

書簡をもって啓上いたします。本大臣は、相互の防衛調達に関し日本国政府の代表者とアメリカ合衆国政府の代表者との間で行われた最近の討議に言及する光榮を有します。

日本国政府及びアメリカ合衆国政府は、防衛システムの取得における協力を促進してきました。特に、千九百五十四年三月八日に東京で署名された日本国とアメリカ合衆国との間の相互防衛援助協定に基づき、アメリカ合衆国は、各種の防衛分野における物品及び技術の日本国に対する供与を承認してきており、また、日本国政府は、日米安全保障体制の効果的運用を確保するために、防衛分野における物品及び技術の供与を促進してきました。

本大臣は、更に、相互の防衛調達に関する協力の分野において両政府の間に引き続いて存在する相互に有益な関係を考慮して、日本国政府に代わって次のとおり提案する光榮を有します。

1 日本国政府及びアメリカ合衆国政府は、特に、それぞれの国の産業界が日本国防衛省及びアメリカ合衆国防省による相互の防衛調達に参加する公正かつ衡平な機会を達成し、及び維持することによって、防衛協力を強化するために、3の規定に基づいて行われる細目取極に従って、それぞれ、当該防衛調達のための健全な手続を確保する。

2 日本国政府及びアメリカ合衆国政府は、国内産品でないものの調達の禁止の免除に関するそれぞれの国の適用可能な法令に従って相互の防衛調達を行う。

3 この取極を実施するため、相互の防衛調達のための細目取極が両政府の権限のある当局の間で行われる。日本国政府の権限のある当局は、防衛省とする。アメリカ合衆国政府の権限のある当局は、国防省とする。日本国防衛省とアメリカ合衆国防省との間の全ての防衛調達は、当該細目取極及びこの取極の条件に従って行われる。

4 両政府の権限のある当局は、日本国防衛省又はアメリカ合衆国防省による相互の防衛調達から又は当該防衛調達に関連して生ずることのあるいかなる問題についても、相互に受け入れることのできる解決を図るために協議する。そのような協議を通じて問題を解決することができない場合には、相互に受け入れることのできる解決を図るために外交上の経路を通じて両政府間の協議が行われる。

5 日本国防衛省及びアメリカ合衆国防省による防衛調達は、それぞれの国の法令及び利用可能な予算に従って実施される。

6 この取極は、五年間効力を有する。もつとも、いずれの一方の政府も、他方の政府に対しこの取極を終

了させる意思を少なくとも六箇月の事前の書面による通告をもって外交上の経路を通じて表明することにより、いつでもこの取極を終了させることができる。この取極は、両政府間の相互の書面による合意により改正することができる。

本大臣は、更に、前記の提案がアメリカ合衆国政府にとって受諾し得るものであるときは、この書簡及び閣下の返簡が両政府間の合意を構成し、その合意が閣下の返簡の日付の日に効力を生ずるものとすることを提案する光榮を有します。

本大臣は、以上を申し進めるに際し、ここに重ねて閣下に向かって敬意を表します。

二千十六年六月三日に東京で

日本国外務大臣

岸田文雄

アメリカ合衆国特命全權大使

キャロライン・B・ケネディ閣下

Tokyo, June 3, 2016

Excellency:

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date which reads as follows:

“Excellency:

I have the honor to refer to the recent discussions between representatives of the Government of Japan and representatives of the Government of the United States of America concerning reciprocal defense procurement.

The Government of Japan and the Government of the United States of America have increased their cooperation in the acquisition of defense systems. In particular, under the Mutual Defense Assistance Agreement between Japan and the United States of America, signed at Tokyo on March 8, 1954, the Government of the United States of America has approved the transfer of various defense-related goods and technologies to Japan, and the Government of Japan has promoted the transfer of defense-related goods and technologies in order to ensure the effective operation of the Japan-United States security arrangements.

In consideration of the continuing mutually beneficial relationship between the two Governments in the field of cooperation on reciprocal defense procurement, I have further the honor to propose on behalf of the Government of Japan the following:

His Excellency
Fumio Kishida,
Minister for Foreign Affairs of Japan

1. The Government of Japan and the Government of the United States of America shall ensure sound processes for reciprocal defense procurement by the Ministry of Defense of Japan and by the Department of Defense of the United States of America, respectively, in accordance with detailed arrangements to be made under paragraph 3, in order to enhance defense cooperation, inter alia, by achieving and maintaining fair and equitable opportunities for the industry of each country to participate in such defense procurement.

2. The Government of Japan and the Government of the United States of America shall conduct reciprocal defense procurement in accordance with the applicable laws and regulations of their respective countries regarding the waiver of the prohibition to procure non-domestic products.

3. The detailed arrangements for reciprocal defense procurement shall be made between the competent authorities of the two Governments in order to implement the present agreement. The competent authority of the Government of Japan shall be the Ministry of Defense. The competent authority of the Government of the United States of America shall be the Department of Defense. All defense procurement between the Ministry of Defense of Japan and the Department of Defense of the United States of America shall be conducted in accordance with those detailed arrangements and subject to the terms of the present agreement.

4. The competent authorities of the two Governments shall consult with each other on any matter that may arise from or in connection with reciprocal defense procurement by the Ministry of Defense of Japan or by the Department of Defense of the United States of America with a view to finding a mutually acceptable solution. If the matter cannot be resolved through such consultations, consultations between the Government of Japan and the Government of the United States of America shall be held through diplomatic channels with a view to finding a mutually acceptable solution.

5. Defense procurement by the Ministry of Defense of Japan and by the Department of Defense of the United States of America shall be conducted in accordance with their respective laws and

regulations and subject to the availability of appropriated funds in each country.

6. The present agreement shall remain in force for five years. However, either Government may terminate the present agreement at any time by giving to the other Government at least six months' written advance notice through diplomatic channels of its intention to terminate it. The present agreement may be amended by mutual written agreement of the two Governments.

I have further the honor to propose that, if the foregoing proposals are acceptable to the Government of the United States of America, this Note and Your Excellency's Note in reply shall constitute an agreement between the two Governments, which shall enter into force on the date of Your Excellency's Note in reply.

Accept, Excellency, the renewed assurances of my highest consideration."

I have further the honor to confirm on behalf of the Government of the United States of America that the foregoing proposals are acceptable to the Government of the United States of America and to agree that Your Excellency's Note and this Note in reply shall constitute an agreement between the two Governments, which shall enter into force on the date of this Note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

Caroline Kennedy



Caroline Kennedy
Ambassador Extraordinary and Plenipotentiary
of the United States of America



Memorandum of Understanding

Between

**The Department of Defense of the
United States of America**

and

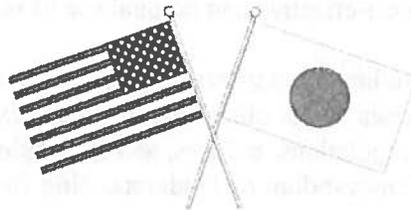
The Ministry of Defense of Japan

Concerning

Reciprocal Defense Procurement

SHORT TITLE:

U.S. DOD-JAPAN MOD RECIPROCAL DEFENSE
PROCUREMENT MOU



**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA
AND
THE MINISTRY OF DEFENSE OF JAPAN
CONCERNING
RECIPROCAL DEFENSE PROCUREMENT**

**(SHORT TITLE: U.S. DOD-JAPAN MOD RECIPROCAL DEFENSE
PROCUREMENT MOU)**

INTRODUCTION

The Department of Defense of the United States of America and the Ministry of Defense of Japan, hereinafter referred to as "the Participants"; BEARING in mind a 70-year history of peace and cooperation between the United States of America and Japan;

BEARING in mind their partnership in the Treaty of Mutual Cooperation and Security between the United States of America and Japan, signed at Washington on January 19, 1960;

DESIRING to promote the objectives of rationalization, standardization, interoperability, and mutual logistics support throughout their defense relationship;

DESIRING to develop and strengthen the friendly relations existing between them;

SEEKING to achieve and maintain fair and equitable opportunities for the industry of each country to participate in the defense procurements of the other;

DESIRING to enhance and strengthen each country's industrial base;

DESIRING to promote the exchange of defense technology consistent with the policies of their respective national governments;

DESIRING to make the most cost-effective and rational use of resources allocated to defense;

**DESIRING to remove discriminatory barriers to procurements of supplies and services produced by industrial enterprises of the other country to the extent mutually beneficial and consistent with national laws, regulations, policies, and international obligations; and
RECOGNIZING that this Memorandum of Understanding (MOU) does not constitute an**

international agreement; however, its provisions are made binding on the Participants under international law by the Exchange of Notes concerning Reciprocal Defense Procurement dated June 3, 2016 (the "Exchange of Notes"), which requires both Participants to conduct all reciprocal defense procurement in accordance with the provisions of this MOU;

HAVE mutually determined as follows:

SECTION 1 Applicability

1. This MOU covers the acquisition of defense capability by the Department of Defense of the United States of America and the Ministry of Defense of Japan through:

- a. Research and development;
- b. Procurements of supplies, including defense articles; and
- c. Procurements of services, in support of defense articles.

2. This MOU does not cover either:

- a. Construction; or
- b. Construction material supplied under construction contracts.

SECTION 2 Principles Governing Mutual Defense Procurement Cooperation

1. Each Participant recognizes and expects that the other uses sound processes for requirements definition, acquisition, and procurement and contracting, and that these processes both facilitate and depend on transparency and integrity in the conduct of procurements. Each Participant will ensure that its processes are consistent with the procurement procedures in Section 5 (Procurement Procedures) of this MOU.

2. Each Participant discharges the responsibilities stated in this MOU with the understanding that it will obtain reciprocal treatment from the other Participant.

3. Each Participant will, consistent with its national laws, regulations, policies, and international obligations, give favorable consideration to all requests from the other

Participant for cooperation in defense capability, research and development, production, procurement, and logistics support.

4. Consistent with its national laws, regulations, policies, and international obligations, each Participant will:

- 4.1. Facilitate defense procurement while aiming at a long-term equitable balance in their purchases, taking into consideration the capabilities of its defense industrial and research and development bases.
- 4.2. Remove barriers both to procurement and to co-production of supplies produced in the other country or services performed by sources (hereinafter referred to as "industrial enterprises") established in the other country. This includes providing to industrial enterprises of the other country treatment no less favorable than that accorded to domestic industrial enterprises. When an industrial enterprise of the other country submits an offer that would be the low responsive and responsible offer but for the application of any buy-national requirements, both Participants will waive the buy-national requirement.
- 4.3. Utilize contracting procedures that allow all responsible industrial enterprises of both countries to compete for procurements covered by this MOU.
- 4.4. Give full consideration to all responsible industrial enterprises in both the United States of America and Japan, in accordance with the policies and criteria of the procuring agency. Offers must satisfy requirements for performance, quality, delivery, and cost. Where potential offerors or their products must satisfy qualification requirements in order to be eligible for award of a contract, the procuring Participant will give full consideration to all applications for qualification by industrial enterprises of the other country, in accordance with the national laws, regulations, policies, procedures, and international obligations of the procuring Participant.
- 4.5. Provide information regarding requirements and proposed procurements in accordance with Section 5 (Procurement Procedures) of this MOU to ensure adequate time for industrial enterprises of the other country to qualify for eligibility, if required, and to submit an offer.
- 4.6. Inform industrial enterprises choosing to participate in procurements covered by this MOU of the restrictions on technical data and defense items (defense articles and services) made available for use by the procuring Participant. These restrictions include the requirement that such technical data and defense items made available by the procuring Participant not be used for any purpose other than for bidding on, or performing, defense contracts covered by this

MOU, except as authorized, in writing, by those owning or controlling proprietary rights, or furnishing the technical data or defense items.

- 4.7. Give full protection to proprietary rights and to any privileged, protected, export-controlled, or classified data and information provided by the other Participant. In no event will such data, supplies, or services be transferred to a third country or any other transferee without the prior written consent of the originating Participant.
 - 4.8. Exchange information on pertinent laws, implementing regulations, policy guidance, and administrative procedures.
 - 4.9. Annually exchange statistics demonstrating the total monetary value of defense procurements awarded to industrial enterprises of the other country during the prior year. An annual summary will be prepared on a basis to be jointly decided.
 - 4.10. Provide appropriate policy guidance and administrative procedures within its respective defense organizations to implement this MOU.
5. This MOU is not intended to and does not create any authority to authorize the export of defense items (defense articles or defense services), including technical data, controlled by the government of one or the other Participant under its applicable export control laws and regulations. Further, any export subject to the national export control laws and regulations of the government of one of the Participants is to be compliant with such laws and regulations.
6. Nothing in this MOU may be cited to prevent the implementation of necessary export control provisions in individual cooperative project agreements or arrangements.

SECTION 3

Offsets

This MOU does not regulate offsets. The Participants commit to discuss measures to limit any adverse effects that offset agreements have on the defense industrial base of each country.

SECTION 4

Customs, Taxes and Duties

When allowed under national laws, regulations, and international obligations applicable to the Participants, the Participants commit that, on a reciprocal basis, they will not

include customs, taxes, and duties in the evaluation of offers, and will waive their charges for customs and duties for procurements to which this MOU applies.

SECTION 5
Procurement
Procedures

1. Each Participant will proceed with its defense procurements in accordance with its national laws and regulations and international obligations.
2. To the extent practicable, each Participant will publish, or have published, in a generally available communication medium a notice of proposed procurements in accordance with its national laws, regulations, policies, procedures, and international obligations. Any conditions for participation in procurements will be published in adequate time to enable interested industrial enterprises to complete the bidding process. Each notice of proposed procurement will contain, at a minimum:
 - a. The subject matter of the contract;
 - b. Time limits set for requesting the solicitation and for submission of offers;
and
 - c. An address from which solicitation documents and related information may be requested.
3. Upon request, and in accordance with its national laws, regulations, policies, procedures, and international obligations, the procuring Participant will provide industrial enterprises of the other country copies of solicitations for proposed procurements. A solicitation will constitute an invitation to participate in the competition and will include the following information:
 - a. The nature and quantity of the supplies or services to be procured;
 - b. Whether the procurement is by sealed bidding, negotiation, or some other procedure;
 - c. The basis upon which the award is to be made, such as by lowest price or otherwise;
 - d. Delivery schedule;
 - e. The address, time, and date for submitting offers as well as the language in which

they must be submitted;

- f. The address of the agency that will be awarding the contract and will be responsible for providing any information requested by offerors;
 - g. Any economic requirements, financial guarantees, and related information required from suppliers;
 - h. Any technical requirements, warranties, and related information required from suppliers;
 - i. The amount and terms of payment, if any, required to be paid for solicitation documentation;
 - j. Any other conditions for participation in the competition; and
 - k. The point of contact for any complaints about the procurement process.
4. Consistent with its national laws, regulations, policies, and international obligations, the procuring Participant will, upon request, inform an industrial enterprise that is not allowed to participate in the procurement process of the reasons why.
5. Consistent with its national laws, regulations, policies, and international obligations, the procuring Participant will:
- 5.1. Upon award of a contract, promptly provide notification to each unsuccessful offeror that includes, at a minimum:
 - a. The name and address of the successful offeror;
 - b. The price of each contract award; and
 - c. The number of offers received.
 - 5.2. Upon request, promptly provide unsuccessful offerors pertinent information concerning the reasons why they were not awarded a contract.
6. Each Participant will have published procedures for the hearing and review of complaints arising in connection with any phase of the procurement process to ensure that, to the greatest extent possible, complaints arising under procurements covered by this MOU will be equitably and expeditiously resolved.

SECTION 6
Industry
Participation

1. Successful implementation of this MOU involves both Participants. To ensure that the MOU benefits industrial enterprises within the country of the Participant choosing to participate in the procurements covered by this MOU each Participant will provide information concerning this MOU to industrial enterprises within its country.
2. Each Participant will be responsible for informing the relevant industrial enterprises within its country of the existence of this MOU.
3. The Participants understand that primary responsibility for finding business opportunities rests with the industrial enterprises of each country.
4. The Participants will arrange for their respective procurement and requirements offices to be familiar with the principles and objectives of this MOU so that, consistent with their normal practices and procedures, those offices may assist industrial enterprises in the country of the other Participant to obtain information concerning proposed procurements, necessary qualifications, and appropriate documentation.

SECTION 7
Security, Release of Information, and Visits

1. All classified military information or material provided or generated pursuant to this MOU will be stored, handled, transmitted, and safeguarded in accordance with the Agreement between the Government of the United States of America and the Government of Japan concerning Security Measures for the Protection of Classified Military Information, signed at Tokyo on August 10, 2007.
2. Both Participants will take all necessary steps to ensure that industrial enterprises within each Participant's respective country comply with the applicable regulations pertaining to security and safeguarding of classified information.
3. Each Participant will take all lawful steps available to it to prevent the disclosure to a third party of unclassified information exchanged in confidence between the Participants pursuant to this MOU unless the Participant that provided the information consents in writing to such disclosure.
4. Each Participant will permit visits to its establishments, agencies and laboratories, and contractor industrial facilities by employees of the other Participant or by employees of the

other Participant's contractors, provided that such visits are authorized by both Participants and the employees have appropriate security clearances and a need-to-know.

5. Requests for visits under the preceding subparagraph will be coordinated through official channels and will conform to the established visit procedures of the host Participant. All visiting personnel will comply with security and export control regulations of the host country. Any information disclosed or made available to authorized visiting personnel will be treated as if supplied to the Participant sponsoring the visiting personnel and will be subject to the provisions of this MOU.

SECTION 8

Implementation and Administration

1. The Under Secretary of Defense (Acquisition, Technology, and Logistics) will be the responsible authority in the Department of Defense of the United States of America for implementation of this MOU. The Commissioner of the Acquisition, Technology, and Logistics Agency will be the responsible authority in the Ministry of Defense of Japan for implementation of this MOU.

2. Each Participant will designate points of contact to represent its responsible authority.

3. The representatives of each Participant's responsible authority will meet on a regular basis to review progress in implementing this MOU. The representatives will discuss procurement methods used to support effective co-operation in the acquisition of defense capability; annually review the procurement statistics exchanged as decided under paragraph 4.9. of Section 2 (Principles Governing Mutual Defense Procurement Cooperation) of this MOU; identify any prospective or actual changes in national laws, regulations, policies, procedures, or international obligations that might affect the applicability of any terms in this MOU; and consider any other matters relevant to this MOU.

4. Each Participant will, as required, review the principles and obligations reflected in this MOU in light of any subsequent changes to its national laws, regulations, policies, and international obligations, and will consult with the other Participant to decide jointly whether this MOU should be modified.

5. Each Participant will avoid commitments that could conflict with this MOU. If either Participant believes that such a conflict has occurred, the Participants commit to consult to seek resolution.

SECTION 9
Annexes and Modifications

1. Annexes may be added to this MOU by written determination of the Participants. In the event of a conflict between a Section of this MOU and any of its Annexes, the language in the MOU will govern.
2. This MOU, including its Annexes (if any), may be modified by written determination of the Participants.

SECTION 10
Effective Date, Duration, and Discontinuance

1. This MOU will become effective upon signature by both Participants and will remain effective for so long as the Exchange of Notes remains in force.
2. Discontinuance of this MOU will not affect contracts entered into during the term of this MOU.

The duly authorized representatives of the Participant have signed this MOU.

Signed, in duplicate, in the English language.

Ash Carter

FOR THE DEPARTMENT OF
DEFENSE OF THE UNITED
STATES OF AMERICA:

Name

SINGAPORE
City

JUNE 4, 2016
Date

FOR THE MINISTRY OF
DEFENSE OF JAPAN:

Gen Nakatani
Name

Singapore
City

JUNE 4, 2016
Date