;

(b) increase cooperation in programs that follow-on from research activity, in particular by undertaking technological developments with each other; and

(c) ensure appropriate cost sharing of cooperative research and development.

Meeting National Defense Requirements

1. Each Participant requires assurance that the other Participant will facilitate the supply of specified defense articles and defense services necessary to discharge their national security and foreign policy commitments. The Participants acknowledge that this assurance of supply is as important for industry as it is for governments, if industry is to adapt to the process of globalization.

2. Consequently, the Participants recognize the potential for a certain degree of mutual interdependence of supplies needed for national security. In order to minimize the risks associated with this concept, the Participants will explore solutions for achieving assurance of supply for both Participants. These solutions may include obtaining assurances, some of which may be legally binding, relating to the supply of defense articles and defense services, including technical data.

3. To further enhance this assurance, and with due consideration for the right of the Participants' governments to control the disclosure and use of technical information, arrangements will be considered that enable the other Participant to reconstitute, in exceptional circumstances, an indigenous supply of a particular defense article or defense service.

Sales and Export Procedures

1. The activities in this section will be consistent with the jurisdiction of other

government agencies, and coordinated with the appropriate national export control authorities of the Participants respective governments.

2. The Participants confirm their desire to maintain an effective defense industrial capability as part of their industrial bases and the ability to export defense articles and defense services. Consistent with the intent of this DOP, they intend to explore possible approaches to achieving greater transparency and efficiency in their national procedures for exports of defense articles and defense services.

3. *The Participants intend to explore means of simplifying the procedures for export of defense articles and defense services between themselves for their own use.*

4. The Participants desire to improve the efficiency of the procedures for exports of jointly produced military goods to third parties. They intend therefore to examine the scope for establishing expedited procedures concerning acceptable export destinations for jointly developed and produced military goods and technologies.

5. The Participants intend to explore ways to ensure that their national laws and regulations regarding defense exports to third parties are implemented expeditiously, in a spirit of cooperation, and with maximum efficiency. They intend to reinforce their cooperation and promote convergence in the field of conventional arms exports. They plan to examine measures to ensure adoption of effective controls on commercial arms exports, including by examining the possibility of harmonizing their controls.

6. The Participants will consult, as appropriate, to review export control and coordination procedures, with a view towards accomplishing the preceding measures.

7. Pending new governmental agreements, arrangements, or procedures, re-transfers by a Participant of defense articles and services, including technical information, originating in the territory of the other Participant, will be made only with the prior written consent of the originating Participant's government or competent governmental authorities.

Security of Information

1. The Participants recognize the need to ensure that adequate and appropriate security provisions for the protection of classified information are in force in any relevant U.S. or Dutch company, regardless of any multinational aspects of a company's ownership or management structure. The Participants will endeavor to avoid placing unnecessary or unreasonable restrictions on the movement of staff, information, or material between the Participants or their industry.

2. The Participants will examine means to expedite the transmission of classified information between themselves or between their industries subject to maintaining the requisite degree of security protection.

3. Consistent with the General Security of Information Agreement of 1960, as amended, between the Government of the United States of America and the Government of the Kingdom of the Netherlands, the Participants will ensure that no classified information is passed to companies or persons not suitably cleared or that do not have a need to receive it and that no classified information, including information carrying national caveats, originated by one Participant is passed to a third country national without the consent of that Participant.

4. Consistent with the preceding paragraphs, the Participants will use their best efforts, both individually and working together, to lessen the administrative burdens placed on their industry in the establishment and oversight of industrial security measures.
5. The Participants intend to develop procedures to streamline the process for approving *visits to government or contractor facilities by employees of the government or contractors of the other Participant that may involve access to classified information.*
6. The Participants will endeavor to harmonize and streamline their security procedures.
7. The Participants will jointly address security vulnerabilities posed by new technologies.

Ownership and Corporate Governance

1. The Participants believe that the ownership of defense companies sited in the United States and The Kingdom of the Netherlands is a matter for the companies to determine, subject to the application of national security, anti-trust, and other relevant laws. They wish to encourage the freest possible cross-border investment in defense-related industry.
2. While considering the implications for national security of any proposed international merger or acquisition, the Participants will encourage their governments not to place unnecessary or unreasonable security restrictions on ownership or corporate governance.
3. The Participants will seek to establish agreements or arrangements whereby, on a reciprocal basis, each Participant will apply substantially the same standards in the granting of facility security clearances to companies that are organized and incorporated within its territory but are owned or controlled by entities within the territory of the other Participant, considering, among other factors, any connection with entities owned, controlled, or influenced by entities of any third country. These agreements or arrangements may include measures to address issues of corporate governance as well as security of information held by companies and compliance with national export control regimes.

Technical Information

1. The Participants confirm their desire to reduce unnecessary or unreasonable barriers to the flow of technologies and technical information between themselves and between their defense-related industries. Accordingly, they will explore methods that could facilitate the flow of technologies and technical information controlled by the Participants, between themselves and between their defense-related industries, while ensuring that the further flow of these technologies and technical information is strictly regulated by the governments. (See Sales and Export Procedures, above.)
2. These methods could include, where appropriate, the removal of unnecessary or unreasonable controls on the flow of technology and technical information, different ways to authorize the flow of technology, and different ways to optimize the exploitation for defense of technology investments.
3. The Participants will seek to establish arrangements relating to the disclosure, use, and transfer of technical information that will facilitate the efficient operation of U.S. and Dutch defense companies, consistent with proper safeguards. Each Participant recognizes that technical information it received from the other Participant shall not be further

disclosed without the concurrence of the owner and, in the case of classified or export controlled unclassified information, without the concurrence of that Participants government under whose laws, regulations, or policies the information was classified or is subject to export control.

4. The Participants will encourage the harmonization of their procedures for controlling disclosure and use of technical information in the field of defense.

Promoting Defense Trade

1. Recognizing the responsibilities of the Participants under the Memorandum of Understanding between the Government of the Kingdom of the Netherlands and the Government of the United States of America Relating to the Principles Governing Cooperation in the Research and Development, Production, and Procurement of Defense Equipment of 1978, as amended, the Participants will seek to implement to best effect existing agreements, arrangements, or procedures, or to establish new agreements, arrangements, or procedures to promote defense trade between their countries.

2. The Participants will, on a reciprocal basis, endeavor to diminish legislative and regulatory impediments to optimizing market competition.

3. The Participants will endeavor to revise their acquisition practices to remove impediments to efficient global market operations and to support reciprocity of international market access for each others companies.

4. The Participants will give full consideration to all qualified sources in each others country in accordance with the laws, regulations, policies, and practices of the purchasing government, and will explore means to eliminate or mitigate laws, regulations, policies, and practices that require or favor national industrial participation in its defense acquisitions.

5. The Participants will educate their work force regarding the issues covered by this DOP.

Timetable

1. Policy-level discussions concerning the principles underlying this DOP and the intended United States-Netherlands cooperation and collaboration will be carried out, as needed, by appropriate national authorities.

2. Working-level discussions will be held by working groups of subject matter experts, which may include representatives from other government agencies. These working groups may consult with the Participants defense industries, as appropriate.

3. The Participants intend that the measures envisioned by this DOP to implement or amend existing agreements, arrangements, or procedures, and create new agreements, arrangements, or procedures will be put in place as appropriate.

Signed in duplicate, april 17, 2002

Donald H. Rumsfeld, Frank H.G. de Grave

Secretary of Defense, Minister of Defence

United States of America, Kingdom of the Netherlands