

**DEFENSE COOPERATION**

**E-3 Aircraft**

**Memorandum of Agreement  
Between the  
UNITED STATES OF AMERICA  
and the NATO AEW&C PROGRAMME  
MANAGEMENT ORGANIZATION**

Signed at Washington and Brunssum  
August 10 and 30, 1999

*with*

Annex



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.”

**NATO AEW&C PROGRAMME  
MANAGEMENT ORGANIZATION**

**Defense Cooperation: E-3 Aircraft**

*Memorandum of agreement signed at  
Washington and Brunssum August 10 and 30, 1999;  
Entered into force August 30, 1999.  
With annex.*

**MEMORANDUM OF AGREEMENT**

**BETWEEN**

**THE DEPARTMENT OF THE AIR FORCE  
OF THE UNITED STATES OF AMERICA**

**AS REPRESENTED BY THE**

**DEPUTY UNDER SECRETARY OF THE AIR FORCE FOR INTERNATIONAL  
AFFAIRS**

**AND**

**THE NATO AEW&C PROGRAMME MANAGEMENT ORGANIZATION  
(NAPMO)**

**AS REPRESENTED BY THE**

**NAPMA GENERAL MANAGER**

**CONCERNING**

**COOPERATIVE PROJECTS**

**FOR THE E-3 AIRCRAFT**

**Date: 30 August 1999**

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## **SECTION 1: INTRODUCTION**

The NATO AEW&C Programme Management Organization (NAPMO) and the Department of the Air Force of the United States of America enter into this Memorandum of Agreement (MOA) Concerning Cooperative Projects, as defined in paragraph 3.1. below, for the E-3 Aircraft pursuant to the Multilateral Memorandum of Understanding (MMOU) between the North Atlantic Treaty Organization Ministers of Defense on the NATO E-3A Cooperative Program, 6 December 1978, as Addended on 10 December 1990 and as amended and supplemented (hereinafter referred to as "MMOU as Addended").

## **SECTION 2: OBJECTIVES**

2.1 The objective of this MOA is to define and establish the general principles that will apply to the initiation, execution, and management of cooperative projects established between the Parties.

2.2 A separate Project Agreement (PA) will be established for each project that is chosen for cooperation under the terms of this MOA. The provisions of this MOA are incorporated by reference in each PA. Each PA will include, as a minimum, provisions concerning the objective, scope of work, management structure, financial arrangements, schedule and responsibilities of the Parties in accordance with the format set forth in Annex A, to the maximum extent practicable. Where applicable, each PA also will address system acquisition considerations such as logistics and test.

2.3 The Parties intend that all activities, work and documentation required in support of the performance under this MOA and its PAs will be shared to the fullest possible extent. However, all such transfer of information and documentation is subject to U.S. and other disclosure policies.<sup>1</sup>

## **SECTION 3: SCOPE OF WORK**

3.1 The scope of work for projects falling under this MOA will include cooperation on any mutually agreed joint activity, such as studies, technology insertion, development and/or production that will sustain or enhance the capabilities of their respective E-3 fleets.

3.2 Due to changes in requirements or technology, either Party may make unique improvements to its own E-3 aircraft at its own expense. Prior to making such improvements, the initiating Party will endeavor to notify the other Party in sufficient time to allow the latter to conduct an impact analysis and determine if the potential exists for a cooperative project. Every effort will be made to minimize adverse impacts to the US and NATO fleets. A Party will bear sole responsibility for financing any unique improvement which is not adopted by the other Party.

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<sup>1</sup> See U.S. Secretary of Defense statement pertaining to the special status of the NATO AWACS program to the NATO Secretary General, dated 10 September 1991.

The Party not adopting the improvement will bear sole responsibility for continued maintenance and supportability of the existing system.

#### **SECTION 4: MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)**

4.1 **General.** Existing United States Government (USG) and NAPMO management arrangements will remain in effect, modified as necessary by written mutual agreement to comply with the MMOU, as Addended, and this MOA, to effect coordination in the execution of projects and to achieve the benefits of cooperation.

4.2 **Program Management Relationships.** The Assistant Secretary of the Air Force (Acquisition) (SAF/AQ) has designated the Director for Information Dominance (SAF/AQI) as the overall executive focal point for USAF support for the projects. SAF/AQ has assigned executive program management and execution responsibility for the projects to the Air Force Program Executive Officer for Command and Control (AFPEO/C2) and day-to-day program management responsibility to the U.S. AWACS System Program Office Director (SPO Director). The NATO AEW&C Program Management Agency (NAPMA) is NAPMO's executive management agency. NAPMA will serve as the focal point and single point of coordination for all NATO efforts under this Agreement. The NATO AEW Force Command and other NATO organizations will provide functional support as required.

4.3 **Program Management Tasks.** The Parties shall assume joint responsibility for the following project management tasks:

4.3.1 Establish an overall schedule for the execution of the cooperative projects.

4.3.2 Prepare, coordinate, and approve PAs. These PAs will be prepared in accordance with the format provided in Annex A, to the maximum extent practicable, and as promulgated will become an integral part of this MOA.

4.3.3 Evaluate the progress of the projects and attend meetings with contractors.

4.3.4 Coordinate project planning and implementation, in order to obtain the benefits from common sources, as well as any economies of scale.

4.3.5 Convene project status reviews, as required.

4.3.6 Make all possible efforts to reduce or eliminate any adverse cost, schedule, or technical performance impacts between the various ongoing U.S. and NATO E-3 programs as a result of any projects.

4.4 **Configuration Management.** The USAF and NATO will retain configuration control authority for their respective E-3 systems. The Parties will implement configuration management

and control for the projects consistent with the Acquisition Agreement (Configuration Management).<sup>2</sup>

## **SECTION 5: CONTRACTUAL ARRANGEMENTS**

5.1 If the Parties determine that contracting is necessary to fulfill their obligations under a PA, one Party may contract for both Parties in accordance with applicable laws, regulations and procedures. Such contractual arrangements will be detailed in that particular PA. The Procuring Contracting Officer (PCO) will prepare and negotiate all contracts issued under the authority of this Agreement, consistent with the contracting Party's applicable laws, policies, regulations and procedures. While the PCO will coordinate with the other Party prior to the issuance of any contract direction materially affecting the other Party's interests, only the PCO has the authority to provide direction to contractors. The Parties will jointly agree on payment schedules for their requirements, which will be incorporated in the appropriate contracts.

5.2 If either Party determines that contracting is necessary to fulfill that Party's obligations pursuant to a cooperative project under a PA, that Party may individually contract to undertake a task, in which case it shall be solely responsible for its own contracting and the other Party shall not be subject to any liability arising from such contracts without its written consent. For all contracting activities performed by either Party, the Parties shall, upon request, provide a copy of all statements of objectives for information prior to the issuance of solicitations.

5.3 Each Party's contracting officer shall insert into its contracts (and require its contractors to insert in subcontracts) under a PA suitable provisions to satisfy the requirements of this Agreement including, Section 9 (Information Transfer and Rights), Section 11 (Security) and Section 12 (Third Party Sales and Transfers). Each Party's contracting officer shall negotiate to obtain the rights to use and disclose Project Information required by Section 9 (Information Transfer and Rights). Each Party shall also advise prospective contractors of their obligation to notify immediately their respective Party's contracting officer before and after contract award if the contractors are subject to any license or agreement that shall restrict their freedom to disclose information or permit its use.

5.4 In the event a Party's contracting agency is unable to secure adequate rights to use and disclose information as required by Section 9 (Information Transfer and Rights), or is notified by contractors or potential contractors of any restrictions on the disclosure and use of information, that Party's project manager shall notify the other Party's project manager of the restriction(s).

5.5 Each Party's project manager shall immediately advise the other of any anticipated or actual cost growth, schedule changes, or performance problems of any contractor for which it is responsible.

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<sup>2</sup> Acquisition Agreement between the United States Government (USG) and the NATO AEW&C Programme Management Organization (NAPMO) for Acquisition of the NATO E-3A Aircraft, Engines and Related Articles and Services dated June 17, 1987.



5.6. For unique requirements outside the scope of this Agreement, Parties shall be responsible for contracting on their own behalf in accordance with their respective contracting procedures. Subject to separate written agreement, a Party may contract for the unique requirements of the other Party.

## **SECTION 6: FINANCIAL ARRANGEMENTS**

6.1 Each Party shall contribute its equitable share of the full financial and nonfinancial costs incurred in performing, managing, and administering its responsibilities and activities under each PA, including overhead costs, administrative costs, and costs of claims, and each Party shall receive an equitable share of the results. The tasks to be performed by each Party shall be established in each PA. The assignment of tasks shall represent an equitable sharing of the costs and work to be performed under the PA.

6.2 This MOA creates no financial or non-financial commitments regarding individual PAs. Detailed descriptions of the financial arrangements for a specific PA, including each Party's cost share, shall be contained in that PA.

6.3 US obligations under this MOA and its PAs are subject to U.S. laws, regulations and the availability of U.S. appropriated funds for such purposes. NAPMO obligations under this MOA and its PAs are subject to NAPMO regulations and the availability of NAPMO funding. The Parties will contribute their agreed share of the non-recurring costs as well as, as appropriate, their separate recurring costs.

6.4. With respect to contracts entered into and other obligations incurred by one Party on behalf of the other, the Parties agree: to pay their respective shares of contracts or other obligations according to the financial arrangements in each PA; to make funds available in such amounts and at such times as may be required by the contracts or other obligations; and to pay their respective shares of any damages and costs that may accrue from the performance of, or cancellation of, contracts or other obligations. Such payment requirements shall be determined by the appropriate contracting officer. All required funds shall be made available to the appropriate Party in advance of the time such payments, damages or costs are due.

6.5 When the USAF contracts for USAF and NAPMO requirements, funds transfer arrangements established under the Acquisition Agreement will continue in effect for cooperative projects, as appropriate. When NAPMA contracts for USAF and NAPMO requirements, funds transfer arrangements will be set forth under the established PA.

6.6 If either Party cannot provide its share of the full project cost, that Party shall consult with the other Party and, if necessary, withdraw from the project in accordance with Section 15 of this MOA.

6.7 In accordance with Section V of the MMOU, as Addended, the NAPMO nations will provide all possible assistance to *minimize* project cost, meet schedules and fulfill project requirements.

## **SECTION 7: WORK SHARING**

7.1 The Parties' goal is that the work to be performed under this MOA and its PAs will be shared in proportion to the cost contribution of the Parties to the maximum extent possible, consistent with high technical merit, reasonable cost, and the need to achieve the timely, economical, and efficient execution of the cooperative projects. This work will encompass those requirements contained in the specific PAs that are common to the Parties and are funded pursuant to a PA.

7.2 Neither Party may impose any requirement for work sharing or other industrial or commercial compensation in connection with this MOA that is not in accordance with this MOA.

## **SECTION 8: JOINT PROJECT EQUIPMENT DISPOSITION**

Disposition of jointly funded assets acquired under PAs to this MOA may include, by mutual agreement as to terms, the transfer of the interest of one Party in such assets to the other Party, or by the sale of such assets to a third party in accordance with Section 12 (Third Party Sales and Transfers). The Parties will divide jointly-funded assets (special test equipment, tooling, etc.) used for project efforts in the same ratio that costs were shared for these assets. The Parties will determine title to those assets by mutual agreement. Each Party shall ensure that the other party is provided information on all assets acquired (e.g., nomenclature, part number, serial number, quantity and value) to determine title to assets. The Parties shall share the consideration from jointly acquired program assets transferred to a third Party in the same ratio that costs were shared for these assets.

## **SECTION 9: INFORMATION TRANSFER AND RIGHTS**

9.1. Both Parties recognize that successful collaboration will require the exchange of technical information necessary to carry out the cooperative projects under this MOA. The Parties shall conduct all such transfers as expeditiously as possible, consistent with applicable laws, policies, and regulations, and Section XII of the MMOU as Addended and this MOA.<sup>3</sup>

9.2. The USAF and NAPMA will share equitably all project plans, reports, minutes, briefing charts, test/acceptance results, financial, schedule, technical data and software, subject to U.S. or other disclosure policies generated in the performance of a PA to this MOA.

9.3 The Parties will require sufficient technical data to enable them to establish and perform organizational and depot hardware and software maintenance of the modifications to enable effective and efficient operation. The Parties also recognize that U.S. or other disclosure policies may restrict the release of certain data, but agree that such release restrictions will be minimized to the maximum extent possible.

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<sup>3</sup> Paragraph 13 of Section XII brings the NATO E-3A Cooperative Program under the umbrella of the NATO Agreement on the Communication of Technical Information for Defense Purposes, 19 October 1970.

## **SECTION 10: VISITS TO ESTABLISHMENTS**

10.1 The USAF will permit NAPMA personnel to visit United States facilities, as required, in furtherance of these cooperative projects, provided that the visit is authorized by both Parties. NAPMA will provide similar support to the U.S. for its personnel and contractors for visits to European or Canadian facilities. All visitors must possess the appropriate security clearances and the requisite need-to-know.

10.2 All visiting personnel shall be required to comply with the security regulations of the host Party, consistent with Section XXI of the MMOU, as Addended. Visitors will treat any information disclosed or made available to them as if it had been supplied to the Party sponsoring the visiting personnel and will protect such information in accordance with the terms of this MOA and the MMOU, as Addended.

## **SECTION 11: SECURITY**

Security arrangements shall be consistent with Section XXI of the MMOU, as Addended. Appropriate classification guidance will be prepared for each project.

## **SECTION 12: THIRD PARTY SALES AND TRANSFERS**

12.1 The Parties may enter into arrangements with third parties outside of this MOA subject to all requirements of this MOA and the MMOU, as Addended.

12.2 If the Parties and/or the participating NAPMO governments or industries sell to third parties any item cooperatively developed, produced or modified under this MOA, in the absence of a waiver duly authorized by the Parties, the sales agreement will provide for appropriate recovery of non-recurring costs, consistent with applicable U.S. laws, regulations, policies, and procedures, and with the MMOU, as Addended. Any recovery of such costs shall be in proportion to the recovering Party's actual contributions to the non-recurring costs of the item sold. The Parties may each separately waive their share of otherwise-recoverable costs.

## **SECTION 13: TAXES AND CUSTOMS DUTIES**

Arrangements regarding taxes and customs duties, as outlined in Section XX of the MMOU, as Addended, will apply to this MOA.

## **SECTION 14: SETTLEMENT OF DISPUTES**

The Parties shall resolve any disagreements arising under, or relating, to this MOA only by consultation between the Parties. The Parties shall resolve any disagreements between themselves expeditiously and at the lowest possible level. Pending resolution of any dispute, the Parties will

take appropriate actions to avoid or minimize adverse impacts to both U.S. and NATO E-3 programs.

## **SECTION 15: DURATION, AMENDMENT, TERMINATION, AND EFFECTIVE DATE**

**15.1 Duration.** This MOA will enter into effect upon signature by both Parties, and will remain in effect for 20 years unless terminated earlier, in accordance with paragraph 15.4.

**15.2 Amendment.** The Parties may amend this MOA or its PAs at any time by mutual written agreement.

**15.3** In the event of conflict between a provision of the MOA and a PA to this MOA, the MOA will govern.

### **15.4 Termination.**


**15.4.1** This MOA and/or its PAs may be terminated at any time upon the mutual written agreement of the Parties. In the event both Parties agree to terminate this MOA and/or a PA, the Parties will consult prior to the date of termination to ensure termination on the most economical and equitable terms. A status report will be jointly prepared by the AWACS SPO and NAPMA and furnished to SAF/AQ and NAPMO.

**15.4.2** Either Party may terminate this Agreement and/or a PA upon 90 days written notification to the other Party. Such notice will be the subject of immediate consultation by the Parties to decide upon the appropriate course of action. In the event of such termination, the terminating Party will have no obligation to make payments under the project after the effective date of termination, except to the extent such payments are in reimbursement of actual termination costs incurred in connection with, and properly chargeable to, the project.

**15.4.3** If requested by the other Party, the terminating Party may, on a reimbursable basis, continue to administer contract(s) that it awarded on behalf of the other Party.

15.4.4 The respective rights and obligations of the Parties regarding Section 8 (Joint Project Equipment Disposition), Section 9 (Information Transfer and Rights), Section 11 (Security), and Section 12 (Third Party Sales and Transfers), will continue after the expiration or termination of this MOA and any of its PAs.

**FOR THE DEPARTMENT OF THE  
AIR FORCE OF THE UNITED  
STATES OF AMERICA**

  
\_\_\_\_\_  
(Signature)

Jeffrey B. Kohler, Brig Gen, USAF  
Asst Dep Under Sec of the Air Force  
International Affairs

\_\_\_\_\_  
(Printed Name and Title)

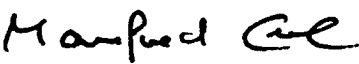
August 10, 1999

\_\_\_\_\_  
(Date)

Washington, DC

\_\_\_\_\_  
(Location)

**FOR THE NATO AEW&C  
PROGRAMME MANAGEMENT  
ORGANIZATION**

  
\_\_\_\_\_  
(Signature)

Manfred Erl, Brig. Gen., GEAF  
General Manager, NATO AEW&C  
Programme Management Agency

\_\_\_\_\_  
(Printed Name and Title)

30 August 1999

\_\_\_\_\_  
(Date)

Brunssum, The Netherlands.

\_\_\_\_\_  
(Location)

**ANNEX A**

**PROJECT AGREEMENT**

**TO**

**MEMORANDUM OF AGREEMENT**

**BETWEEN**

**THE DEPARTMENT OF THE AIR FORCE  
OF THE UNITED STATES OF AMERICA**

**AS REPRESENTED BY THE**

**DEPUTY UNDER SECRETARY OF THE AIR FORCE FOR  
INTERNATIONAL AFFAIRS**

**AND**

**THE NATO AEW&C PROGRAMME MANAGEMENT ORGANIZATION  
(NAPMO)**

**AS REPRESENTED BY THE**

**NAPMA GENERAL MANAGER**

**CONCERNING**

**COOPERATIVE PROJECTS**

**FOR THE E-3 AIRCRAFT**

**Dated:**

**FOR**

**(FULL DESIGNATION OF THE PROJECT)**

**PROJECT AGREEMENT NUMBER \_\_\_\_\_**

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## SECTION 1 INTRODUCTION

This Project Agreement (PA) hereby establishes the \_\_\_\_\_ as a project in accordance with the Memorandum of Agreement between the USAF and NAPMO Concerning Cooperative Projects for the E-3 aircraft, dated \_\_\_\_\_, the provisions of which are hereby incorporated by reference.

## SECTION 2 DEFINITION OF TERMS AND ABBREVIATIONS

(Define unique terms used in this PA, as appropriate)

## SECTION 3 OBJECTIVES

The objectives of the \_\_\_\_\_ Project are:  
(List objectives in as much detail as possible, particularly referencing applicable program documents and operational requirements.)

## SECTION 4 SCOPE OF WORK

The following work will be undertaken under this Project:  
(List specific tasks and deliverable products if any, including design, development, logistics, test, and production activities.)

## SECTION 5 SHARING OF WORK (Describe in general what each Party will do/accomplish)

## SECTION 6 PROJECT MANAGEMENT

7.1 USAF Project Manager:

7.2 NAPMA Project Manager:

## SECTION 7 CONTRACTING ARRANGEMENTS

(Describe any unique contracting provisions)

## SECTION 8 FINANCIAL ARRANGEMENTS

The Parties estimate that the total cost of this Project will be XXX TY USD.

The USAF share of the work will be \$\_\_\_\_\_.

The NAPMO share of the work will be \$\_\_\_\_\_.



Cooperative efforts of the Parties over and above the jointly agreed work set forth in the SCOPE OF WORK, SHARING OF WORK, and FINANCIAL ARRANGEMENTS section shall be subject to an amendment to this PA or signature of a new PA (e.g., payment schedule)

**SECTION 9 CLASSIFICATION/SECURITY**

(Detail any classification guidance and special security handling instructions.)

**SECTION 10 ENTRY INTO FORCE, DURATION AND TERMINATION**

This \_\_\_\_\_ PA, a Project under the MOA between the USAF and NAPMO, shall enter into force upon signature by the Parties, and shall remain in force for \_\_\_\_ years or until termination of the MOA or termination by either Party of this PA. It may be extended by written agreement by the Parties.

**FOR THE DEPARTMENT OF THE  
AIR FORCE OF THE UNITED  
STATES OF AMERICA**

**FOR THE NATO AEW&C  
PROGRAMME MANAGEMENT  
ORGANIZATION**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name and Title)

\_\_\_\_\_  
(Printed Name and Title)

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(Date)

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(Date)

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(Location)

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(Location)