

04-20

**PROTOCOL OF AMENDMENT TO THE AGREEMENT ON DEFENSE
COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE
KINGDOM OF SPAIN OF DECEMBER 1, 1988**

PREAMBLE

The United States of America and the Kingdom of Spain,

Reaffirming the importance of a solid defense relationship between the two Parties;

Recognizing the contribution of the Agreement on Defense Cooperation of December 1, 1988 to the security of the two countries and the Atlantic Alliance;

Resolved to implement the Joint Declaration of January 11, 2001 and to revise the above-mentioned Agreement in order to adapt it to the new security requirements,

Have decided the following:

ARTICLE 1

The Preamble of the Agreement shall be replaced by the following text:

The United States of America and the Kingdom of Spain, States party to the North Atlantic Treaty;

United by the common ideal of respect for the principles of democracy, personal freedom and the rule of law;

Reaffirm their faith in the aims and principles of the charter of the United Nations and their desire to live in peace with all peoples and all governments;

Recognize that the security and full territorial integrity of Spain and the United States of America contribute to maintaining the peace and security of the West;

Affirm that their defense cooperation is based on full respect for the equal sovereignty of each country, and involves mutual obligations and a fair distribution of defense burdens;

And resolved to maintain that defense cooperation in the bilateral framework and in the framework of their participation in the Atlantic Alliance and guided by the aims and objectives of the Joint Declaration by both countries of January 11, 2001;

Agree as follows:

ARTICLE 2

Paragraph 3 of Article 2 of the Agreement shall be replaced by the following text:

3. The Parties recognize the importance of maintaining military education, training and exchange programs for the instruction of armed forces personnel, under the terms agreed by the competent bodies of both Parties. Exchanges in the field of military intelligence shall also be promoted.

ARTICLE 3

The text of Article 3 of the Agreement shall be replaced by the following text:

The Parties recognize the importance of defense industrial and technological cooperation in strengthening the common defense. They shall strive to improve this bilateral cooperation between their governments and their defense companies, and to take steps toward achieving a more integrated and stronger industrial base.

To this effect the Parties have agreed to a Declaration of Principles for Enhanced Cooperation in Matters of Defense Equipment and Industry.

The Parties shall continue their joint endeavors focussing on fostering continuous growth of their armaments cooperation relationship in such areas as information exchange; engineer and scientist exchange; cooperative development, production and logistics support; and on facilitating stronger transatlantic industrial cooperation. Efforts shall be made to further strengthen the common defense and promote identification and pursuit of additional government-to-government cooperative opportunities in defense related research and development.

The implementation of this cooperation shall be reported to the Bilateral High Level Defense Committee.

ARTICLE 4

The text of Article 4 shall be replaced by the following text:

The status of the members of the force, the civilian component, and accompanying dependents, of each of the Parties when in the territory of the other Party in connection with their official duties, shall be regulated by the provisions of the NATO Status of Forces Agreement and Chapters IV and V of this Agreement.

ARTICLE 5

The existing text of Article 6 of the Agreement shall be maintained as paragraph 2 of that article and the following text shall be added as paragraph 1:

1. A Bilateral High Level Defense Committee, chaired by the Secretary of Defense of the United States and by the Minister of Defense of Spain, or by their high-level officers to whom they delegate is hereby established as a body for political consultations between the two countries in the field of defense and to foster the development of this Agreement. The Committee shall meet on a regular basis.

ARTICLE 6

The text of Article 7 of the Agreement shall be replaced by the following text:

A Permanent Committee is created to ensure the necessary coordination between the Parties in the implementation of this Agreement and to examine and resolve, as appropriate, such issues as may arise, in the respective countries, as a result of its application and that cannot be resolved within the competence of the United States and Spanish authorities directly concerned.

The Permanent Committee consists of two Sections, Spanish and United States, chaired by representatives of the respective departments of defense and shall include vice chairmanship designated by the Spanish Ministry of Foreign Affairs and the U.S. Department of State respectively. Its organization and operation shall be developed with a view to dealing effectively and expeditiously with the problems that may arise and to promote defense cooperation in the matters within its competence to which this Agreement refers.

ARTICLE 7

ONE. Paragraph 3 of Article 8 of the Agreement shall be replaced by the following text:

3. The general description and the purposes of the IDAs existing at the bases are set forth in Annex 2 of this Agreement. Creating new IDAs consistent with this description and these purposes may be authorized by Spanish authorities at the request of United States forces after consultations at the Permanent Committee. The Permanent Committee shall maintain an up-to-date inventory of the lands or constructions that constitute these IDAs, specifying the functions of each.

TWO. A new paragraph, numbered 4 shall be added, with the following text:

4. Environmental Protection. The Parties confirm their mutual commitment to ensuring environmental protection and conservation.

ARTICLE 8

The current text of Article 9 shall be numbered 1. A second paragraph shall be added to Article 9 with the following text:

2. The competent authorities of both countries may establish rules governing applicable force protection measures and security procedures.

ARTICLE 9

Paragraph 2 of Article 12 of the Agreement shall be replaced by the following text:

2. The Spanish Government and the Government of the United States shall conclude agreements on the use, in time of crisis or war, of Spanish installations, territory, territorial sea and airspace by the United States in support of NATO contingency plans.

ARTICLE 10

The text of Article 13 of the Agreement shall be replaced by the following text:

The United States and Spanish authorities shall cooperate and provide all practicable assistance in peacekeeping and humanitarian assistance operations, in accordance with the domestic laws and regulations of the United States and Spain, respectively.

ARTICLE 11

Paragraph 5 of Article 16 of the Agreement shall be replaced by the following text:

5. The Commander of the Base shall be informed annually of the types of equipment and materiel, and the types and quantities of weapons maintained at each IDA, and shall be informed of substantial changes in such types or quantities.

ARTICLE 12

ONE. Paragraph 3.3 of Article 17 of the Agreement shall be replaced by the following text:

3.3 Persons with temporary authorized access to residential, social, and recreational areas, at the request of the Commander of the United States forces or of the members of the force or of the civilian component, including the retired members of the United States forces and their dependents residing in Spain.

TWO. A new paragraph, numbered 6, shall be added to Article 17 with the following text:

6. The United States Naval Criminal Investigative Service (NCIS) and the United States Air Force Office of Special Investigations (OSI) may maintain personnel in Spain to act jointly with their counterparts of Spanish State Security and intelligence services on matters of mutual interest and to conduct criminal investigations involving United States personnel or property. The competent authorities of both countries shall establish regulations for the activities in Spain of NCIS and OSI.

ARTICLE 13

The first section of Paragraph 2 and the Paragraph 4 of Article 19 of the Agreement shall be replaced by the following texts:

2. When United States forces foresee a prolonged suspension or the termination of activity of an IDA or a substantial withdrawal of major items of equipment, the appropriate Spanish military authorities shall be notified. Vacating an IDA with no plans for future use shall entitle the Spanish Government to recover it.

4. The Spanish authorities shall have the right of first purchase of any equipment, materiel, removable structure, or supplies that the United States forces consider excess of IDA stocks and plan to dispose of in Spain. Rules shall be established through the Permanent Committee to facilitate such

disposal for the United States forces and the exercise of the Spanish Authorities' right of first refusal.

ARTICLE 14

Paragraphs 2 and 3 of Article 22 of the Agreement shall be replaced by the following texts:

2. The appropriate United States authority shall submit quarterly to the Permanent Committee an updated report of the units and personnel permanently assigned in Spain, including their dependents. The Permanent Committee shall submit copies of such reports, in pertinent part, to the Commander of the corresponding base.
3. The Government of the United States may also assign members of the force and civilian component to Spain on a temporary basis in connection with their official duties within the levels established in Annex 2, periodically reporting to the Permanent Committee.

ARTICLE 15

Article 25 of the Agreement shall be modified in the following way:

ONE. Paragraphs 2, 3 and 8 shall be replaced by the following texts:

2. Aircraft flying logistics missions, operated by or for the United States forces, other than those in paragraph 1, not carrying VIPs, HAZMAT or cargo or passengers that might be controversial to Spain may overfly, enter or exit Spanish airspace and use the bases specified in Annex 2 on quarterly blanket overflight clearances authorized by the Permanent Committee.
3. Other United States aircraft operated by or for the United States forces not included in the preceding paragraphs may be authorized to overfly Spanish

airspace and use the bases specified in Annex 2 as well as other Spanish bases, airfields and airports, requesting authorization through the Permanent Committee at least 48 hours in advance.

8. Any problems which may arise regarding the applicability of any of the preceding provisions to particular missions shall be referred to the Permanent Committee which may establish an operational procedure.

TWO. A new paragraph, numbered 9, shall be added, with the following text:

9. The authorities of the United States shall grant to the Spanish forces aircraft and Spanish State aircraft with destination to or overflying the territory of the United States an annual blanket clearance.

ARTICLE 16

Article 26 of the Agreement shall be modified in the following way:

ONE. Paragraphs 4 and 5 shall be deleted.

TWO. Paragraph 1 shall be replaced by the following text:

1. All movements in Spanish airspace of aircraft of the United States forces shall be conducted in accordance with duly cleared flight plans and shall be governed by the rules and procedures of the Spanish regulations on General Air Traffic and Operational Air Traffic.

THREE. Paragraph 2 shall be replaced by the following text:

2. Flights under VFR (Visual Flight Rules) conditions or which may pose a special risk to the population shall not be conducted without express authorization of the Spanish authorities.

ARTICLE 17

Paragraph 3 of Article 27 of the Agreement shall be replaced by the following text:

3. Training flights shall be conducted in conformity with the regulations and procedures established by the Spanish regulations on General Air Traffic and Operational Air Traffic.

ARTICLE 18

Paragraph 2 of Article 29 of the Agreement shall be replaced by the following text:

2. In cases of accidents in Spanish territory involving aircraft operated by United States forces, an investigation of aircraft accidents shall be carried out in accordance with Spanish legislation and an independent accident safety investigation shall be conducted in accordance with the provisions of NATO Standardization Agreement 3531.

ARTICLE 19

The text of Article 30 of the Agreement shall be replaced by the following text:

United States and Spanish authorities shall cooperate in and provide all possible assistance in search and rescue operations.

ARTICLE 20

A new paragraph, numbered 2.3 in Article 32 shall be added, with the following text:

2.3 Significant internal movements of ammunition or explosive material inside the bases included under Annex 2 shall be notified in advance to the Commander of the base.

ARTICLE 21

Article 34 of the Agreement shall be deleted.

ARTICLE 22

The text of Article 35 of the Agreement shall be replaced by the following text:

1. During the period of validity of this Agreement and by means of the Rota-Zaragoza pipeline (ROTAZA) described in Annex 5 and the IDAs and installations referred to in this Agreement, Spain shall authorize and guarantee to the United States movement and storage services for the normal fuel requirements of the United States armed forces and the increased use of the pipeline to meet the requirements of said forces in case of emergency. The fuel requirements of the United States armed forces shall in all cases be compatible with those of the Spanish armed forces.

2. The movement of products for the United States armed forces and the Spanish armed forces shall have identical priority. Both shall have preference with respect to the movement of commercial products.

3. The costs arising from the services set forth in paragraph 1 shall be subject to reimbursement.

4. The details related to the scheduling of movements and storage, as well as those of a technical nature related to fuels and to the installation itself, are specified in Annex 5 of this Agreement.

5. Spain shall have custody of and responsibility for all United States petroleum products in the ROTAZA pipeline or in the inland terminal.

6. A Mixed Technical Commission is hereby established to coordinate the movement, storage, and supply of petroleum products required to meet the needs of the Spanish armed forces and those of the United States. The

composition and functions of the Mixed Technical Commission shall be set forth in Annex 5.

7. The ROTAZA pipeline and storage facilities included in Annex 5 and the petroleum products carried by the pipeline shall be maintained in accordance with NATO Standardization Agreements.

8. The petroleum products receiving station on the bulk fuel discharge/loading pier included in the Rota petroleum sea terminal shall be available for use by the Ministry of Defense under a separate Memorandum of Understanding between the United States Navy and the Spanish Navy and approved by the Mixed Technical Commission. Other piers that could be used indirectly for the movement of petroleum products to the IDAs and storage and supply facilities may be made available to the United States for use when authorized by the Spanish Naval Commander.

9. The United States armed forces and the Spanish armed forces may conclude separate Memoranda of Understanding for petroleum exchange relating to ships and aircraft that shall benefit both Parties. Exchange agreements relating to ships and aircraft shall not be made a part of the ROTAZA pipeline Memorandum of Understanding, but shall be contained in a separate Memorandum of Understanding.

ARTICLE 23

Article 36 of the Agreement shall be modified in the following ways:

ONE. Paragraphs 1, 3, and 4 shall become, respectively, paragraphs 2, 4, and 5.

TWO. A new paragraph 1 shall be added, with the following text:

1. "Members of the force" means the personnel belonging to land, sea or air armed services of the United States when in Spain in connection with their official duties.

THREE. Paragraph 2 shall be renumbered as Paragraph 3 and shall be replaced with the following text:

3. The term "dependent," as defined in Article I, paragraph 1 (c) of the Status of Forces Agreement, means the spouse of a member of the force or the civilian component; or a child of such a member dependent on him or her for support; or a parent of a member of the force or the civilian component, or of the spouse of such a member, who is financially or for reasons of health dependent upon such a member; who shares the quarters occupied by such a member and who is recognized as a dependent of such a member by the military authorities of the United States. Upon approval by the Permanent Committee, other family members may be included in this provision as dependents when warranted by special circumstances.

ARTICLE 24

Paragraph 1 of Article 38 of the Agreement shall be replaced by the following text:

1. With respect to the provisions of Article IV of the NATO Status of Forces Agreement, members of the force and the civilian component permanently assigned in Spain and the dependents of either, holding valid drivers' licenses issued by a competent authority of the United States, shall receive Spanish drivers' licenses. These licenses shall be issued free of charge by the competent provincial *Jefatura de Tráfico*, without a test.

ARTICLE 25

A new paragraph shall be added to Article 41 of the Agreement with the following text and shall be numbered as Paragraph 5:

5. In accordance with Article VII, paragraph 5 (b) of the NATO Status of Forces Agreement, the Spanish authorities shall notify the United States authorities with all due speed of the arrest or detention of a member of the force, the civilian component or accompanying dependents of either.

ARTICLE 26

Paragraph 2 of Article 42 of the Agreement shall be replaced by the following text:

2. Such prison sentences may be served in penal institutions in the United States in accordance with the European Convention on the Transfer of Sentenced Persons done at Strasbourg on March 21, 1983.

ARTICLE 27

Paragraph 4 of Article 44 shall be deleted.

ARTICLE 28

Paragraph 1 of Article 45 shall be replaced by the following text:

1. Except as provided in this Article, the acquisition of goods and services in the Spanish market by members of the force, the civilian component, or dependents, for personal use, shall be subject to the applicable Spanish taxes. Members of the force and of the civilian component permanently assigned in Spain, however, shall not be liable to pay any tax on the ownership, possession, use, transfer amongst themselves, or transfer by death of their movable property imported into Spain or acquired there for their personal use.

ARTICLE 29

Paragraph 1 of Article 46 of the Agreement shall be replaced by the following text:

1. The importation of materiel, equipment, supplies, provisions and other property into Spain by the United States forces, for official purposes in the exercise of the functions authorized in this Agreement shall be exempt from all types of Spanish duties, taxes and charges. The supply, including acquisition, of such goods in Spain and the rendering of services to the United States forces for the same purposes shall enjoy the fiscal benefits granted to exports and shall

be exempt from all Spanish taxes, duties and charges directly applicable to such acquisitions if the total cost of each acquisition equals or exceeds 600 euros.

ARTICLE 30

Paragraphs 1, 2, 3 and 5 of Article 47 of the Agreement shall be replaced by the following text:

1. With reference to Article XI, paragraphs 5, 6, and 7 of the NATO Status of Forces Agreement, personal effects, household goods, and furniture intended for the exclusive use of members of the force or the civilian component permanently assigned in Spain, and dependents of either, may, on the occasion of the initial arrival in Spain of the member of the force or the civilian component, and as well as the initial arrival in Spain of the dependents of either, and during a period of six months thereafter, be imported into and retained in Spain free of all types of Spanish duties.

2. Members of the force or the civilian component permanently assigned in Spain may possess and maintain, at any one time, one motor vehicle imported under this exemption and one motor vehicle of European Community manufacture acquired in Spain in accordance with special arrangements and free of the Spanish value-added tax. Dependents over the age of 18 may possess and maintain under the same conditions one motor vehicle of European Community manufacture.

3. The importation into Spain through military post offices referred to in Article 51 of this Agreement of articles for the personal use of members of the force or of the civilian component permanently assigned in Spain and dependents of either shall be free of Spanish duties if the value of such articles does not exceed the equivalent in euros of one-hundred (\$100.00) United States dollars.

5. The property referred to in paragraphs 1, 2 and 3 of this Article may not be transferred, given or rented to persons in Spain not entitled to import or

purchase such property free of duties and VAT, unless such transfer or use is agreed upon by the appropriate Spanish authorities and, if necessary, after payment of import taxes thereon. However, the property referred to in paragraphs 1, 2 and 3 of this Article and in Article 49.5 may be transferred tax and duty-free and unconditionally to non-profit entities in accordance with Spanish law three years after being purchased or imported; the Permanent Committee shall adopt appropriate general control measures.

ARTICLE 31

Paragraphs 2, 3, 5 and 6 of Article 49 of the Agreement shall be replaced by the following text:

2. Pursuant to paragraph 1 of this Article, the organizations of the United States forces listed in that paragraph and their contractors insofar as the provision of supplies and services on behalf of these organizations is concerned, may:

2.1. Import free of Spanish duties reasonable quantities of provisions and other goods.

2.2. Acquire provisions, other goods and services necessary to carry out the authorized activities in the Spanish domestic market with the benefit of the tax regime provided for in Article 46, paragraph 1, of this Agreement.

2.3 Provide authorized services and sell such provisions and other goods so imported or acquired with exemption from any Spanish taxes, duties, or charges.

2.4. Export to the United States governmental entities, free of Spanish duties, such provisions and other goods.

3. With respect to the organizations referred to in paragraph 1 of this Article and their contractors, the Permanent Committee shall adopt appropriate

measures to prevent the sale of provisions and other goods imported or acquired in the domestic market to persons other than those referred to in paragraph 1 of this Article.

5. Articles acquired by members of the force, the civilian component, or dependents from the organizations referred to in paragraph 1 of this Article, and their contractors, may not be transferred to persons other than those referred to in that Article.

6. Spanish Commanders of the bases and the Commanders of the United States forces shall ensure that the provisions of this Article are complied with, and shall cooperate fully with the Spanish Ministry of Finance authorities in inspections of the organizations referred to in paragraph 1 of this Article, and their contractors, in the investigation of abuses of customs and fiscal matters. In cases where an infraction is discovered, United States military authorities shall render all assistance within their power to those Spanish authorities in the collection of any resulting duties and penalties.

ARTICLE 32

Paragraphs 3 and 5 of Article 50 of the Agreement shall be replaced by the following text:

3. Applications for registration shall be submitted by the United States Section of the Permanent Committee directly to the corresponding *Jefatura Provincial de Tráfico*. The *Jefatura de Tráfico* shall approve the applications for registration and shall validate the registration number and issue a registration permit, which shall constitute the authorization for the operation in Spain of the vehicle concerned. This registration shall be free of duties, fees, or charges, except for a nominal fee to defray administrative costs. Registrations thus made shall be valid for the duration of the official assignment of the applicant in Spain.

5. The United States Section of the Permanent Committee shall be responsible for the administrative control of the registration numbers issued. If the owner of a vehicle registered in accordance with paragraph 3 of this Article loses his status under the Status of Forces Agreement and this Agreement, the above Section shall so notify the Director General of Customs and Excise and the *Jefatura Central de Tráfico* in the Ministry of the Interior.

ARTICLE 33

Paragraph 2 of Article 51 shall be replaced by the following text:

2. This mail may be transported within Spanish territory in sealed containers, provided that they conform to the identification rules approved by the Permanent Committee.

ARTICLE 34

Article 52 of the Agreement shall be modified in the following ways:

ONE. Paragraph 2 shall become Paragraph 3.

TWO. Paragraph 1 shall become Paragraph 2 and shall be replaced by the following text:

2. The term "dependent," as defined in Article I, paragraph 1 (c) of the Status of Forces Agreement, shall include the spouse of a member of the force or the civilian component, or a child of such a member dependent on him or her for support; or a parent of a member of the force or the civilian component, or of the spouse of such a member, who is financially or for reasons of health dependent upon such a member; who shares the quarters occupied by such a member and who is recognized as a dependent of such a member by the military authorities of Spain. Upon approval by the Permanent Committee, other family members may be included as dependents when warranted by special circumstances.

THREE. A new paragraph with the following text shall become Paragraph 1:

1. "Members of the force" means the personnel belonging to land, sea or air armed services of Spain when in the United States of America in connection with their official duties.

ARTICLE 35

Paragraph 3 of Article 53 of the Agreement shall be replaced by the following text:

3. The members of the civilian component and the dependents of members of the force and civilian component shall be exempt from registration and control as aliens. United States authorities shall facilitate the issuance of visas under the special procedures applicable for NATO personnel.

ARTICLE 36

Paragraphs 1 and 2 of Article 54 of the Agreement shall be replaced by the following text:

1. In accordance with Article IV of the NATO Status of Forces Agreement and as provided under Article 24 of the Geneva Convention of Road Traffic of September 19, 1949, United States authorities shall (a) accept as valid, without a driving test or fee, the driving permit or license issued by a competent authority in Spain to a member of the force, or the civilian component permanently assigned in the United States, or a dependent of either, or (b) issue their own driving permit or license to any member of a force or civilian component permanently assigned in the United States who holds a driving permit or license issued by Spanish authorities, provided that no driving test shall be required.

2. To facilitate the implementation of these Agreements, the United States Section of the Permanent Committee shall issue appropriate documentation to verify an individual's entitlement to the rights specified in this Article.

ARTICLE 37

Article 55 of the Agreement shall be modified in the following ways:

ONE. Paragraphs 3, 4 and 5 shall become, respectively, Paragraphs 4, 5, and 6.

TWO. Paragraph 2 shall be replaced by the following text:

2. The Government of the United States recognizes the particular importance of disciplinary control by Spanish military authorities over the members of the force and the effect that such control has upon operational readiness. In accordance with Article VII of the NATO Status of Forces Agreement, the competent United States authorities shall give expeditious and sympathetic consideration to the waiver of their criminal jurisdiction upon request of the Spanish armed forces. The United States Government shall assist the Spanish forces in expeditious processing of a request for the waiver of jurisdiction. The Permanent Committee shall seek a waiver of criminal jurisdiction from the competent United States authorities in all cases where the Spanish forces so request, except in cases considered to be of particular importance to the United States.

THREE. The following text shall be added as Paragraph 3:

3. In accordance with Article VII, paragraph 5(b) of the NATO Status of Forces Agreement the United States authorities shall notify Spanish authorities with all due speed of the arrest or detention of a member of the force, the civilian component or accompanying dependents of either.

ARTICLE 38

The text of Article 56 of the Agreement shall be replaced by the following text:

For the purposes of Article VII, paragraph 3 (a) of the NATO Status of Forces Agreement, and in order to verify that an offense arose out of an act or omission done in the performance of official duty, Spanish military authorities shall issue certificates which they shall transmit to the legally competent United States authorities. The certificate shall be considered as prima facie evidence that the alleged offense arose out of an act or omission done in the performance of official duty, unless there is evidence to the contrary. In the event that appropriate authorities have a doubt concerning the certificate, it shall, at the request of Spanish authorities, be reviewed by representatives of the Department of State and the Embassy of Spain in Washington within thirty days.

ARTICLE 39

Paragraph 4 of Article 57 of the Agreement shall be replaced by the following text:

4. Such prison sentences may be served in penal institutions in Spain in accordance with the European Convention on the Transfer of Sentenced Persons done at Strasbourg on March 21, 1983.

ARTICLE 40

Paragraph 2 of Article 58 of the Agreement shall be replaced by the following text:

2. Members of the force and the civilian component permanently assigned in the United States and dependents of either, however, shall not be liable to pay any tax to the United States or its local entities on the ownership, possession, transfer amongst themselves, or transfer by death of their movable property imported or acquired in the United States solely for their personal use.

ARTICLE 41

Paragraphs 1 and 2 of Article 59 of the Agreement shall be replaced by the following text:

1. With reference to Article XI (5), (6), and (7) of the NATO Status of Forces Agreement, United States laws and regulations provide that baggage and effects of members of the force or civilian component and their immediate families and articles for the personal and family use of members of the force or the civilian component permanently assigned in the United States, and dependents of either, may be imported into and retained in the United States without the payment of duties. On the occasion of the initial arrival in the United States of members of the force or civilian component, as well as the initial arrival in the United States of the dependents of either, and during a period of six months thereafter, such property shall, without prejudice to the exemptions provided by this article, be considered as temporarily imported property. It may only be transferred to persons in the United States entitled to import such property duty-free, unless such transfer or use is agreed upon by the appropriate United States authorities. The export of such property shall be exempt from United States duties.

2. Members of the force and the civilian component permanently assigned in the United States may import temporarily free of duty and taxes private motor vehicles for the personal use of themselves and their dependents. Automobiles so imported by members of the Spanish forces and the civilian component shall, consistent with U.S. law, be exempt from environmental and safety standards established by United States laws and regulations. In connection with applications and compliance with the required administrative formalities for customs clearance and registration of motor vehicles that are the private property of members of the Spanish force, civilian component and dependents in the United States, the United States Section of the Permanent Committee shall provide adequate information to the competent authorities regarding the

status of these persons individually as regards the benefits granted under this provision.

ARTICLE 42

The following paragraph shall be added to Article 60 of the Agreement and numbered as Paragraph 4:

4. An agreement may be reached between the Spanish Ministry of Defense and the U.S. Department of Defense with a view to increasing the provision of reciprocal health care.

ARTICLE 43

Section 3.2 of Annex 1 of the Agreement shall be replaced by the following text:

3.2 Vessels in the service of the Spanish armed forces which are the property of the Spanish government and vessels in the service of the United States Navy called "United States Naval Ships" (USNS) and "General Agency Agreement" (GAA) vessels, which are the property of the United States Government, and whose activities are being carried out through the Military Sealift Command and vessels of the United States Coast Guard.

ARTICLE 44

Annex 2 of the Agreement shall be replaced by the following text:

ANNEX 2: SPANISH BASES AND AUTHORIZED FORCE LEVELS

For the purposes of this Agreement, the bases, property of the Spanish state, in which there are IDAs for use and maintenance by permanent and rotational units of the United States Armed Forces, and the force levels permitted for each, are as follows:

1. MORON AIR BASE

1.1 Description and Purpose

IDAs required for operations, administration, maintenance, communications, supply and materiel storage, and supporting services for one temporary detachment of tanker aircraft, one permanent or rotational detachment of tanker aircraft, United States aircraft deployments and transits, space operations and an office of criminal investigations.

1.2 Force level

Level of total authorized permanent personnel:

Military: 500

Civilian: 75

<u>Type of Unit</u>	<u>Type of Aircraft</u>	<u>Authorized No.</u>	<u>Major Activity</u>
Support/Maintenance	-----	-----	Support and maintenance services for assigned, temporary, and transient units, aircraft and personnel.
Temporary Air Refueling Detachment	Air refueling	10	Air refueling operations. Coordination of refueling activities.
Permanent or Rotational Air refueling detachment	Air refueling	5	Air refueling operations. Coordination of refueling activities.

Space Operations	----	----	Space observations and support of NASA activities
Office of Special Investigations (OSI)	----	----	Criminal investigations & force protection services

2. ROTA NAVAL BASE

2.1 Description and purpose

IDAs required for operations, administration, maintenance, communications, supply and materiel storage, and supporting services for a naval station including a sea, air and land unit, maritime patrol squadron, fleet air reconnaissance squadron, carrier aircraft detachment for temporary basing, military airlift aerial port, United States aircraft deployments and transits, ship berthing and mooring and fleet logistic support, construction battalion, naval communications station, security force company, criminal investigative unit, Aerial Mail Terminal Detachment, Defense Contracting Management Command, fleet ocean surveillance information facility, naval fuel depot, storage and weather station.

2.2 Force level

Level of total authorized permanent personnel:

Military: 4250
 Civilian: 1000

<u>Type of Unit</u>	<u>Type of Aircraft/Unit</u>	<u>Authorized No.</u>	<u>Major Activity</u>
Naval Station including Sea, Air and Land Unit	Admin. Acft.	5	Support, training and maintenance services for assigned, temporary and transient units, aircraft, watercraft and personnel.
Military Airlift Aerial Port	----	----	Airlift support including aircraft maintenance.
Fleet Air Reconnaissance Squadron	Recon. Acft.	13	Naval reconnaissance.
Patrol Squadrons	Patrol Acft.	18	Maritime patrol and ocean surface surveillance.
Construction Battalion	----	----	Construction, runway repair.
Communications Station	----	----	Voice and message communications.
Ocean Surveillance and Information	----	----	Information collection and dissemination in support of the fleet.
Security Force Company	----	----	Security and force protection.

Criminal Investigative Service (NCIS)	----	----	Criminal investigations and force protection services.
Aerial Mail Terminal Detachment	----	----	Mail support services.
Defense Contracting Management Command	----	----	Quality control of contracts.

3. U.S. AUTHORIZED TEMPORARY FORCE LEVELS

In accordance with Art. 22.3 of the Agreement, the United States of America may assign temporarily at the bases listed in this Annex the following additional personnel:

United States Navy (including USMC):	900
United States Air Force:	1300
United States Army:	85

ARTICLE 45

Paragraph 11.1 of Annex 3 shall be replaced by the following text:

11.1 Safe anchorage, including the conditions necessary for dropping and raising anchor, berthing facilities, and for loading and off-loading stores and personnel, shall be assigned to the extent possible as requested by the Spanish Navy or the United States Forces.

ARTICLE 46

Paragraph 13 of Annex 3 shall be replaced by the following text:

13. When passing through the territorial sea of the other Party, submarines shall navigate on the surface, flying their flag, in accordance with the United Nations Convention on the Law of the Sea.

ARTICLE 47

Paragraph 2 of Article 1 of Annex 4 of this Agreement shall be replaced by the following text:

2. Consistent with Article 18, paragraph 4.1 of the Agreement and the provisions of applicable Spanish legislation, the United States forces may carry out actions in the communications field required to:

2.1 Satisfy new operational necessities.

2.2 Improve capabilities of existing systems.

2.3 Contribute further to the welfare and training of the United States forces.

Any new communications system or change in an existing one shall not interfere with the existing systems of the Spanish Armed Forces.

ARTICLE 48

Annex 5 of the Agreement shall be replaced by the following text:

ANNEX 5: STORAGE, TRANSPORTATION AND SUPPLY OF FUELS

I. PURPOSE

This Annex 5 establishes administrative procedures governing fuel support for U.S. forces in Spain, and the exchange of petroleum products through the pipeline system. It applies to hostilities, contingencies, cooperative actions, deployments, exercises, and peacetime operations. By means of this Annex 5, Spain shall provide fuel storage and transportation services for U.S. fuel in accordance with the conditions specified herein.

II. SCOPE

- A. The infrastructure applicable to this Agreement includes the main pipeline from Rota to the El Arahal storage tanks, the El Arahal storage tanks, and the pipeline connecting the El Arahal terminal to Morón Air Base.
- B. The services included under this Annex consist of transportation and storage of petroleum products owned by the United States.
- C. This Annex establishes the obligations of both parties with respect to the storage, transportation, and exchange of petroleum products.

III. REPRESENTATION

The Ministry of Defense shall represent the Kingdom of Spain in all matters pertaining to this Annex. The Defense Energy Support Center (DESC) shall represent the United States in all such matters. Both parties may designate agents, who shall have full authority, provided their appointment is in writing. The appointment of an agent may be revoked at any time.

IV. MIXED TECHNICAL COMMISSION

The Mixed Technical Commission to which Article 35 of the Agreement on Defense Cooperation refers shall establish the supplementary rules governing authorizations for use with respect to the technical aspects of the storage, transportation and supply of fuel, and shall be applicable to all the activities included in this Annex.

1. Functions. To coordinate the requirements of the U.S. forces with those of the Spanish Government for the use of the Rota-El Arahal pipeline segment,

petroleum installations on the bases listed in Annex 2, and the petroleum sea terminal at Rota Naval Base.

Any disagreement within the Mixed Technical Commission shall be brought to the attention of the Permanent Committee for resolution.

2. Composition: The Mixed Technical Commission shall be comprised of the following:

President: Chief, Plans Division of the Spanish Joint Defense Staff.

Members (United States): Chief of the United States Navy Fuels Branch Rota Naval Base. A representative of the DESC. A representative of the Permanent Committee.

Members (Spain): A senior official from each military service. A representative of the Permanent Committee.

Secretary: A senior official from the Plans Division of the Spanish Joint Defense Staff.

V. OBLIGATIONS OF THE PARTIES

A. Spain:

1. Manage the Mixed Technical Commission according to Article 35 of this Agreement.
2. Provide personnel and equipment necessary for handling U.S. products in the system.
3. Maintain the ROTAZA pipeline in accordance with NATO STANAG 3609.
4. Ensure that the terminal and pumping stations are operated and maintained in accordance with Spanish safety and environmental standards.

5. Ensure that fuel received, stored, and shipped through the ROTAZA meets the NATO STANAG 3747 requirements.
6. Reimburse the United States for fuel losses exceeding the limits determined in Section X of this Annex due to contamination, breakdown, or accident not attributable to war or acts of God.
7. Assume responsibility for any liability to third parties as a result of environmental pollution.
8. Maintain the pipeline and all transfer facilities to provide the minimum flow rates for F-34/F-35 as noted in section VI paragraph G of this Annex.
9. Perform quality control and inspection functions in accordance with NATO standards.
10. Maintain accountability for fuel inventories and provide DESC with inventory reports as required.
11. Establish and maintain an inspection system acceptable to DESC. Records of all inspections performed shall be made available to DESC upon request. The inspection schedule shall be agreed upon by members of the Technical Inspection Group of the Ministry of Defense and DESC for the ROTAZA pipeline. Inspections shall be conducted in accordance with STANAG 3609.
12. Grant DESC the right to inspect services provided under this Annex 5.
13. Determine operation, maintenance, movement, and project costs for ROTAZA pipeline operations and prepare an annual budget.
14. Prepare and submit quarterly invoices for services rendered, as set forth in the Memorandum of Understanding.

15. Exchange fuel according to agreements concluded between DESC and the Spanish Air Force.

B. The United States:

1. Ensure that any fuel entering the system from U.S. sources meets the requirements of NATO STANAG 3747.
2. With Ministry of Defense concurrence, pay all reasonable expenditures approved in the annual budget.
3. Provide 24 hours advance notification of any visits to ROTAZA facilities for the purpose of quality surveillance or operational review.
4. Exchange petroleum products with Spain according to the agreements concluded between DESC and the Spanish Air Force.
5. Appoint the U.S. members of the Mixed Technical Commission. DESC shall be the spokesperson of the Technical Inspection Group of the Ministry of Defense for ROTAZA.

VI. OPERATION

A. The Rota-Zaragoza pipeline is a Spanish military installation, operated and maintained by a concessionaire. The Rota-El Arahal portion of the pipeline is the only segment used by the United States. That segment runs from the multi-collector of the Rota Naval Base to El Arahal pumping station number 2, and includes both the multi-collector and the pumping station.

The El Arahal inland terminal comprises the storage station of El Arahal, and lines connecting this station with the Morón Air Base fuel storage installation.

The Rota-El Arahal pipeline segment is connected to the petroleum marine terminal at Rota Naval Base.

B. Movements of United States and Spanish products within the ROTAZA system shall have equal priority, and both shall have priority over the movement of civilian products. DESC shall notify the Ministry of Defense of any movements of fuel.

C. The Ministry of Defense may not move U.S. fuel within the ROTAZA pipeline system or between tanks inside the terminal without prior authorization and approval of DESC.

D. The Ministry of Defense shall operate and maintain the transfer pumps and injection systems and provide the necessary additives for injection into U.S. products. The Ministry of Defense shall ensure that products being transferred to U.S. facilities are properly injected with FSII, CI, and SDA. The injected product shall meet the specifications of NATO STANAG 3747 for F-34/F-35. Quality control of the products of the Spanish Armed Forces and of the United States that are transported via the Rota-El Arahah pipeline and/or stored in the inland terminal tanks at El Arahah shall be carried out by the "Esteban Terrada" National Institute of Aerospace Technology.

E. If necessary, product movements shall be performed 7 days a week, 24 hours a day.

F. Fuel may be exchanged between the Ministry of Defense and DESC to provide for rotation of the stored products. The Ministry of Defense and DESC shall make every effort to consume fuel stored in the system that has been dormant for more than five years or shows signs of deterioration upon testing. When this occurs, the Parties shall jointly establish the minimum specifications to be met by the fuel being exchanged.

G. Minimum Flow Rates:

	Normal Flow	Reverse Flow
(1) Rota to El Arahah	1200 GPM (270 m ³ /h)	1200 GPM (270 m ³ /h)
(2) El Arahah to Morón AB	800 GPM (180 m ³ /h)	800 GPM (180 m ³ /h)

VII. FINANCIAL MATTERS

A. Budgeting for services provided by the Ministry of Defense shall be determined in the following manner:

1. Before September 15, DESC shall provide the Ministry of Defense with projected annual throughput requirements for the upcoming calendar year (January through December).
2. Before November 15, the Ministry of Defense shall provide a five-year budget to DESC. A budget for each of the five years shall be shown on a separate sheet. The data covering the calendar year shall constitute a formal budget proposal. The data covering the following four years shall be estimates.
3. In September, the Ministry of Defense and DESC representatives shall meet to discuss the upcoming year's (January - December) budget and to agree on allowable costs and prices.

B. Funding Approval:

1. This Annex 5 does not obligate funds.
2. After the budget and statement of prices are approved by DESC, a copy shall be provided to the Mixed Technical Commission.
3. Funding approved by DESC must be used within the designated budget year. Any extension beyond the budget year must be approved by DESC.

C. Payment: Payments shall be made quarterly within 30 days after validation of accounts and invoices.

VIII. CUSTOMS AND EXCISE

The United States is exempt from customs and taxation as described in the Agreement on Defense Cooperation.

IX. ANNUAL STATEMENT OF PRICES

The annual statement of prices shall include all allowed costs as stated below:

1. Terminal Operation. The United States shall reimburse for the use of El Arahah, to include operation of facility, maintenance of tanks, lines, pumps, all other systems, routine and special maintenance, inspection, and movement of product within the terminal and to pumping stations. This shall be a single annual cost.
2. Pipeline Movements. The United States shall reimburse movements through the ROTAZA system and transfers from El Arahah to Morón Air Base. The rate shall be the rate per barrel or the equivalent in the International System (m^3), depending on the source and destination of the transfer.
3. Injection of additives. The United States shall reimburse injection of additives into fuel transferred from the El Arahah terminal to Morón Air Base. The rate shall be expressed as the rate per barrel, or the equivalent in the International System (m^3), of fuel transferred.
4. Projects. This shall be a list of individual projects and costs proposed for that fiscal year. The projects must be approved by the Mixed Technical Commission. The United States may request projects that modify the capabilities of the system. If such modifications are made, it shall be solely to meet United States requirements governing the new capabilities, but the projects shall be carried out in accordance with Spanish rules, specifications, and regulations. The United States shall bear all costs associated with these projects. On completion of the projects, maintenance of the added capabilities shall then be considered part of the services provided under this Annex.

U.S. funded projects and new construction shall be included in the ROTAZA pipeline inventory.

Projects shall be reviewed and the parties shall agree which projects shall be approved for funding in the upcoming year. The annual statement of prices shall indicate each of the project names and the agreed total cost for each.

X. PRODUCT LOSSES

1. Storage. Fuel losses incurred during storage and handling shall be computed by the Ministry of Defense and reported to DESC by the third working day of each month. If storage and handling loss variance, compared to previous monthly measurement results, exceeds $\frac{1}{4}$ of one percent (0.25%) for the total amount of product on hand and handled, a joint investigation shall be conducted by the Ministry of Defense and DESC to determine the causes. Necessary action shall be adopted based upon the principle of equity. The investigation shall be headed by the Ministry of Defense, which shall prepare a written report of the investigation. A copy of the report shall be forwarded to DESC with the next monthly inventory report.
2. Transit Losses. Differences between shipment tank(s) and receipt tank(s) on either shipments or receipts exceeding $\frac{1}{2}$ of one percent (0.50%) of the total amount of product handled shall require a joint investigation conducted by the Ministry of Defense and DESC to determine the causes. Necessary action shall be adopted based upon the principle of equity. The investigation shall be headed by the Ministry of Defense, which shall prepare a written report of the investigation. A copy of the report shall be forwarded to DESC with the next monthly inventory report.
3. Fuel Contamination. Any product in which contamination is detected or suspected shall be immediately reported to DESC. A joint investigation shall be initiated to determine the causes and liability for any degradation or contamination. If the investigation determines that the degradation or contamination is due to operational negligence, and the product is not usable according to NATO STANAG 1110, restitution shall be made in accordance with the provisions established by this Annex.

4. Loss of DESC fuel exceeding the above allowable percentage or loss due to contamination due to system malfunctions, breakdowns or accidents not attributable to war or acts of God, shall be either replaced in kind by the Spanish Government or reimbursement made, based on the cost of product, which shall include acquisition and transportation costs.

XI. TANKS DESIGNATED FOR U.S. USE

El Arahah Inland Terminal

Tank	Capacity (m ³)	Capacity (barrels)	Gallons
206	12,719	80,000	3,360,000
207	12,719	80,000	3,360,000
208	12,719	80,000	3,360,000
209	12,719	80,000	3,360,000
210	12,719	80,000	3,360,000
211	7,949	50,000	2,100,000
212	7,949	50,000	2,100,000
213	12,719	80,000	3,360,000
214	7,949	50,000	2,100,000
215	12,719	80,000	3,360,000
216	7,949	50,000	2,100,000
Total	120,829	760,000	31,920,000

The following conversion shall be used to compute U.S. gallons/barrels:

1 U.S. gallon = 3.78541 liters

1 U.S. barrel = 158.98722 liters

XII. QUALITY SUPERVISION

1. All U.S. products entered into the system shall meet the requirements of NATO STANAG 3747. The Ministry of Defense shall be responsible for surveillance and quality control of U.S. products and for monitoring their handling and transportation (operational control), and shall ensure that the standards of NATO STANAG 3747 are maintained.

2. Quality control and surveillance shall be performed using the following standards:

- a. Minimum sampling and testing requirements shall be performed in accordance with NATO STANAG 3149.
 - b. Test methods shall be those identified in NATO STANAG 3747 or Spanish equivalent methods.
 - c. Test equipment shall be calibrated in accordance with NATO STANAG 3747 or the Spanish equivalent method and/or manufacturer's requirements.
3. DESC shall be given a copy of certificates of analysis for products tested at the time of receipt, storage and shipment.

XIII. FINAL PROVISION

If requested, separate Memoranda of Understanding may be prepared, negotiated by both Parties, to implement the provisions of this Annex. These Memoranda shall reflect the provisions of this Annex and of the Agreement on Defense Cooperation between the Kingdom of Spain and the United States of America.

ARTICLE 49

The following text shall be added to the end of Paragraph 5 of Article 1 of Annex 6 of the Agreement:

The technical construction standards of work projects contracted and executed directly by U.S. forces shall conform to the requirements of Spanish legislation and to the requirements of U.S. legislation if the latter does not contradict the former. In cases where it is necessary, the Permanent Committee may authorize the implementation of the project according to special technical construction standards.

ARTICLE 50

Paragraph 3 of Article 3 of Annex 6 shall be replaced by the following text:

3. Earnings, salaries or remuneration of any kind received by such persons in Spanish territory, exclusively because of the contracts authorized by this Agreement, shall, for purposes of tax exemption under Spanish law, be considered as having been obtained in the territory of the United States.

ARTICLE 51

Paragraph 2 of Article 5 of Annex 6 of the Agreement shall be replaced by the following text:

2. Insurance policies referred to in this Article shall be taken out with companies legally authorized to conduct this type of business in Spain and shall contain provisions:

2.1 Requiring submission to Spanish law and jurisdiction of any problem that may arise in regard to the interpretation or application of the clauses and conditions of the policy;

2.2 Authorizing the insurance company, as subrogee of the insured entity, to attend to directly and to assume, with respect to any person damaged, the legal consequences arising from the occurrence of such damages.

ARTICLE 52

The following text shall be added as Section (e) of Article 4 of Annex 7 of the Agreement:

(e) Retired members of the United States armed forces residing in Spain and their dependents.

ARTICLE 53

Paragraph 3 of Article 2 of Annex 8 of the Agreement shall be replaced with the following text:

3. The Spanish Ministry of Defense, in consultation with and in furtherance of the interests of the United States forces, shall negotiate with the representatives of the local labor personnel. Bearing in mind the peculiarities of the system applicable to this kind of personnel, the United States forces shall participate in full capacity during the entire negotiating process involving personnel regulated by this article. Such negotiations shall be in reference to terms and conditions of employment agreed upon between the Spanish Ministry of Defense and the United States forces.

Any agreement between the Spanish Ministry of Defense and the representatives of such employees shall be subject to prior agreement of the Spanish Ministry of Defense and the United States forces.

The lack of agreement between the Spanish Ministry of Defense and representatives of the local labor personnel shall not be subject to arbitration or judicial decision.

Disagreements between the Spanish Ministry of Defense and the United States forces shall be referred to the Permanent Committee for resolution.

ARTICLE 54

Paragraph 5 of Article 5 of Annex 8 of the Agreement shall be replaced by the following text:

5. Determining in accordance with the local collective labor agreement, reassignments and promotions and notifying the Spanish Ministry of Defense thereof;

ADDITIONAL PROVISION ONE

Existing references to United States "establishments" on Spanish territory to be found in the Agreement on Defense Cooperation between the United States of America and the Kingdom of Spain of December 1, 1988, in the Annexes and the Exchanges of Notes, parts thereof, shall be deleted.

ADDITIONAL PROVISION TWO

The following Exchanges of Notes, between the Governments of Spain and the United States of America of 1 December 1988, which form an integral part of the Agreement on Defense Cooperation of that same date, shall continue to be in force:

Notes 421/12 by the Ministry of Foreign Affairs of Spain and 1005 by the Embassy of the United States of America on a transitional agreement regarding the functioning/operation and maintenance of general installations and services.

Notes 422/12 by the Ministry of Foreign Affairs of Spain and 1008 by the Embassy of the United States of America regarding the system applicable to industrial cooperation in the defense field.

Notes 1006 by the Embassy of the United States of America and 423/12 by the Ministry of Foreign Affairs of Spain that set forth the applicable U.S. provisions in the event of compensations for accidents involving nuclear-powered vessels.

Notes by the Ministry of Foreign Affairs of Spain and reply by the Embassy of the United States of America on the Spanish Government's policy regarding the overflight by airplanes with nuclear materiel and weapons on board.

ADDITIONAL PROVISION THREE

The following Exchanges of Notes, between the Governments of Spain and the United States of America of December 1, 1988, which formed integral part of the Agreement on Defense Cooperation of that same date, have ceased to be in effect:

Notes 420/12 by the Ministry of Foreign Affairs and 1004 by the Embassy of the United States of America, with regard to transitional arrangements, deadlines, and terms and conditions for the application of rights and obligations arising from the Agreement on Defense Cooperation between the two Parties.

Note 1007 by the United States of America and 424/12 by the Ministry of Foreign Affairs of Spain regarding the authorized U.S. force level in Spain on a temporary basis.

FINAL PROVISION

The Agreement on Defense Cooperation between the United States of America and the Kingdom of Spain of December 1, 1988, as amended by this Protocol of Amendment, shall have a new initial duration of 8 years and shall be extended pursuant to the terms set forth in Article 69.2.

This Protocol of Amendment shall enter into force upon written communication between the Parties that they have satisfied their respective constitutional requirements.

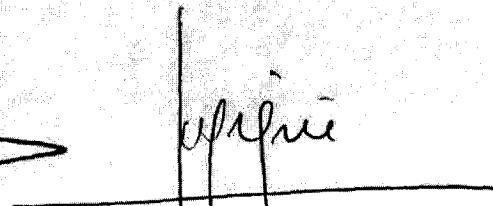
Done in Madrid, this day, April 10, 2002, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE UNITED STATES OF
AMERICA

FOR THE KINGDOM OF SPAIN



Colin L. Powell
Secretary of State



Josep Piqué i Camps
Minister of Foreign Affairs