

SECURITY OF SUPPLY ARRANGEMENT
BETWEEN
THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA
AND
THE MINISTRY OF DEFENCE OF NORWAY

INTRODUCTION

The Department of Defense of the United States of America (U.S. DoD) and the Ministry of Defence of Norway (Norwegian MoD), hereinafter referred to collectively as the "Participants," desiring to enter into this Security of Supply Arrangement (the "Arrangement");

Recognizing that this Arrangement sets forth the principles that the Participants intend to follow to provide each other with reciprocal priority support;

Recognizing that this Arrangement is not intended to be binding under international law;

Recognizing the benefits of improving cooperation on Security of Supply for national defense requirements and that it is in the national interest of both Participants to extend existing cooperation by concluding an Arrangement on Security of Supply;

Noting that among the consequences of globalization and industrial restructuring are the creation of transnational defense companies, possible loss of certain domestic industrial capabilities and capacities, and increasing acceptance of mutual interdependence of supplies needed for approved national defense requirements;

Recognizing, in this environment, the value of dialogue, consultation, and agreements and arrangements that facilitate the supply of defense articles and defense services; and

Recognizing that it is desirable that each Participant develop and/or utilize a Priorities System that enables it to provide for preferential treatment of contracts and subcontracts that promote national defense to each other;

Have reached the following understandings:

SECTION 1 - DEFINITIONS

For the purposes of this Arrangement, the following definitions are to be used:

- a. Accredited Norwegian Companies - Companies incorporated under Norwegian law and accredited under, and participating in, the Code of Conduct.
- b. Code of Conduct - A system of conduct established in writing between the Norwegian MoD and its contractors, subcontractors, and suppliers to detail and effect the Priorities System in Norway for the purposes of this Arrangement.
- c. Defense Priorities and Allocations System (DPAS) – The priorities system (15 U.S. Code of Federal Regulations Part 700) administered by the U.S. Department of Commerce that implements the priorities and allocations authorities under Title I of the Defense Production Act of 1950, as amended, which have been delegated to the Secretary of Commerce by the President of the United States with respect to industrial resources.
- d. Industrial Resources - Materials, services, and facilities, including construction materials, needed to meet approved defense requirements. This term includes any raw, in process, or manufactured material, article, commodity, supply, equipment, component, accessory, part, assembly, or product of any kind, technical information, process, or service. Industrial Resources does not include commercial end items commonly available in the country of the

supplier, nor does it include construction or construction material supplied under construction contracts.

e. Priorities System - Procedures under which one Participant, with the assistance of the other Participant, may request a contractor to provide a priority to, including preferential acceptance and performance of, certain contracts (including subcontracts and purchase orders) over other contracts to meet approved defense requirements. As defined here, a Priorities System addresses only the Industrial Resources defined above.

f. Security of Supply - A nation's ability to ensure a supply of defense products, materials, and services sufficient to discharge its military commitments in accordance with its foreign and security policy requirements.

SECTION 2 - MAJOR PRINCIPLES

Security of Supply presupposes, where possible, cooperation and coordination, including the mutual acceptance and support of Industrial Resource priorities set by either Participant.

Complementary, mutual Priorities Systems arrangements between the Participants are important to enable each to acquire the Industrial Resources needed to meet urgent and critical defense requirements in a timely, effective, and efficient manner. Such Priorities Systems are not designed to rectify poor provisioning and should not be used as a substitute for the normal contracting process.

Each Participant is to provide reciprocal priority support. The Norwegian MoD is to provide reciprocal priority support by utilizing a system based on a Code of Conduct signed by Accredited Norwegian Companies. The U.S. DoD is to provide priorities support by utilizing the existing Priorities System that is based on its national law.

If so requested, each Participant commits, to the greatest extent practicable and with due regard to its international commitments, to consult immediately in a spirit of cooperation with the other Participant in order to enable each to:

- a. assign or facilitate the assignment of priority, through its Priorities System, to specified defense contracts that are issued by the other Participant, or by contractors, subcontractors, or suppliers working on an approved defense program requirement of the other Participant, to suppliers located in its territory;
- b. facilitate the acceptance and priority performance by participating contractors, subcontractors, or suppliers located in its territory of designated defense contracts as necessary to meet customer delivery requirements;
- c. provide assistance, when requested, to seek to resolve problems in order to ensure timely delivery of Industrial Resources under designated priority contracts; and
- d. on a reciprocal basis, endeavor to enter into security of supply agreements or arrangements, as appropriate, with other defense establishments of members of the North Atlantic Treaty Organization, the European Union, and other alliances or organizations to which the Governments of the Participants are members.

SECTION 3 - ACTIONS

Norwegian MoD

In furtherance of the above principles, the Norwegian MoD, acting within its authorities, is to invite specific Accredited Norwegian Companies to participate in a Code of Conduct system. Pursuant to the Code of Conduct with such Accredited Norwegian Companies, the Norwegian MoD is to use its best efforts to ensure that Accredited Norwegian Companies do all they can to provide priority support to U.S. DoD contracts supporting U.S. DoD programs, when requested to do so by the U.S. DoD point of contact identified in Section 4 (Designated Points of Contact and Review) of this Arrangement. Priority support includes:

- a. accepting that a contract they are entering into or are participating in with the U.S. DoD, or with one of its contractors, is to, after approval by the point of contact of the Norwegian MoD, be accepted as a contract falling under the Code of Conduct (these contracts are to be known as "Code of Conduct contracts");
- b. inserting into any subcontract provisions designed to ensure due performance of such a Code of Conduct contract;
- c. responding in a timely manner to requests of the U.S. DoD, transmitted through the Norwegian MoD, for amendments to the timing of deliveries provided that the customer is willing to compensate them, as required by the relevant contractual provisions; and
- d. Informing the Participants of priority conflicts between Code of Conduct contracts and other contracts.

The Norwegian MoD is to notify the U.S. DoD of the Accredited Norwegian Companies. The Norwegian MoD is to consult with Accredited Norwegian Companies, their subcontractors, and suppliers as described below, when requested to do so by the U.S. Deputy Assistant Secretary of Defense (Manufacturing and Industrial Base Policy) and/or the involved Accredited Norwegian Company. The Norwegian MoD is to use its best efforts to facilitate U.S. DoD requests for priority.

In the event that an Accredited Norwegian Company refuses, or intends to refuse, to provide the priorities support requested by the U.S. DoD, the Norwegian MoD commits, acting within its authorities as detailed in the Code of Conduct, to investigate the circumstances surrounding the case. The U.S. DoD is to have the opportunity to provide the Norwegian MoD with details of the case. The Accredited Norwegian Company is entitled to respond either in writing or orally. The Norwegian MoD is to take measures necessary to assess/evaluate the circumstances surrounding the case.

- a. If the Norwegian MoD considers that the Accredited Norwegian Company has complied with the Code of Conduct, the Norwegian MoD commits, if requested to do so by the Accredited Norwegian Company, to notify the U.S. DoD. The U.S. DoD is to act on that notification as it considers appropriate. The Norwegian MoD is to use its best efforts with the U.S. DoD to resolve any remaining difficulties. Participation of the Accredited Norwegian Company in the Code of Conduct and the benefits received under the system is not to be affected.
- b. If the Accredited Norwegian Company is deemed non-compliant with the Code of Conduct, the Norwegian MoD is to use its best efforts to obtain assurance that the Accredited

Norwegian Company is to take such steps considered necessary to rectify the situation and is to notify the U.S. DoD. Failure to comply with this request may result in the suspension or termination of the Accredited Norwegian Company's participation in the Code of Conduct.

In the event that an Accredited Norwegian Company cannot satisfy a request to amend a contract falling under the Code of Conduct without incurring a financial loss, and the relevant customer is unwilling to reimburse it, the Accredited Norwegian Company may decline the request.

The Participants recognize that the U.S. DoD or one of its contractors may require assistance in obtaining priority performance from a Norwegian company that is not participating in the Code of Conduct. In such cases, if so requested by the U.S. DoD, the Norwegian MoD is to request that such Norwegian company join the Code of Conduct, or otherwise provide priority for the U.S. defense order.

U.S. DoD

In furtherance of the above principles, and when requested to do so by the Norwegian MoD's point of contact identified in Section 4 (Designated Points of Contact and Review) of this Arrangement, the U.S. DoD commits to use its best efforts to arrange for the Norwegian MoD, or Norwegian contractors, subcontractors, or suppliers, to use priority ratings on defense contracts placed with U.S. contractors, subcontractors, or suppliers to provide priority support. Priority is to be provided in accordance with the U.S. DPAS, when applicable to this Arrangement. The U.S. DPAS:

- a. establishes priority designations for contracts performed in the United States and provides preference in performance of those contracts;
- b. defines U.S. industry's responsibilities, setting forth rules to ensure timely delivery of Industrial Resources to meet approved national defense program requirements;
- c. provides procedures to request assistance if production or delivery problems arise; and
- d. Sets forth compliance procedures.

The Office of the Deputy Assistant Secretary of Defense (Manufacturing and Industrial Base Policy) is to keep the U.S. defense procurement community informed of all Accredited Norwegian Companies participating in the Code of Conduct system.

Norwegian MoD and U.S. DoD

All activities under this Arrangement are to be carried out in accordance with the respective national laws and regulations and with any other obligations that are binding upon the Participants.

The Participants do not intend to place the financial responsibility of implementing this Arrangement in Norway with Norwegian industry or in the United States with U.S. industry.

In fulfilling their understandings under this Arrangement, the Participants recognize that Accredited Norwegian Companies and U.S. companies may have contracts with other customers, which the Participants do not wish to undermine.

Any dispute arising from the interpretation and implementation of this Arrangement, including prioritization of supply, is to be resolved by means of consultation between the Participants. Each Participant reserves the right to decide final prioritization requirements within its territory, and the other Participant is to give deference to such requirements.

Participation in the Code of Conduct system may be offered by Accredited Norwegian Companies as an indication of their reliability in supplying Industrial Resources to the U.S. DoD and the contractors supplying it. Likewise, U.S. companies may offer being subject to the U.S. DPAS as an indication of their reliability in supplying Industrial Resources to the Norwegian MoD and the contractors supplying it.

SECTION 4 – DESIGNATED POINTS OF CONTACT AND REVIEW

Designated Points of Contact

Essential to the implementation of this Arrangement and the ability of the Participants to provide priority support to each other when needed is the designation of a point of contact for each Participant. This point of contact serves as the focal point for the implementation and administration of this Arrangement, and is the point of contact to whom all requests for priority support and related issues should be directed for approval.

Norwegian MoD

- a. Requests for priority support and/or assistance in Norway should be directed to:

Director International Cooperation
Department for Financial Governance, Management and Investment
Post Box 8126 De,
NO-0032 Oslo
NORWAY

U.S. DoD

- a. Requests for priority support and/or assistance in the United States should be directed to:

Deputy Assistant Secretary of Defense (Manufacturing and Industrial Base Policy)
Office of the Under Secretary of Defense for Acquisition and Sustainment
3330 Defense Pentagon
Washington, DC 20301

- b. Copies of correspondence related to priority support and/or assistance in the United States should be provided to:

Director, Defense Programs Division
Office of Strategic Industries and Economic Security
U.S. Department of Commerce
Room 3876
Washington, DC 20230

In the event of any reorganization or reassignment of responsibilities of a point of contact of either Participant, that Participant is to notify the other Participant in writing of the new point of contact as soon as practicable. Such notification does not require amendment of this Arrangement.

Norwegian MoD and U.S. DoD – Review of Priorities Systems Policies and Procedures

Representatives of the Participants are to review their established or developing Priorities Systems policies and procedures at the request of either Participant, and are to adjust them and the provisions of this Arrangement as feasible and necessary to conform with evolving national Priorities Systems and to provide Security of Supply.

SECTION 5 - EFFECTIVE DATE, REVISION, DURATION, AND DISCONTINUATION

This Arrangement becomes effective on the date of the last signature below. Requests for priority assistance may be made after each of the designated points of contact in Section 4 (Designated Points of Contact and Review) of this Arrangement have acknowledged receipt of notification that the respective internal procedures to effect this Arrangement have been established.

This Arrangement may be modified by written consent of the Participants.

This Arrangement remains in effect until either Participant notifies the other Participant in writing of its intent to discontinue. Otherwise, this Arrangement discontinues automatically ten years after the effective date of this Arrangement.

If either Participant considers it necessary to discontinue its participation under this Arrangement, it is to notify the other Participant in writing. The Participants are to consult immediately to evaluate the consequences of such discontinuation. If satisfactory arrangements cannot be reached, this Arrangement discontinues six months after the date of notification.

Signed in duplicate in the English language.

FOR THE DEPARTMENT OF DEFENSE OF
THE UNITED STATES OF AMERICA

Signature

Eric D. Chewning

Name

Deputy Assistant Secretary of Defense
for Manufacturing and Industrial Base Policy

Title

NADIC Conference April 12, 2018
Place and date

FOR THE MINISTRY OF DEFENCE
OF NORWAY

Signature

Morten Tiller

Name

National Armaments Director

Title

NADIC Conference April 12, 2018
Place and date

