

AMENDMENT I TO THE MEMORANDUM OF UNDERSTANDING BETWEEN  
THE GOVERNMENT OF AUSTRIA

AND

THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
CONCERNING RECIPROCAL DEFENSE PROCUREMENT  
AND ARMAMENTS COOPERATION

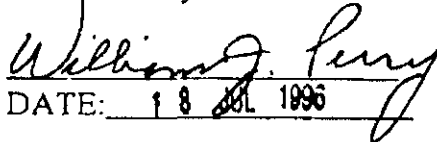
OF SEPTEMBER 3, 1991

The Government of the United States of America and the Government of Austria, hereinafter referred to as "the Governments", signed a Memorandum of Understanding (MOU) which entered into force on September 3, 1991. The first sentence of Article IX of the MOU is amended to read as follows:

*This MOU will enter into force on the date of later signature, will remain in force for five years, and will automatically renew for successive five year periods unless terminated.*


This amendment will enter into force on the date of its later signature by the two Governments.

For the Government of the  
United States of America  
The Secretary of Defense

  
DATE: 18 JUL 1996

For the Government of  
Austria

The Minister of Defense \*)

  
DATE: 04.08.1996

\*) This Amendment 1 is signed in consideration of the enclosed and signed Annex.

MEMORANDUM OF UNDERSTANDING (MOU)

BETWEEN

THE GOVERNMENT OF AUSTRIA

AND

THE GOVERNMENT OF THE UNITED STATES

CONCERNING RECIPROCAL DEFENSE PROCUREMENT

AND ARMAMENTS COOPERATION

PREAMBLE

The Government of the United States of America and the Government of Austria, hereinafter referred to as the Governments,

--bearing in mind the international status of Austria as a permanently neutral state, and the membership of the United States (U.S.) in the North Atlantic Treaty Organization;

--having regard to the friendly relations existing between them;

--taking into account the international obligations of both Governments;

--desiring to make the most cost-effective and rational use of the funds allocated to defense;

--desiring to promote the exchange of defense technology consistent with their respective national policies;

--realizing the necessity to remove discriminatory barriers to purchases of supplies or services to the extent mutually beneficial and consistent with law, regulation, and international obligations;

enter into this MOU according to the terms and guiding principles set out below.

## ARTICLE I - Applicability

This MOU covers procurements above \$25,000, or equivalent, by the U.S. Department of Defense and the Defense Ministry of Austria of

1. Supplies
2. Research and Development

subject to exceptions required by law or regulation, and international obligations of both Governments.

This MOU does not cover:

1. Construction
2. Construction materials.

## ARTICLE II - Principles

Consistent with its laws, regulations, and international obligations, each Government will:

1. Seek to achieve and maintain a long-term relationship for defense cooperation through the provision of fair and equitable opportunity for each side to participate in the defense procurement programs of the other.
2. Remove barriers to procurement or coproduction at the prime and subcontract levels of an item of defense equipment that has been produced in the other country. When a firm of the other party submits a bid or offer which would be the low responsive and responsible offer but for the application of any buy-national requirements, both Governments agree to process waiver requests of any buy-national requirement or restrictive procurement regulations.
3. Utilize contracting procedures that, as a minimum, allow all responsible sources of both parties to compete.
4. Exchange appropriate implementing regulations, policy guidance, and administrative procedures.
5. Provide information regarding requirements and proposed purchases in accordance with Article V to ensure adequate time for industries of the other country to qualify for eligibility and submit a bid or proposal.

6. Ensure that technical data and defense equipment made available for use by industry of the Governments pursuant to this MOU is not used for any purpose other than for bidding on and performing defense contracts covered by this MOU, except as authorized by the holders of rights to the data or equipment. In no event shall such technical data and equipment be transferred to a third country or any other transferee without the precise written consent of the Government of the country from which the data or equipment was made available.

7. The Governments will make every effort to avoid commitments that conflict with the spirit and letter of this MOU. If such conflicts should occur, the Governments agree to consult to seek resolution without impairment of this MOU.

### ARTICLE III - Offsets

The Governments agree to discuss measures to limit the adverse effects of offsets on the defense industrial base of the two countries.

### ARTICLE IV - Waivers

Consistent with its laws and regulations, each Government will, on a case-by-case basis, waive its charges for customs and duties for purchases to which this MOU applies.

### ARTICLE V - Procedures

To the extent practicable, each Government will publish or have published, in a generally available periodical a notice of proposed purchases at least 15 days prior to the issuance of solicitations. The notice will contain:

1. Subject matter of the contract;
2. Time limits set for the submission of offers or an application for solicitation; and
3. Addresses from which solicitation documents and related data may be requested.

Upon request the Governments shall provide copies of solicitations for proposed purchases. A solicitation shall constitute an invitation to participate in the competition and shall contain the following information:

1. The nature and quantity of the products or services to be supplied;
2. Whether the procedure is by sealed bid or negotiation;
3. The basis on which the award is to be made, such as by lowest offered price or otherwise;
4. Any delivery date;
5. The address and final date for submitting offers as well as the language or languages in which they must be submitted;
6. The address of the agency awarding the contract and any information required by suppliers;
7. Any economic and technical requirements, financial guarantees, and information required from suppliers;
8. The amount and terms of payment of any sum payable for solicitation documentation.

Any conditions for participation in procurements shall be published in adequate time to enable interested suppliers to meet the conditions, and solicitations shall allow adequate time for response, consistent with user needs.

Competing suppliers shall be promptly notified as to the successful offeror.

On request, suppliers shall promptly be provided pertinent information concerning the reasons why they were not allowed to participate in a procurement or were not awarded a contract.

There shall be 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, disputes arising under procurements covered by this MOU will be equitably and expeditiously resolved between the offeror and the procuring Government.

#### ARTICLE VI - Industry Participation

Each Government will be responsible for informing the relevant industries within its country of the existence of this MOU. The Governments may issue appropriate implementing guidance.

Similarly, the Governments will inform their respective procurement and requirement offices concerning the obligations of this MOU. However, it is understood that primary responsibility for finding business opportunities will rest with the industry of each country.

#### ARTICLE VII - Security

Any classified information furnished or generated by either Government in connection with procurements or armaments cooperation subject to this MOU shall be protected by the receiving Government in accordance with security agreements between the Governments.

Both Governments will take all necessary steps to ensure the industries in their countries will comply with the regulations pertaining to security and safeguarding classified information.

#### ARTICLE VIII - Implementation and Administration

This MOU expresses the intention of the representatives of the U.S. Government and of the Government of Austria acting within their responsibilities that both will use their best endeavors to implement the principles contained therein in the field of procurement as understood in this MOU.

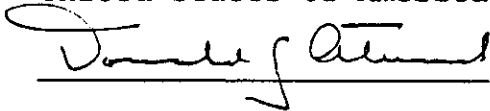
The Under Secretary of Defense (Acquisition) will be the responsible authority in the U.S. Government for the implementation of this MOU. The Head of Section IV Austria Ministry of Defense (Acquisition) will be the responsible authority of the Government of Austria for implementation of this MOU. Each Government will designate points of contact to represent implementation authorities. Meetings to discuss problems arising under this MOU will be called on an as needed basis.

ARTICLE IX - Duration and Termination

This MOU will enter into force on the date of later signature and will remain in force for five years unless otherwise agreed by the two Governments. The MOU may be terminated by either Government by notification in writing.

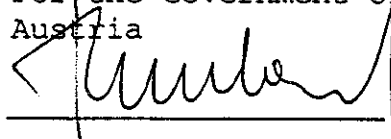
Done at Washington, in duplicate, in English, this        day of 1991.

For the Government of the  
United States of America



26 AUG 1991

For the Government of  
Austria



SEP 3 1991