

1537 1

## BRIEF VAN DE MINISTER VAN BUITENLANDSE ZAKEN

*Aan*  
*de Heer Voorzitter van de Tweede Kamer*  
*der Staten-Generaal.*

's-Gravenhage, 28 Januari 1950.

Ik heb de eer u hiernevens, ter kennisneming van de leden van de Tweede Kamer, te doen toekomen de tekst van de „Mutual Defense Assistance Agreement”, ondertekend op 27 dezer te Washington.

Een wetsontwerp tot goedkeuring van deze overeenkomst zal ten spoedigste aan de Staten-Generaal worden aangeboden.

*De Minister van Buitenlandse Zaken,*  
Voor deze,  
*De wnd. Secretaris-Generaal,*  
H. N. BOON.

**MUTUAL DEFENSE ASSISTANCE AGREEMENT CONFIDENTIAL**

The Governments of the United States of America and of the Netherlands,

Being parties to the North Atlantic Treaty signed at Washington on April 4, 1949;

Conscious of their reciprocal pledges under Article 3 separately and jointly with the other parties, by means of continuous and effective self-help and mutual aid, to maintain and increase their individual and collective ability to resist armed attack;

Desiring to foster international peace and security, within the framework of the Charter of the United Nations through measures which will further the ability of nations dedicated to the purposes and principles of the Charter to participate effectively in arrangements for individual and collective self-defense in support of those purposes and principles;

Reaffirming their determination to give their full cooperation to the efforts to provide the United Nations with armed forces as contemplated by the Charter and to obtain agreement on universal regulation and reduction of armaments under adequate guarantee against violations;

Recognizing that the increased confidence of free peoples in their own ability to resist aggression will advance economic recovery;

Taking into consideration the support that the Government of the United States of America has brought to these principles by enacting the Mutual Defense Assistance Act of 1949 which provides for the furnishing of military assistance to nations which have joined with it in collective security arrangements;

Desiring to set forth the understandings which will govern the transfer of such assistance;

Have agreed as follows:

**Article I**

1. Each Government, consistently with the principle that economic recovery is essential to international peace and security and must be given clear priority, will make or continue to make available to the other, and to other Governments such equipment, materials, services, or other military assistance as the Government furnishing such assistance may authorize and in accordance with such terms and conditions as may be agreed. The furnishing of any such assistance as may be authorized by either party hereto shall be consistent with the Charter of the United Nations and with the obligations under Article 3 of the North Atlantic Treaty. Such assistance shall be so designed as to promote an integrated defense of the North Atlantic area and to facilitate the development of, or be in accordance with, defense plans under Article 9 of the North Atlantic Treaty approved by each Government. Such assistance as may be made available by the United States of America pursuant to this Agreement will be furnished under the provisions, and subject to all of the terms, conditions and termination provisions of the Mutual Defense Assistance Act of 1949, acts amendatory and supplementary thereto and appropriation acts thereunder. The two Governments will, from time to time, negotiate detailed arrangements necessary to carry out the provisions of this paragraph.

2. Each Government undertakes to make effective use of assistance received pursuant to paragraph one of this article.

(a) for the purpose of promoting an integrated defense of the North Atlantic Area, and for facilitating the development of defense plans under Article 9 of the North Atlantic Treaty, and

(b) in accordance with defense plans formulated by the North Atlantic Treaty Organization recommended by the North Atlantic Treaty Defense Committee, and Council, and agreed to by the two Governments.

3. Neither Government, without the prior consent of the other, will devote assistance furnished to it by the other Government to purposes other than those for which it was furnished.

4. In the common security interest of both Governments, each Government undertakes not to transfer to any person not an officer

or agent of such Governments or to any other nation, title to or possession of any equipment, materials, or services, furnished on a grant basis without the prior consent of the Government furnishing such equipment, materials, or services.

**Article II**

1. Each Government will take appropriate measures consistent with security to keep the public informed of operations under this agreement.

2. Each Government will take such security measures as may be agreed in each case between the two Governments in order to prevent the disclosure or compromise of classified military articles, services, or information furnished by the other Government pursuant to this agreement.

**Article III**

The two Governments will, upon request of either of them, negotiate appropriate arrangements between them respecting responsibility for patent or similar claims based on the use of devices, processes, technological information, or other forms of property protected by law in connection with equipment, materials or services furnished pursuant to this Agreement or furnished in the interest of production undertaken by Agreement of the two Governments in implementation of pledges of self-help and mutual aid contained in the North Atlantic Treaty. In such negotiations consideration shall be given to the inclusion of an undertaking whereby each Government will assume the responsibility for all such claims of its nationals and such claims arising in its jurisdiction of nationals of any country not a party to this Agreement.

**Article IV**

1. Subject to the provision of the necessary appropriations, the Government of the Netherlands undertakes to make available to the United States Embassy at The Hague guilders for its administrative expenditures within the Netherlands in connection with carrying out this Agreement. The two Governments will forthwith initiate discussions with a view to determining the amount of such guilders and to agreeing upon arrangements for the furnishing of such guilders.

2. The Government of the Netherlands will, except as otherwise agreed to, grant duty-free treatment and exemption from taxation upon importation or exportation to products, property, material or equipment imported into its territory in connection with this Agreement or any similar Agreement between the United States of America and any other country receiving military assistance.

**Article V**

1. The two Governments will, upon the request of either of them, consult regarding any matter relating to the application of this Agreement or to operations or arrangements carried out pursuant to this Agreement.

2. Each Government agrees to receive personnel of the other Government who will discharge in its territory the responsibilities of the other Government under this Agreement and who will be accorded facilities to observe the progress of assistance furnished pursuant to this Agreement. Such personnel who are nationals of that other country, including personnel temporarily assigned, will, in their relations with the Government of the country to which they are assigned, operate as a part of the Embassy under the direction and control of the Chief of the Diplomatic Mission of the Government of such country.

**Article VI**

1. The present Agreement shall enter into force on the date of signature and will continue in force until one year after the receipt by either party of written notice of the intension of the other party to terminate it, provided that, if notification of ratification of this Agreement by the Government of the Netherlands is not received by the Government of the United States of America within 45

days after the signature of this Agreement, the Agreement will terminate immediately upon the receipt by the Government of the Netherlands of a notice in writing that the Government of the United States of America no longer considers itself bound by the Agreement.

2. The terms of this Agreement shall at any time be reviewed at the request of either Government. Such review shall take into account, where appropriate, Agreements concluded by either Government in connection with the carrying out of Article 9 of the North Atlantic Treaty.

3. This Agreement may be amended at any time by Agreement between the two Governments.

4. This Agreement shall be registered with the Secretary-General of the United Nations.

5. The annexes to this Agreement form an integral part thereof.

In witness whereof the respective representatives, duly authorized for the purpose, have signed the present Agreement.

Done at Washington, in duplicate, in the English and Netherlands languages, both texts authentic, this 27th day of January, 1950.

#### Annex A

In the course of discussions of the Mutual Defense Assistance Agreement under the United States Mutual Defense Assistance Act of 1949, the following understandings were reached by the representatives of the Governments of the United States of America and the Netherlands:

1. For the purpose of Article I, paragraphs 2 and 3, fungible materials and minor items of equipment which, for all practical purposes, are fungible, shall be treated as such. Accordingly, in the case of such fungible materials or equipment, the requirements of Article I, paragraphs 2 and 3, will be satisfied if each Government devotes to the purposes of this Article either the particular items furnished or an equivalent quantity of similar and substitutable items.

2. Similarly, in the case of finished products manufactured by either Government with assistance furnished under this Agreement, the requirements of Article I, paragraphs 2 and 3, will be satisfied if the recipient Government devotes to the purposes of Article I, paragraphs 2 and 3, either such finished products or an equivalent quantity of similar and substitutable finished products.

3. Further, in the light of paragraph 1 and 2 above, neither contracting Government will refuse its consent under Article I, paragraph 4, to the transfer of a major item of indigenous equipment merely because there may have been incorporated into it as an identifiable component part a relatively small and unimportant item of assistance furnished under this Agreement by the other Government. The two Governments will forthwith discuss detailed arrangements for a practical procedure for granting consent in respect of the types of transfer referred to in this paragraph.

4. Each Government will nevertheless make all practicable efforts to use items of assistance for the purposes for which they may have been furnished by the other.

#### Annex B

In connection with the Mutual Defense Assistance Agreement, and based upon the principle of Mutual Aid enunciated in that Agreement, the two Governments agree as follows:

In the event of the cessation of the effectiveness of Article V of the Economic Cooperation Agreement between the Government of the United States of America and the Government of the Netherlands signed on July 2, 1948 at The Hague, prior to the cessation of the Agreement between the two Governments under the United States Mutual Defense Assistance Act, the Government of the Netherlands will, for so long as the Agreement between the two Governments under the Mutual Defense Assistance Act remains in effect, facilitate the production and transfer to the Government of the United States of America, for such period of time, in such quantities and upon such terms and conditions as may be agreed upon, of raw and semiprocessed materials required by the United States as a result of deficiencies or potential deficiencies in its own resources, and which may be available in the Netherlands. Arrangements for such transfers shall give due regard to reasonable requirements for domestic use and commercial export of the Netherlands.

The Government of the Netherlands intends to consult the Governments of the territories to which the Economic Cooperation Agreement has been or may be extended under Article XII of that Agreement, with a view to securing their consent to the continued exten-

sion to those territories of the provisions of paragraphs 1 and 3 of Article V of the Economic Cooperation Agreement, so long as the Mutual Defense Assistance Agreement between the two Governments remains in effect.

#### Annex C

In implementation of paragraph 1 of Article IV of the Mutual Defense Assistance Agreement the Government of the Netherlands will deposit guilders at such times as requested in an account designated by the United States Embassy at The Hague, not to exceed in total, 1,055,000 guilders for its use on behalf of the Government of the United States for administrative expenditures within the Netherlands in connection with carrying out that Agreement for the period ending June 30, 1950.

#### Annex D

Provision is made in Article 5, paragraph 2, of the Mutual Defense Assistance Agreement, as follows:

„Each Government agrees to receive personnel of the other Government who will discharge in its territory responsibilities of the latter Government under this Agreement and who will be accorded facilities to observe the progress of the assistance furnished in pursuance of this Agreement.”

In the course of discussions on the Agreement, representatives of the two Governments have stated on behalf of their respective Governments that the facilities to be so accorded shall be reasonable and not unduly burdensome upon the Government according such facilities.

#### Annex E

In recognition of the fact that personnel who are nationals of one country, including personnel temporarily assigned, will in their relations with the Government of the country to which they are assigned, operate as a part of the Embassy under the direction and control of the Chief of the Diplomatic Mission of the government of such country, it is understood, in connection with Article V, paragraph 2 of the Chief of the Diplomatic Mission of the Government of such personnel, considered as part of the Diplomatic Mission of such other Government, will be the same as the status of personnel of corresponding rank of that Diplomatic Mission who are nationals of that other country.

The personnel will be divided by the Government assigning such personnel into three categories:

(a) Upon appropriate notification of the other, full diplomatic status will be granted to the Senior Military member and the Senior Army, Navy and Air Force officer assigned thereto, and to their respective immediate deputies.

(b) The second category of personnel will enjoy privileges and immunities conferred by international custom, as recognized by each Government, to certain categories of personnel of the Embassy or the other, such as the immunity from civil and criminal jurisdiction of the host country, immunity of official papers from search and seizure, right of free egress, exemption from customs duties or similar taxes or restrictions in respect of personally owned property imported into the host country by such personnel for their personal use and consumption, without prejudice to the existing regulations on foreign exchange, exemption from internal taxation by the host country upon salaries of such personnel. Privileges and courtesies incident to diplomatic status such as diplomatic automobile license plates, inclusion on the „diplomatic list”, and social courtesies may be waived by both Governments for this category of personnel.

(c) The third category of personnel will receive the same status as the clerical personnel of the Diplomatic Missions.

It is understood between the two Governments that the number of personnel in the three categories above will be kept as low as possible.

The status as described above will be substituted by such status for appropriate officials and agents of the countries parties to the North Atlantic Treaty as may be agreed by those countries.

#### Annex F

Whereas this Agreement, having been negotiated and concluded on the basis that Government of the United States of America will extend to the other party thereto the benefits of any provision in a similar Agreement concluded by the Government of the United States of America with any other country party to the North Atlantic Treaty, it is understood that the Government of the United States of America will interpose no objection to amending this Agreement in order that it may conform, in whole or in part, to any other similar Agreement, or agreements amendatory or supplementary thereto, concluded with a party to the North Atlantic Treaty.

