

No. 3737

**UNITED STATES OF AMERICA
and
NETHERLANDS**

Exchange of notes (with enclosure and related note) constituting an agreement relating to the establishment and operation of a SHAPE Air Defense Technical Center. The Hague, 14 December 1954

Official text: English.

Registered by the United States of America on 19 March 1957.

**ÉTATS-UNIS D'AMÉRIQUE
et
PAYS-BAS**

Échange de notes (avec pièce jointe et note connexe) constituant un accord relatif à la création et au fonctionnement d'un centre technique de la défense aérienne du SHAPE. La Haye, 14 décembre 1954

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 19 mars 1957.

No. 3737. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND THE NETHERLANDS RELATING TO THE ESTABLISHMENT AND OPERATION OF A SHAPE AIR DEFENSE TECHNICAL CENTER. THE HAGUE, 14 DECEMBER 1954

I

The American Ambassador to the Netherlands Minister for Foreign Affairs and the Minister without Portfolio

AMERICAN EMBASSY

THE HAGUE, NETHERLANDS

December 14, 1954

Excellencies :

I refer to the statement of the United States Permanent Representative to the NATO² Council on November 10, 1954, regarding the establishment of a SHAPE Air Defense Technical Center. As you know, the Center will be an adjunct of SHAPE and its purpose will be to provide technical advice and assistance to SHAPE in connection with the Air Defense of NATO, so as to strengthen further the defenses of the North Atlantic Area and to facilitate the effective participation of the NATO nations in the United Nations system for collective security. As a means of establishing and operating the center for the benefit of SHAPE and NATO nations and to achieve the purpose mentioned above, the Government of the United States, under the authority of the Mutual Security Act of 1954, is considering entering into a contract with the Rijksoverheidsorganisatie TNO (RVO-TNO) (National Defense Research Council TNO). I enclose as an attachment to this letter a copy of the agreed draft text of this contract.³ It will be seen that this contract would permit RVO-TNO to carry out its contractual responsibilities through the agency of a foundation to be established in the Netherlands under RVO-TNO and to be designated the SHAPE Air Defense Technical Center (ADTC, sometimes herein called the Center).

In order to enable the Center to perform its functions it is in the opinion of my Government essential that your Government support the establishment

¹ Came into force on 14 December 1954 by the exchange of the said notes.

² For the North Atlantic Treaty signed at Washington on 4 April 1949, see United Nations, *Treaty Series*, Vol. 34, p. 243; Vol. 126, p. 350, and Vol. 243.

³ See p. 50 of this volume.

and operation of the Center in the Netherlands and that it be in agreement with the terms of the contract between my Government and RVO-TNO now under consideration. I would appreciate hearing from the Netherlands Government that this is the case and that the Netherlands Government is prepared to make such arrangements as will enable the Center to operate effectively in accordance with the contract.

Prior to concluding any contractual agreement with RVO-TNO my Government desires to be informed about the arrangements, which will be made by your Government in the following particulars :

- a) The establishment and operation of the NATO security system at the Center;
- b) The provision of classified communication facilities and services;
- c) The provision of the attributes of international status for the Center;
- d) The provision of housing for the foreign personnel of the Center;
- e) The audit of expenditures made in connection with the proposed contract between RVO-TNO and the Government of the United States;
- f) The safeguarding of the security of patent applications and the facilitating of the implementation of the patent provisions of the contract;
- g) The provision of the necessary land;
- h) The exemption of United States expenditures under this contract from taxes;
- i) The protection of the United States from liability;
- j) The utilization by the United States of local currency for purposes of discharging its contract obligations;
- k) Special arrangements for the Center regarding foreign exchange;
- l) The determination of residual value of any immovable property erected on property owned or used by the Center;
- m) The granting of waiver, release or licenses from or under regulations affecting the procurement of goods and services;
- n) The facilitating of subcontracting both within and outside the Netherlands.

Furthermore, for the proper execution of the functions of the officer designated as United States Advisor, in accordance with the contract between my Government and RVO-TNO, it would be appreciated if the United States Advisor and the members of his official staff may be accorded appropriate privileges.

Finally, when in the future my Government announces its desire to withdraw from, terminate, or otherwise alter its contractual relationship with RVO-

TNO so as to transfer its rights and responsibilities to SHAPE or to some designated subsidiary body of the North Atlantic Council, it will be necessary that such transfers be facilitated by your Government and that arrangements, rights and immunities equivalent to those accorded by you to the Center, be accorded to SHAPE or such designated subsidiary body of the North Atlantic Council, as well as to RVO-TNO, the Center and all personnel thereof, unless otherwise agreed with the proper NATO authorities.

Please accept, Excellencies, the renewed assurances of my highest consideration.

H. Freeman MATTHEWS

Their Excellencies

J. W. Beyen

Minister for Foreign Affairs

and

J. M. A. H. Luns

Minister without Portfolio

Royal Netherlands Ministry for Foreign Affairs

The Hague

II

*The Netherlands Minister without Portfolio and the Minister for Foreign Affairs
to the American Ambassador*

MIN. VAN BUITENLANDSE ZAKEN¹

The Hague, December 14, 1954

Dear Mr. Ambassador,

1. Receipt is acknowledged of your letter of today regarding the establishment of a SHAPE Air Defense Technical Center. We can assure you that the Netherlands Government are happy to act as host nation for the Center and are fully in agreement with the plan for establishing and operating this Center for the benefit of SHAPE and the NATO nations. The Netherlands Government have noted with approval the contract which your Government under the authority of the Mutual Security Act are considering entering into with the National Defense Research Council — Central National Council for Applied Scientific Research in the Netherlands (RVO-TNO).

2. Our Government are likewise of the opinion that it is essential for the operation of the Center that certain special arrangements be made for it. In reply to the specific questions raised in your letter and in confirmation of

¹ Ministry of Foreign Affairs.

the oral assurances which have been given by our officials to your representatives, we are pleased to give the following undertakings :

3. As to the establishment and operation of the NATO security system, our Government, in accordance with NATO precedents and without charge to the United States or the Center, will in particular to the following :

a. Assume responsibility for establishing and maintaining security measures at the Center and at the facilities of subcontractors within the Netherlands. These security measures will extend to the protection of buildings and other property and to the grading, handling, transmission, storage and distribution of documents and material and to all other matters relating to the security protection of information. The standards for these security measures will be at least as high as those required by the security regulations of NATO.

b. Assume responsibility for verifying the security status of all personnel employed at or assigned to the Center or employed by subcontractors engaged in the performance of work for the Center within the Netherlands. This will include security clearances for all such personnel who are Netherlands nationals. The standards for these clearances shall be at least as high as those required by the Netherlands Government for the assignment of its nationals to the NATO International Staff.

c. Before subcontracts involving classified information are placed with subcontractors outside the Netherlands, assure that arrangements are in effect by which the government of the country in which the subcontractor is located will be responsible for the establishment and maintenance of security measures in connection with these facilities and personnel of the subcontractor substantially corresponding to those required for the Netherlands Government under subparagraphs *a* and *b* above.

4. In accordance with NATO precedents, our Government will provide such classified communication facilities and services as may be necessary for the receipt and despatch of classified information for the Center. Such communications facilities shall, of course, be operated in accordance with the NATO security regulations.

5. Our Government will provide attributes of international status for the Center in order that it may function properly and effectively as an adjunct of SHAPE. Therefore, in addition to the arrangements for the status of personnel set forth in the letter of the Minister of Defense of 14 December 1954 to General Gruenther the following provisions for the status of the Center as such will be made by our Government in anticipation of the implementation of Ambassador Hughes' declaration of November 10, 1954 to the NATO Council and also in