

No. 27475

**AUSTRALIA
and
NEW ZEALAND**

Agreement concerning collaboration in the acquisition of surface combatants for the Royal Australian Navy and the Royal New Zealand Navy (with annexes). Signed at Canberra on 14 December 1989

Authentic text: English.

Registered by Australia on 30 July 1990.

**AUSTRALIE
et
NOUVELLE-ZÉLANDE**

Accord de collaboration en vue de l'acquisition de frégates pour la marine royale australienne et la marine royale néo-zélandaise (avec annexes). Signé à Canberra le 14 décembre 1989

Texte authentique : anglais.

Enregistré par l'Australie le 30 juillet 1990.

AGREEMENT¹ BETWEEN AUSTRALIA AND NEW ZEALAND CONCERNING COLLABORATION IN THE ACQUISITION OF SURFACE COMBATANTS FOR THE ROYAL AUSTRALIAN NAVY AND THE ROYAL NEW ZEALAND NAVY

Australia and New Zealand,

Conscious of their close geographic proximity and their long standing and close historic, political and economic relationship;

Recognising the further development of that relationship through the Australia New Zealand Closer Economic Relations Trade Agreement done at Canberra on 28 March 1983;²

Believing that the further development of that relationship will be served by a closer cooperation in defence and industrial development;

Desiring that the Royal Australian Navy acquire new surface combatants and the Royal New Zealand Navy replace existing surface combatants with Ships which will be designed, constructed and operated in a compatible manner;

Recognising that their participation in a Joint Project for the acquisition of such Ships will promote the ability of their surface fleets to operate together and will strengthen their defence and build a relationship between them; and

Having jointly selected a Contractor qualified to design and construct suitable Ships with suitable Australian and New Zealand industrial involvement;

Have agreed as follows:

Article 1. OBJECTIVES

The objectives of the Participants in concluding this Agreement are:

- (a) To strengthen the defence and industrial relationships between Australia and New Zealand;
- (b) To provide for the construction of eight Ships for the Royal Australian Navy and two Ships with an option for two more for the Royal New Zealand Navy;
- (c) To provide a basis for cooperation between the Participants in the maintenance, provision of support facilities and operation of the Ships and the training of the naval personnel involved in their operation;
- (d) To foster the establishment, development and maintenance of appropriate technologies, skills, capabilities and capacities to support the Royal Australian Navy and Royal New Zealand Navy Ships, from Australian and New Zealand industry bases, throughout the design, development and construction phases and operational lives of the Ships;
- (e) To assist the Participants to be self-reliant in defence supply and support capabilities, including research and development, design, engineering and manufacturing, in defence stores and equipment, and in the establishment and enhancement of internationally competitive industry in Australia and New Zealand;

¹ Came into force on 14 December 1989 by signature, in accordance with article 20.

² United Nations, *Treaty Series*, vol. 1329, p. 175.

- (f) To conduct a project as a Joint Project in which the Participants share the costs, risks, products and benefits in the manner set out in this Agreement;
- (g) To provide a record of their agreement with respect to the Ships and associated matters which will supersede all previous understandings, arrangements, agreements and records in respect of the Joint Project;
- (h) To transfer to New Zealand certain rights, property and discretions acquired by Australia under the Prime Contract executed by Australia on behalf of the Participants; and
- (i) To confer on New Zealand certain rights, property and discretions beyond those acquired by Australia under the Prime Contract.

(2) The Participants acknowledge and agree that the Joint Project is a collaborative project on behalf of both of the Participants.

(3) Each Participant shall act towards the other openly and in good faith in respect of all aspects of the Joint Project.

(4) Each Participant shall consult with the other and decide jointly upon any issues affecting or likely to affect the interests of the other under the Joint Project but this shall not limit the rights of each Participant to make decisions which affect only that Participant.

(5) Any information about the Joint Project or generated under the Joint Project, including Intellectual Property, as may from time to time be in the possession of either Participant, and within the disposition of that Participant to make available to the other, shall be available promptly by that Participant to the other.

Article 2. DEFINITIONS

(1) For the purposes of the Agreement:

(a) "AMECON" means Australian Marine Engineering Consolidated Limited, incorporated in the State of Victoria, and located at Nelson Place, Williamstown, Victoria, Australia, and includes its permitted assigns.

(b) "ASPMIS" means the ANZAC Ship Project Management Information System.

(c) "Base Date" means 30 April 1988.

(d) "Base Date Prices" means an amount in Australian currency determined by reference to April 1988 prices and, in the case of currencies other than Australian, converted to Australian currency at the following exchange rates:

US, dollar	0.790
UK, pound	0.440
Germany (Federal Republic of), Deutsche Mark	1.390
France, franc	4.700
Japan, yen	100.000
Italy, lira	1035.000
Netherlands, guilder	1.560
New Zealand, dollar	1.140
Sweden, krona	4.840
Belgium, franc	29.140
Norway, krone	5.060
Canada, dollar	0.970.

(e) "Commonwealth" means the Commonwealth of Australia.

(f) "Contractor" means AMECON.

(g) "CSTT" means the Combat System Tactical Trainer.

(h) "CSSF" means the Combat System Support Facility.

(i) "CSTSC" means the Combat System Technical Support Centre.

(j) "Day" means any calendar day.

(k) "Intellectual Property" means all copyrights, patents, registered and unregistered trademarks, (including service marks), registered designs or other intellectual property rights as defined by Article 2 of the "The World Intellectual Property Organisation Convention of July 1967".¹

(l) "Joint Project Costs" means costs falling into the following categories:

- (i) GFM, including any applicable charges for research and development recoupment or assets use levied by vendor Governments, where such GFM is procured by the Joint Project Office;
- (ii) Post delivery test and trials;
- (iii) Publicity and public relations;
- (iv) Project management support including but not limited to consultancy contracts, ASPMIS development, insurance brokerage fees, translation fees, purchase of indices publications, provisions of engineering assistance;
- (v) Quality assurance in third countries;
- (vi) Principal controlled insurance on Joint Project Supplies;
- (vii) Travel;
- (viii) Freight charges; and
- (ix) Such other costs as the Participants shall agree from time to time.

(m) "Joint Project Office" means the joint project office established by Article 6 of this Agreement.

(n) "Joint Project Supplies" means those items referred to as Joint Project Supplies at Part 2 of Annex A to this Agreement.

(o) "Long Lead Items" means the Long Lead Items identified in Annex S of the Prime Contract.

(p) "Major Supplies" means:

- (i) ANZAC Ships to be constructed and delivered under the Prime Contract;
- (ii) A PSTSC;
- (iii) A CSTSC;
- (iv) A CSTT;
- (v) A CSSF; and
- (vi) A Maintenance Training Facility.

(q) "Month" means calendar month.

¹ United Nations, *Treaty Series*, vol. 828, p. 3.

(r) "New Zealand Supplies" means those items identified as New Zealand Supplies at Part 1 of Annex A to this Agreement.

(s) "Participants" means the Parties to this Agreement.

(t) "PMAP" means the Project Management and Acquisition Plan agreed by the Participants' Representatives and authorised in accordance with paragraph (5) of Article 6 and as from time to time jointly amended by them.

(u) "Prime Contract" means the contract entered into by Australia identified as Contract C218318, dated 10 November 1989, being a contract between the Commonwealth and AMECON for the design, construction, supply and delivery for acceptance of ANZAC ships and related Supplies.

(v) "PSTSC" means the Platform System Technical Support Centre.

(w) "Ships", "ship", "ANZAC frigate" or "ANZAC Ship" means the MEKO 200 ANZ Frigates to be supplied under the Prime Contract.

(x) "Supplies" means all goods and services, including but not limited to Major Supplies, which are required to be furnished by the Contractor to the Commonwealth under the Prime Contract.

(2) For the purposes of this Agreement "Joint Project" means the project under which:

(a) The Participants shall set up a joint management team through which they will manage and control the activities described in this Agreement.

(b) Australia has entered into the Prime Contract with AMECON under which the Contractor shall design, develop, construct and commission eight ships for Australia and two or, in the event that it exercises its option for the construction of an additional two ships, four ships for New Zealand.

(c) Australia shall procure under the Prime Contract and deliver to New Zealand certain specified Supplies and other benefits.

(d) The Participants shall provide or obtain specified goods and services required to enable the Participants to monitor, manage and control the work of the Contractor under the Prime Contract.

(e) The Participants shall provide or obtain specified goods and services required for the design, development, construction, commissioning and other fitting out of the Ships and other Supplies under the Prime Contract, but which the Contractor is not required to provide under the Prime Contract.

(f) Australia shall take delivery of and accept the Ships and other Supplies under the Prime Contract on behalf of both Participants, and shall take delivery of and accept goods and services to be provided under other arrangements, as provided for herein.

(g) New Zealand shall take delivery of and accept from Australia the New Zealand Supplies and shall pay Australia the amounts in the currencies and at the times specified in this Agreement.

(3) For the purposes of this Agreement, the following terms also used in the Prime Contract are given the same meanings as they are given in the Prime Contract:

(a) "ANZIP";

(b) "GFE";