



**MEMORANDUM OF UNDERSTANDING BETWEEN
THE MINISTRY OF DEFENCE OF ITALY AND THE DEPARTMENT OF
DEFENSE OF THE UNITED STATES OF AMERICA FOR MEETING
NATIONAL DEFENSE REQUIREMENTS - SECURITY OF SUPPLY**

INTRODUCTION

This Memorandum of Understanding for meeting national defense requirements – security of supply is made between the Ministry of Defence of Italy and the Department of Defense of the United States of America, hereinafter referred to as the “Parties”.

This MoU is an implementation of the “Declaration of Principles for Enhanced Cooperation in Matters of Defense Equipment and Industry” dated 9 October 2003. It is intended as specific implementation of the “Meeting National Defense Requirements” section of the Declaration of Principles. It sets forth the principles each Party intends to follow to provide reciprocal priorities support.

The Ministry of Defence of Italy and the Department of Defense of the United States of America

Considering their commitment at Governmental Level stemming from the North Atlantic Treaty, signed in Washington D.C. on 4 April 1949,

Recognizing the benefits of improving co-operation on security of supply for national defense requirements and that it is in the national interest of both Parties to extend existing cooperation by concluding an implementing arrangement on security of supply,

Noting that, among the consequences of globalization and industrial restructuring are the creation of transnational defense companies, possible loss of certain domestic industrial capabilities and capacities, and increasing acceptance of mutual interdependence of supplies needed for approved national defense requirements,

Recognizing, in this environment, the value of dialogue, consultation, and arrangements that facilitate the supply of defense articles and defense services,

Recognizing, as a consequence, that it is desirable that each Party provides for preferential treatment of contracts and subcontracts that promote national defense and support to each other,

have reached the following understandings.

ARTICLE 1 - DEFINITIONS

For the purposes of this Memorandum, the following definitions will be used:

- a. *Security of Supply* - a nation's ability to assure a supply of defense products, materials and services sufficient to discharge its military commitments in accordance with its foreign and security policy requirements.
- b. *Priorities System* - procedures under which a Government can assign priority to, and provide preferential acceptance and performance of, certain contracts (including subcontracts and purchase orders) over other contracts to meet approved defense requirements. As defined here, a Priorities System addresses only the Industrial Resources defined below.
- c. *Industrial Resources* - materials, services, and facilities, including construction materials, needed to meet approved defense requirements. This term includes any raw, in process, or manufactured material, article, commodity, supply, equipment, component, accessory, part, assembly, or product of any kind, technical information, process, or service. However, *Industrial Resources*, for the purposes of this arrangement, do not include commercial end items commonly available in the country of the supplier. For the Ministry of Defence of Italy *Industrial Resources* include only *Defense Articles* – any weapon, weapon system, munitions, aircraft, vessel, vehicle, boat, or other implement of war and any part or component thereof and any related Document- and *Defense Services* – any service, test, inspection, maintenance and repair, and other post design services, training, technical or other assistance, including the provision of Technical Information, specifically involved in the provision of any Defense Article.

ARTICLE 2 -MAJOR PRINCIPLES

Security of Supply presupposes, where possible, cooperation and coordination, including the mutual acceptance and support of industrial resource priorities set by either Party.

Complementary, mutual Priorities Systems arrangements between the Parties are important to enable each to acquire the industrial resources needed to meet urgent and critical defense requirements in a timely, effective, and efficient manner. Such Priorities Systems are not designed to rectify poor provisioning.

Each Party will provide reciprocal priorities support. The Ministry of Defence of Italy will provide reciprocal priorities support by utilizing a system based on a Code of Conduct to be signed by Industry. The Department of Defense of the United States of America will provide priorities support by utilizing the existing Priorities System that is based on national law.

If so requested, each Party will at all times, to the greatest extent practicable and with due regard to its international commitments, immediately consult in a spirit of cooperation with the other Party in order to enable each to:

- a. assign or facilitate the assignment of priority designations to specified defense contracts that are issued by the other Party, or by contractors, subcontractors, or suppliers working on an approved defense program requirement of the other Party, to suppliers located in its territory and participating in the relevant Priorities System,
- b. facilitate the acceptance and priority performance by participating contractors, subcontractors, or suppliers located in its territory of designated defense contracts as necessary to meet customer delivery requirements,
- c. when requested provide assistance to seek to resolve conflicts among designated contracts in order to ensure timely delivery of Industrial Resources under these contracts,
- d. as appropriate, and on a reciprocal basis, endeavor to enter into Security of Supply arrangements with other defense establishments of members of the North Atlantic Treaty Organization, the European Union, other Alliances or Organizations to which the Governments of the Parties are members.

ARTICLE 3 - ACTIONS

Italy

In furtherance of the above principles, the Italian Ministry of Defence, acting within its authorities, will invite Italian Companies to participate in a Code of Conduct System. The Italian Ministry of Defence will notify the US Department of Defense of the Italian Companies participating in the Code of Conduct System. Pursuant to the Code of Conduct with Italian Industry, when requested to do so by designated US Department of Defense authorities, the Italian Ministry of Defence will require accredited Italian Companies to do all they reasonably can to provide preference to contracts supporting US Department of Defense programs, including:

- a. accepting that a contract they are entering into or are party to with the US Department of Defense or with a US company will, after approval by the point-of-contact of the Italian Ministry of Defence, be accepted as a contract falling under the Code of Conduct (Code of Conduct contracts),
- b. inserting into any subcontract provisions designed to ensure due performance of such a contract,
- c. responding in a timely manner to requests of the US Department of Defense, via the Italian Ministry of Defence, for amendments to the timing of deliveries provided that the customer is willing to compensate them as required by the relevant contractual provisions, and
- d. bringing to the attention of the Parties priority cases between Code of Conduct contracts and other contracts.

In relation to Code of Conduct contracts, the Italian Ministry of Defence will liaise with accredited Italian contractors, subcontractors, and suppliers as described below, when requested to do so by the US Deputy Under Secretary of Defense (Industrial Policy) and/or the involved Italian Company. The Italian Ministry of Defence will use its best efforts to facilitate US Department of Defense requests for priority performance.

In the event that an Italian Company intends to refuse to provide the priorities support requested by the US Department of Defense, the Italian Ministry of Defence will, acting within its authorities, as detailed in the Code of Conduct, investigate the circumstances surrounding the case. The US Department of Defense will have the opportunity to provide the Italian Ministry of Defence with details of the case. The Italian Company will be entitled to respond either in writing or orally. The Italian Ministry of Defence will take measures necessary to assess/evaluate the circumstances surrounding the case:

- a. If the Italian Ministry of Defence considers that the Italian Company has complied with the Code of Conduct, the Italian Ministry of Defence will, if requested to do so by the Italian Company, notify the US Department of Defense. The US Department of Defense will act on that notification as it considers appropriate. The Italian Ministry of Defence will use its good offices with the US Department of Defense to resolve any remaining difficulties.

- b. If the Italian Company is deemed not in compliance with the Code of Conduct, the Italian Ministry of Defence will use its good offices in order to obtain assurance that the Company will take such steps considered necessary to rectify the situation, and will notify the US Department of Defense. The US Department of Defense will act on that notification as it considers appropriate.

In the event that an Italian Company cannot satisfy a request to amend a contract falling under the Code of Conduct without incurring a financial loss, and the relevant customer is unwilling to reimburse it, the Company may reasonably decline the request. Under no circumstances shall an Italian Company be required to suffer a loss without compensation.

US

In furtherance of the above principles, and when requested to do so by designated Italian Ministry of Defence authorities, the US Department of Defense will arrange for the Italian Ministry of Defence, or Italian contractors, subcontractors, or suppliers, to use priority ratings on defense contracts placed with US contractors, subcontractors and suppliers. Priority performance will be provided under the US Defense Priorities and Allocations System (DPAS). The US DPAS:

- a. establishes priority designations for contracts performed in the US, and provides preference in performance of those contracts,
- b. defines US industry's responsibilities, setting forth rules to ensure timely delivery of industrial products, materials, and services to meet approved national defense program requirements,
- c. provides assistance procedures to cope with special circumstances caused by production related problems, and
- d. sets forth compliance procedures.

The Office of the Under Secretary of Defense (Industrial Policy) will keep the US defense procurement community informed of all Italian Companies participating in good standing in the Code of Conduct System.

Italy and US

All activities under this Memorandum will be carried out in accordance with the respective national laws and regulations and with any other obligation binding the respective Governments.

The Parties do not intend to place the financial responsibility of implementing this Memorandum in Italy with Italian industry.

In fulfilling their commitments under this Memorandum, the Parties recognize that Italian and US Companies may have contracts with other customers, which the Parties do not wish to undermine.

Any dispute arising from the interpretation and implementation of the present Memorandum, including prioritization of supply, shall be solved by means of consultation between

the Parties. Each Party reserves the right to decide final prioritization requirements within its territory, and the other Party will give deference to such requirements.

Participation in the Code of Conduct System may be offered by Italian companies as an indication of their reliability in supplying industrial resources to the US Department of Defense and the contractors supplying it. Likewise, US companies may offer being subject to the US DPAS as an indication of their reliability in supplying industrial resources to the Italian Ministry of Defence and the contractors supplying it.

ARTICLE 4 - FINAL PROVISIONS

Point of contact

Essential to the implementation of this Memorandum and the ability of the Parties to provide priorities support to each other when needed is the designation of a point of contact within each Party. This office serves as the focal point for the implementation and administration of this Memorandum and is the office to which all requests for priority designations, priorities assistance, and related issues should be directed for approval.

Italy

The Ministry of Defence of Italy, acting within its authorities, will keep under review this assistance on the basis of information it receives with a view to understanding and responding to issues related to the Code of Conduct.

- a. Requests for priorities assistance under this Memorandum should be directed to:

Ministero della Difesa
Segretariato Generale della Difesa / Direzione Nazionale degli Armamenti
III Reparto – 3° Ufficio
Via XX Settembre, 123/A
00187 Roma

US

- a. Requests for priorities authorization and/or assistance in the US should be directed to:

The Deputy Under Secretary of Defense (Industrial Policy)
3330 Defense Pentagon
Washington, DC 20301

- b. Copies of correspondence related to priorities authorization and/or assistance in the US should be provided to:

Office of Strategic Industries and Economic Security
Attention: DPAS
Room 3876
US Department of Commerce
Washington, DC 20230

Italy and US

Review of Priorities Systems policy

Representatives of the Parties will review their established or developing Priorities Systems policies and procedures at the request of either Party; and will adjust them and the provisions of this Memorandum as feasible and necessary to comport with evolving national Priorities Systems and to provide Security of Supply. Industry will be consulted during any such review.

ARTICLE 5 - ENTRY INTO EFFECT, REVISION, DURATION, AND TERMINATION

This Memorandum shall enter into effect on the date of the last signature. Requests for priorities assistance may be made after each of the points of contact in Article 4 have acknowledged receipt of notification that the respective internal procedures have been established.


This Memorandum may be amended by written consent of the Parties.

This Memorandum will remain in effect until either Party discontinues its participation as set forth below.

If either Party considers it necessary to discontinue its participation under this Memorandum, it will notify the other Party in writing. The two Parties will immediately consult to evaluate the consequences of such termination. If agreement cannot be reached on the way forward, this Memorandum will be terminated six months after the date of notification.

Signed in two original texts in the English language.

FOR THE DEPARTMENT OF DEFENSE OF
THE UNITED STATES OF AMERICA


Signature

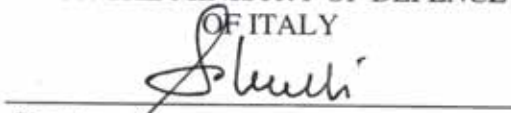
KENNETH S. KLINE
Name

UNDER SECRETARY OF DEFENSE
Title

WASHINGTON, DC
Location

21 July 2006
Date

FOR THE MINISTRY OF DEFENCE
OF ITALY


Signature

LT. GEN. GIANNI BOTONDI
Name

SECRETARY GENERAL OF DEFENCE
AND NATIONAL ARMAMENTS DIRECTOR
Title

ROME
Location

1 August 2006
Date