

DEFENSE

Research and Development

**Agreement Between
the UNITED STATES OF AMERICA
and ISRAEL**

**Amending Memorandum of Agreement
of March 24, 2005**

Signed at Washington
September 16 and 17, 2014



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

ISRAEL

Defense: Research and Development

*Agreement amending memorandum of
agreement of March 24, 2005.
Agreement signed at Washington
September 16 and 17, 2014;
Entered into force September 17, 2014.*

AMENDMENT ONE
TO THE
MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA
AND THE
THE MINISTRY OF DEFENSE
OF THE STATE OF ISRAEL
CONCERNING
COMBATING TERRORISM RESEARCH AND DEVELOPMENT

PREAMBLE

The Department of Defense of the United States of America (U.S. DoD) and the Ministry of Defense of the State of Israel (Israeli MOD), hereinafter referred to as the "Parties";

Considering the Memorandum of Agreement Between the Department of Defense of the United States of America and the Ministry of Defense of the State of Israel Concerning Combating Terrorism Research and Development, which entered into force March 24, 2005 (hereinafter referred to as the "Agreement"); and

Recognizing the need to amend the Agreement in order to continue successful collaboration in improving combating terrorism capabilities through the application of state-of-the-art and emerging technology;

Have agreed as follows:

ARTICLE I PURPOSE

The purpose of this amendment is to increase the Cost Ceiling, add export control text, and extend the duration of the Agreement through March 23, 2025.

ARTICLE II AMENDMENT

The Agreement is amended as follows:

1. ARTICLE I (DEFINITIONS):

- a. Delete the definition for "Contractor Support Personnel" and replace it with the following:

"Contractor Support Personnel

Persons specifically identified as providing administrative, managerial, scientific, or technical support services to a Party under a support Contract."

- b. Delete the definition for Controlled Unclassified Information and replace it with the following:

"Controlled Unclassified Information

Unclassified information to which access or distribution limitations have been applied in accordance with national laws or regulations. It could include information that has been declassified but remains controlled."

c. Add the following new definition:

"Prospective Contractor

Any entity that seeks to enter into a Contract to be awarded by a Party's Contracting Agency and that, in the case of a solicitation involving the release of export-controlled information, is eligible to receive such information."

2. ARTICLE IV (MANAGEMENT AND ORGANIZATION):

a. Add the following new subparagraph 4.3.12.:

"4.3.12. Employing its best efforts to resolve, in consultation with the export control authorities of the Parties, any export control issues raised by the PMs in accordance with subparagraph 4.5.9. of this Article, or raised by a Party's SC representative in accordance with subparagraph 8.1.2.4. of Article VIII (Disclosure and Use of Program Information)."

b. Add the following new subparagraph 4.5.9.:

"4.5.9. Monitoring export control arrangements required to implement this Agreement and, if applicable, referring immediately to the SC any export control issues that could adversely affect the implementation of this Agreement."

3. ARTICLE V (FINANCIAL PROVISIONS):

a. Delete the first sentence in paragraph 5.1. and replace it with the following:

"The Parties estimate that the performance of the obligations under this Agreement shall not cost more than a Cost Ceiling of 750 million "Then-Year" (TY) U.S. dollars."

4. ARTICLE VI (CONTRACTING PROVISIONS):

a. Delete paragraph 6.6. from Article VI (Contracting Provisions) and replace it with the following new paragraph 6.6.:

"6.6. Each Party's Contracting Agency shall insert into its prospective Contracts (and require its Contractors to insert in subcontracts) suitable conditions to satisfy the requirements of this Agreement, including Article VIII (Disclosure and Use of Program Information), Article IX (Controlled Unclassified Information), Article XI (Security), Article XII (Third Party Sales and Transfers), and Article XVIII (Amendment, Termination, Entry into Force, and Duration) of this Agreement, and including export control provisions in accordance with this Agreement, in particular paragraphs 6.8. and 6.9. of this Article. Each Party's Contracting Agency shall negotiate to obtain the rights to use and disclose Program Information required by Article VIII (Disclosure and Use of Program Information) of this Agreement.

During the Contracting process, each Party shall also advise Prospective Contractors of their responsibility to notify immediately their respective Party's Contracting Agency, before Contract award, if they are subject to any license or agreement that will restrict their Government's freedom to disclose information or permit its use, and to employ their best efforts not to enter into any new agreement or arrangement that will result in restrictions."

b. Delete paragraph 6.8. and replace it with the following new paragraph 6.8.:

"6.8. Each Party shall legally bind its Contractors to a requirement that the Contractor shall not retransfer or otherwise use export-controlled information furnished by the other Party for any purpose other than the purposes authorized under this Agreement. The Contractor shall also be legally bound not to retransfer the export-controlled information to another Contractor or subcontractor unless that Contractor or subcontractor has been legally bound to limit use of the information to the purposes authorized under this Agreement. Export-controlled information furnished by one Party under this Agreement may only be retransferred by the other Party to its Contractors if the legal arrangements required by this paragraph have been established."

c. Add after new paragraph 6.8. the following new paragraph 6.9., and renumber current paragraph 6.9. as paragraph 6.10.:

"6.9. Each Party shall legally bind its Prospective Contractors to a requirement that the Prospective Contractor shall not retransfer or otherwise use export-controlled information furnished by the other Party for any purpose other than responding to a solicitation issued in furtherance of the purposes authorized under this Agreement. Prospective Contractors shall not be authorized use for any other purpose if they are not awarded a Contract. The Prospective Contractors shall also be legally bound not to retransfer the export-controlled information to a prospective subcontractor unless that prospective subcontractor has been legally bound to limit use of the export-controlled information for the purpose of responding to the solicitation. Export-controlled information furnished by one Party under this Agreement may only be retransferred by the other Party to its Prospective Contractors if the legal arrangements required by this paragraph have been established. Upon request by the furnishing Party, the receiving Party shall identify its Prospective Contractors and prospective subcontractors receiving such export-controlled information."

5. ARTICLE VIII (DISCLOSURE AND USE OF PROGRAM INFORMATION):

a. Delete the last sentence of subparagraph 8.1.1., and add the following new subparagraph 8.1.2.:

"8.1.2. The following export control provisions shall apply to the transfer of Program Information:

- 8.1.2.1. Transfer of Program Information shall be consistent with the furnishing Party's applicable export control laws and regulations.
- 8.1.2.2. Unless otherwise restricted by duly authorized officials of the furnishing Party at the time of transfer to the other Party, all export-controlled information furnished by one Party to the other Party may be retransferred to the other Party's Contractors, subcontractors, Prospective Contractors, and prospective subcontractors, subject to the requirements of paragraphs 6.8. and 6.9. of Article VI (Contracting Provisions) of this Agreement.
- 8.1.2.3. Export-controlled information may be furnished by Contractors, subcontractors, Prospective Contractors, and prospective subcontractors of one Party's nation to the Contractors, subcontractors, Prospective Contractors, and prospective subcontractors of the other Party's nation pursuant to this Agreement, subject to the conditions established in licenses or other approvals issued by the Government of the former Party in accordance with its export control laws and regulations.
- 8.1.2.4. If a Party finds it necessary to exercise a restriction on the retransfer of export-controlled information as set out in subparagraph 8.1.2.2. of this Article, it shall promptly inform the other Party. If a restriction is then exercised and the affected Party objects, that Party's SC representative shall promptly notify the other Party's SC representative and they shall immediately consult in order to discuss ways to resolve such issues or mitigate any adverse effects."

6. ARTICLE IX (CONTROLLED UNCLASSIFIED INFORMATION):

- a. Delete paragraph 9.2. from Article IX (Controlled Unclassified Information) and replace it with the following new paragraph 9.2.:

"9.2. To assist in providing the appropriate controls, the originating Party shall ensure that Controlled Unclassified Information is appropriately marked to ensure its "in confidence" nature. The Parties' export-controlled information shall be marked in accordance with the applicable Party's export control markings as documented in the Program Security Instruction. The Parties shall decide, in advance and in writing, on the markings to be placed on any other types of Controlled Unclassified Information and describe such markings in the Program Security Instruction."

7. ARTICLE XI (SECURITY):

- a. At the end of the second sentence of paragraph 11.5., delete the period and add the following:

“, and shall require that markings for export-controlled Classified Information shall include the applicable export markings identified in the PSI in accordance with paragraph 9.2. of Article IX (Controlled Unclassified Information).”

8. ARTICLE XVIII (AMENDMENT, TERMINATION, ENTRY INTO FORCE, AND DURATION):

a. Delete paragraph 18.5. and replace it with the following new paragraph 18.5.:

“18.5. This Agreement, which consists of eighteen Articles and one Annex, shall enter into force upon signature by both Parties and shall remain in force for twenty (20) years. It may be extended by written agreement of the Parties.”

**ARTICLE III
ENTRY INTO FORCE**

This Amendment One to the Agreement shall enter into force upon signature by both Parties. This Amendment shall remain in force for the same period as the Agreement that it amends. Unless specifically amended herein, all other provisions of the Agreement remain unchanged.

In witness whereof, the undersigned, being duly authorized by their Governments, have signed this Amendment.

FOR THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF
AMERICA



Signature

William Wechsler

Name

Deputy Assistant Secretary of Defense for
Special Operations and Combating
Terrorism

Title

16 sep 14

Date

Washington, DC

Location

FOR THE MINISTRY OF DEFENSE OF
THE STATE OF ISRAEL


AHARON MARMAROSH
DIRECTOR
GOVERNMENT OF ISRAEL
DEFENSE MISSION TO THE USA

Signature

Name

Title

17 Sep 14

Date

Location