COMPLEMENTARY AGREEMENT FOUR

Defense Industrial Cooperation

PREAMBLE

The Government of the United States of America and the Government of Spain, hereinafter referred to as the "Governments":

Intending to increase their respective defense capabilities through more efficient cooperation in the areas of research and development, production, procurement and logistic support of defense equipment, in order to:

- Make the most cost-effective and rational use of the resources allocated to defense;
- Promote the widest possible use of standard or interoperable equipment; and
- Develop and maintain an advanced technology capability for the North Atlantic Alliance, and particularly with respect to the Parties to this Agreement;

Noting the substantial purchases of defense items by Spain from the United States and the purchase of defense items from Spain by the United States, and recognizing the desirability of working toward an equitable balance in defense trade between the two countries;

Recognizing that suppliers in each country should be afforded the opportunity to compete, on a reciprocal basis, for the procurement of defense products, equipment, materials and services, hereinafter referred to as "defense items and services";

Seeking to improve the present situation and to strengthen their military capability and economic position through the mutual acquisition of standard or interoperable equipment and to achieve the above aims;

Enter into this Agreement, which sets out the guiding principles governing mutual cooperation in research and development, production, procurement and logistic support of conventional defense equipment.

ARTICLE 1

Principles Governing Mutual Defense Cooperation

1.1.1 Both Governments will take immediate steps to achieve and maintain an equitable balance in their exchanges, in terms of the value of contracts and technological levels, to the maximum practicable extent consistent with their national policies. An equitable balance, in principle, shall be achieved when the two Governments have implemented all practicable means at their disposal to maximize defense research and development (R&D) cooperation and reciprocal procurement to the extent compatible with the nature of each country's technological and industrial base.

1.1.2 Both Governments will make their best efforts to facilitate defense R&D cooperation, coproduction of defense equipment and provision of opportunities to compete for procurement of defense items and services to include systems, subsystems, components, and spare parts at all technological levels.

1.1.3 In order to assess the mutual flow of defense procurement, the Governments have jointly determined counting procedures which are set down in Annex 1 to this Agreement, and which will apply to all defense items and services purchased by them directly or through their respective industries under this Agreement. Defense items and services are those items and services which may be procured utilizing appropriated funds of the United States Department of Defense or budgeted funds of the Spanish Ministry of Defense.

1.2 The Governments will, consistent with their relevant laws and regulations, give full and prompt consideration to all requests for cooperative R&D, and to all requests for production and procurement which are intended to enhance standardization and/or interoperability within the Atlantic Alliance.

1.3 In the interests of standardization and the effective utilization of scarce resources, each Government shall, to the extent possible, adopt qualified defense items that have been developed or produced in the other country to meet the requirements of the Government of such country.

1.4 Each Government shall from time to time notify the other Government of defense items that may not be acquired by the notifying Government from other than domestic sources, as well as those defense items that may be particularly suitable for acquisition by the other Government.

1.5 Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense acquisition organizations to achieve and maintain the equitable balance mentioned in Article 1.1.1 of this Agreement, as well as the other aims of this Agreement.

1.6 Competitive contracting procedures shall normally be used in acquiring items of defense equipment developed or produced in each country for use by the other country's defense establishment.

1.7 Both Governments agree that consistent with and to the extent permitted by national laws and regulations, mutually agreed implementing procedures will incorporate the following:

1.7.1 Barriers to defense industrial cooperation including those to procurement of defense items developed or produced in the other country shall be removed. Specifically, offers or proposals of defense items produced in or defense services provided by each country will be evaluated without applying price differentials under "buy national" laws and regulations, and without applying the cost of applicable import duties;

1.7.2 Each country will give full consideration to all qualified sources in the other country. In addition, each country will give full consideration to all applications for qualification by sources in the other country;

1.7.3 Offers or proposals will be required to satisfy requirements of the purchasing Government concerning performance, quality, delivery and costs;

1.7.4 Provisions for duty-free certificates and related documentation;

1.7.5 Arrangements concerning quality control and audits of incurred costs and price proposals.

1.8 Both Governments will review defense items and services submitted as candidates for their respective requirements. They will indicate requirements and proposed purchases in a timely fashion, in accordance with national regulations, to ensure adequate time for their respective industries to qualify as eligible suppliers and to submit a bid or proposal.

1.9 Technical Data Packages (TDPs) shall not be transferred between the two countries without the written permission of those owning or controlling any associated proprietary rights. Each Government will ensure that any TDPs which it may receive from the other are not used for any purpose other than for the purpose of offering or bidding on or performing a prospective defense contract, without the prior written

agreement of those owning or controlling proprietary rights, and that full protection shall be given to such proprietary rights, or to any privileged, protected, or classified data and information they contain.

1.10.1 Transfers to third parties of defense articles or technical data made available under this Agreement, and of articles produced with such data, will be subject to the prior written agreement of the Government that made available the defense articles or technical data, except as otherwise provided in particular arrangements between the two Governments or in multilateral agreements to which both Governments are parties.

1.10.2 Each Government will base its decisions regarding requests by the other for agreement to third party transfers on its laws, regulations and policies. Each Government will use the same criteria for proposed transfers by the other as it uses for itself, and will not reject, solely in the pursuit of its own national commercial advantage, a request from the other for a third country transfer of such defense articles or technical data.

1.11 Both Governments will use their best efforts to assist in negotiating licenses, royalties and technical information exchanges with their respective industries or other owners of such rights. Consistent with its laws and regulations, each Government will

make available to the other all information necessary to implement cooperative arrangements under this Agreement. To the extent feasible, both Governments will seek an understanding with their respective industries that, in the interest of standardization and defense industrial cooperation, proprietary rights in defense-relevant information and data can be transferred by appropriate arrangements between the industries of the two countries.

1.12 Arrangements and procedures will, at the request of the purchasing Government, be established concerning follow-on logistic support for items of defense equipment purchased pursuant to this Agreement. Each Government will make its defense logistic systems and resources available to the other for this purpose as required and mutually agreed.

1.13 To the extent consistent with their respective laws and regulations and on the basis of reciprocity, each Government will waive its claims for reimbursement from the other with respect to non-recurring research, development, and production costs.

ARTICLE 2

Implementing Procedures

2.1 Both Governments agree to create a Joint United States-Spanish Committee for Defense Industrial

Cooperation to which they will appoint representatives who will develop terms of reference for this Committee and procedures for implementing this Agreement. Such implementing procedures are included in Annex 1 to this Agreement.

2.2 The Under Secretary of Defense for Research and Engineering will be the responsible authority in the United States Department of Defense for the development of implementing procedures under this Agreement.

2.3 The Director General de Armamento y Material of the Ministry of Defense will be the responsible authority of the Government of Spain for the development of implementing procedures under this Agreement.

ARTICLE 3

Industry Participation

3.1 Implementation of this Agreement will involve maximum industrial participation. Notwithstanding the governmental procedures to facilitate the implementation of this Agreement, it will be the basic responsibility of the industries in each country to identify and advise their Government of their respective capabilities for cooperation and to carry out the supporting actions to bring industrial participation to consummation.

3.2 Each Government will be responsible for calling to the attention of its relevant industries the basic understanding of this Agreement and the appropriate implementing guidance. Both Governments will take all necessary steps to ensure that their industries comply with the regulations pertaining to security and to safeguarding classified information.

3.3 The Governments will arrange that their respective defense acquisition organizations are made familiar with the principles and objectives of this Agreement, and will assist sources in the other country to obtain information concerning proposed purchases, necessary qualifications and appropriate documentation.

3.4 To encourage the exchange of information in accordance with the purpose of this Agreement, each Government will, pursuant to its national laws and regulations, take action to facilitate participation by properly cleared officials and representatives of the other country in informational symposia, program briefings and prebid conferences, as well as access to publications and visits to installations.

ARTICLE 4

Security

4.1 Security arrangements under this Agreement will be subject to any subsequent security agreements entered into by the Governments. Until such security arrangements are agreed, the following provisions will apply:

4.1.1 To the extent that any items, plans, specifications, or information furnished in connection with the implementation of this Agreement are classified by the furnishing Government for security purposes, the other Government shall maintain a similar classification and employ security measures equivalent to those employed by the classifying Government.

4.1.2 Information provided by either Government to the other on condition that it remain confidential shall either remain in its original classification or be assigned a classification that ensures protection against disclosure equivalent to that required by the other Government. To assist in providing the desired protection, each Government will mark such information furnished with a legend indicating the origin of the information, that the information relates to this Agreement, and that the information is furnished in confidence.

4.1.3 Each Government will permit security experts of the other Government to make periodic visits to its territory, when it is mutually convenient, to discuss with its security authorities its procedures and facilities for the protection of classified military information furnished to it by the other Government. Each Government will assist such experts in determining whether such information provided to it by the other Government is being adequately protected.

4.1.4 The recipient Government will investigate all cases in which it is known or there are grounds for suspecting that classified military information from the originating Government has been lost or disclosed to unauthorized persons. The recipient Government shall also promptly and fully inform the originating Government of the details of any such occurrences, and of the final results of the investigation and corrective action taken to preclude recurrences.

ARTICLE 5

Defense Production Projects

5.1 The Government of the United States shall use its best efforts to furnish the Government of Spain such assistance as may be mutually agreed upon in light of the latter's priorities for the development, production, maintenance, repair and overhaul of Spanish defense equipment and materials, including arms and ammunition.

5.2 As a contribution to increasing the productive capacity of the Spanish military industry, defense production projects shall be designated by mutual agreement. A list of those projects under consideration shall be developed as soon as feasible; this list shall become part of this Agreement. Each Government shall from time to time notify the other of defense

industrial cooperation projects it considers particularly suitable for addition to the list. These projects may be carried out by Spain alone, or as cooperative joint production projects by Spain and the United States, or as multilateral projects with the participation of one or more NATO countries as mutually agreed.

5.3 The Government of the United States will provide to the Government of Spain, or will assist the Government of Spain to obtain, wherever possible at no cost, or on terms no less favorable than those extended by the Government of the United States to other NATO countries, the industrial property rights requested by the Government of Spain to develop its own defense production or to promote standardization and interoperability of equipment manufactured in Spain with that of the United States, and with other members of the NATO Alliance.

5.4 In accordance with the objectives set forth in Article 1.1.1 of this Agreement and the other goals of this Agreement, the Governments may enter into specific Government-to-Government or Government-to-industry agreements for cooperation in developing, producing, coproducing or procuring defense items.

ARTICLE 6

Administration

6.1 The United States-Spanish Joint Committee for Defense Industrial Cooperation will be co-chaired by the authorities referred to in Article 2 of this Agreement, or their designated representatives. The Committee will meet as agreed at the request of either Government, but a minimum of once a year to review progress in implementing this Agreement. It will discuss the research, development, production, procurement and logistics support needs of each country and the likely areas of cooperation; develop the list of defense industrial cooperation projects mentioned in Article 5.2 of this Agreement; agree to the basis of and keep under review the financial statement referred to in Article 6.3 of this Agreement; and consider any other matters relevant to this Agreement.

6.2 Each Government will designate points of contact at the Ministry/Department of Defense level, in each purchasing Service/Agency under the Ministry/Department of Defense, and with other Government Departments and Agencies as appropriate.

6.3 An annual United States-Spanish statement of the current balance and long-term trends of R&D cooperation, production, and purchases between the two countries will be prepared on a basis to be mutually agreed.

ARTICLE 7

Effect of Termination

7.1 Notwithstanding the expiration or termination of this Agreement, any contract entered into consistent with the terms of this Agreement will continue in effect, unless the contract is terminated in accordance with its own terms.

7.2 Articles 1.9, 1.10 and Article 4 of this Agreement will continue in full force and effect after, and notwithstanding the expiration or termination of this Agreement.

ARTICLE 8

Entry into Force

8.1 This Agreement, including its Annexes, will enter into force and remain in force in accordance with the provisions of Article Six of the Agreement on Friendship, Defense and Cooperation.

8.2 Supplementary protocols which may be negotiated by the responsible officials and approved by the appropriate Government authorities will be incorporated in this Agreement and made an integral part thereof.

Done in Madrid, this 2nd day of July, 1982, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE UNITED STATES OF AMERICA:

Terence A. Todman

FOR THE KINGDOM OF SPAIN:

F. P. R. Ussia.

COMPLEMENTARY AGREEMENT FOUR

Defense Industrial Cooperation

ANNEX I

Principles Governing Implementation

ARTICLE 1

Introduction

This Annex sets forth the procedures agreed upon by the Governments of the United States and Spain to implement Complementary Agreement Four, hereinafter referred to as "The Agreement," to the Agreement on Friendship, Defense and Cooperation between the two countries.

ARTICLE 2

Major Principles

2.1 Each Government will consider for its defense requirements qualified defense items and services developed or produced in the other country.

2.2 The responsible Government authorities in each country will assist sources in the other country to obtain appropriate information concerning:

2.2.1 Plans and programs for research, development, production and acquisition of defense items and services.

2.2.2 Requirements for the qualification of sources.

2.2.3 Specifications and quality assurance standards.

Both Governments will respond promptly to requests for information that comply with their respective regulations and procedures. However, notwithstanding the governmental procedures established to facilitate the Agreement, it will be the responsibility of Government and/or industry representatives in each country to acquire information concerning the other country's research, development and procurement plans and to respond to solicitations in accordance with the prescribed acquisition regulations and procedures of the purchasing country.

ARTICLE 3

Actions

3.1 Both Governments will review and, where considered necessary, revise policies, procedures and regulations to ensure that the principles and objectives of the Agreement, which are intended to be compatible with the broad aims of NATO standardization and interoperability, are taken into account. Recognizing that factors such as delivery date requirements for supplies, the interests of security, and the timely conduct of the contracting process must be considered, both Governments agree that the following measures will be taken to ensure free and full competition for the award of contracts:

3.1.1 Ensure that, as a minimum, the following entities are familiar with the principles, objectives and terms of the Agreement:

- Their respective defense planning, programming, and contracting offices.
- Their respective offices responsible for defense imports and exports.
- Their respective agencies and industries responsible for the research, development, and production of defense items and/or services.

3.1.2 Ensure that, consistent with national laws and regulations, offers of defense items developed and/or produced in the other country will be evaluated without applying to such offers either price differentials under "buy-national" laws and regulations or the cost of import duties.

entry certificates and related documentation.

3.1.4 Assist industries in their respective countries to advise the other Government of their capabilities, and assist such industries in carrying out the supporting actions to maximize industrial participation in the implementation of the Agreement.

3.1.5 Consider defense items and services offered by the Government or industry of the other country as candidates for their respective

requirements. Identify specific requirements and proposed purchases to the other country in a timely fashion to ensure that agencies and industries of such country are afforded adequate time to be able to participate in the research, development, production, and procurement processes.

3.1.6 Use their best efforts to assist in negotiating licenses, royalties, and technical information exchanges among their respective industries, and research and development institutes.

3.1.7 Permit the sale of defense equipment produced under license, coproduction agreements and/or joint development projects to allied countries and to appropriate third countries, subject to the policy outlined in Article 1.10 of the Agreement. Each agreement for a joint development or coproduction will address transfers of items or technology to allied or third countries.

3.1.8 Ensure that those items and services excluded from consideration under the Agreement for reasons of protecting national requirements, such as the maintenance of a defense mobilization base, are limited to a small percentage of total annual defense acquisition spending. Such items and services, together with those that must be excluded from consideration under the Agreement because of legally imposed restrictions on acquisition from non-national

sources, will be identified as soon as possible by the Department of Defense as well as by the Ministry of Defense. Lists of these items and services will be prepared and kept under review at this level.

3.1.9 Pursuant to its national laws and regulations, facilitate arrangements for visits by properly cleared Government officials and industry representatives of the other country to explore and actively promote cooperation possibilities for research, development, production, procurement and logistic support of defense equipment.

3.2 Both Governments will ensure that their respective actions under the Agreement in working toward an equitable balance in defense trade, take into consideration the level of technology involved as well as the contractual value of the items being purchased.

ARTICLE 4

Counting Procedures

4.1 The purchases and other transactions to be counted against the goals of the Agreement will be identified jointly by the Department of Defense and Ministry of Defense. In principle, all defense items and services purchased by the Department of Defense or Ministry of Defense from the other country will be counted as long as such purchases meet the following criteria:

4.1.1 Direct purchases by the Department of Defense or Ministry of Defense, including their respective agencies, one from the other.

4.1.2 Purchases by either the Department of Defense or Ministry of Defense from the industry of the other country. When such purchases involve offset agreements between the Government of either country and the industry of the other country, the amount of such offset shall be applied in calculating the balance.

4.1.3 Purchases by industry from the Government or industry of the other country in the framework of Government defense contracts.

4.1.4 Purchases by a third country government from the Government of the United States or the Government of Spain or the industry of either country when either of the following circumstances occur:

- The sale requires the prior agreement of the non-vendor Government.
- The sale is a direct result of the promotional efforts by the Government or industry of the non-vendor country, which fact has been previously acknowledged and agreed by the vendor party.

4.1.5 Acquisitions by either country of defense items or services resulting from projects jointly funded by both countries.

4.1.6 License fees, royalties and other associated income resulting from orders placed by the Department of Defense or the Ministry of Defense and/or industry in one country with a licensed company in the other country; or in Department of Defense-Ministry of Defense transactions.

4.1.7 Transfers of technology, and production, testing and quality control equipment required to achieve the goals of the Agreement.

4.1.8 Contributions by one country in research, development and demonstration programs in the other country that have been agreed by both Governments.

4.1.9 Purchases of non-defense items and services by the Government or industry of either country from the Government or industry of the other, provided that both Governments agree that any particular purchase is to be counted against the goals of the Agreement.

4.2 The following transactions will not be counted:

4.2.1 Maintenance and logistic support activities in either country under contracts in effect before the effective date of the Agreement.

4.2.2 Any transaction being carried out under contracts and agreements in effect before the effective date of the Agreement.

4.2.3 Operational expenses of either Government to achieve the goals of the Agreement.

4.3 Transactions listed in Article 4.1 of this Annex, and any others that both Governments agree, will be credited in the following manner:

4.3.1 At the value of the contract on its effective date.

4.3.2 Purchases by third countries of defense items or services from the Government of the United States or the Government of Spain or the industry of either country as described in Article 4.1.4 of this Annex, will be credited as a sale by the non-vendor country, as follows:

- When authorization by the non-vendor Government is required; only the value of the item(s) directly related to the authorization will be credited.
- When the sale is the direct result of promotional efforts by the Government or industry of the non-vendor country; only the value of parts, subassemblies, assemblies, equipment and services supplied by either the Government of the United States or the Government of Spain or their respective industries will be credited.

4.4 The following transactions will be credited in the manner and amounts agreed by both Governments:

- License fees, royalties, and any other income resulting from transfers of technology, and production, testing and quality control equipment between both countries.
- Orders placed by the Department of Defense or the Ministry of Defense and/or industry in one country with a licensed company in the other country, or from Department of Defense-Ministry of Defense transactions.
- Contributions by one country in research, development and demonstration programs in the other country.

4.5 Transactions will be credited according to the exchange rate of the respective currencies on the effective date of the transaction.

4.6 Each Government will prepare an annual counting report. These reports will summarize the data counted pursuant to each of the categories above. Supporting data for each category included in the summary will indicate the item supplied, the parties to the transaction, transaction date, and credited value. Both Governments will exchange the summary reports and supporting data sufficiently in advance of the annual meeting to permit review and comment or agreement by the other at least two (2) weeks prior to the meeting. Any disagreement concerning the reports will be settled by the Joint Committee established pursuant to Article 2.1 of the Agreement.

ARTICLE 5

Administration

5.1 Each Government will designate points of contact at their respective Ministry/Department of Defense levels, as well as within other relevant departments and agencies, for the purpose of carrying out those actions necessary to implement the Agreement.

5.2 The Joint Committee for Defense Industrial Cooperation will be responsible for the general administration of the Agreement. Its terms of reference are contained in Annex 2 to the Agreement.

5.3 Quality assurance procedures outlined in STANAGS 4107 and 4108 will apply, unless other provisions are mutually agreed to on any specific contract. Reimbursement for services provided shall be afforded in accordance with the national laws and regulations of each country.

MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA
AND
THE MINISTRY OF DEFENSE OF THE KINGDOM OF SPAIN
REGARDING RECIPROCAL GOVERNMENT QUALITY ASSURANCE
SERVICES

SECTION I
Preamble

A. The Department of Defense of the United States of America (U.S.) and the Ministry of Defense of the Kingdom of Spain (hereinafter collectively referred to as the "Participants") shall provide one another with reciprocal Government Quality Assurance (GQA) services in support of the procurement of defense products and services.

B. In general, the responsibilities of the Participants under this Memorandum of Agreement (MOA) shall be carried out by each Participant's respective quality assurance national authority (hereinafter referred to as the "Authorities") listed in Section III (Definitions and General Information), paragraph A.2. (Authorities) of this MOA. The Authorities shall accomplish such GQA services without charge in accordance with established and documented laws, directives, regulations, and procedures of their respective Participants.

C. The objective of this MOA is to ensure that each of the Authorities is able to employ the most effective and efficient GQA process possible when acting under the provisions of this MOA.

SECTION II
Scope

A. Applicability. Except as otherwise provided in this MOA, this MOA supersedes the Memorandum of Understanding between the Department of Defense of the United States of America and the Ministry of Defense of the Kingdom of Spain Regarding Reciprocal Quality Assurance Services, signed at Washington and Madrid on May 31 and June 12, 2000, and the amendments thereto (2000 MOU). The provisions of this MOA apply to contracts and derived subcontracts in support of contracts for defense articles and services entered into after the effective date of this MOA. However, a contract awarded by the U.S. Department of Defense (DoD) after the effective date of this MOA, but that supports a Foreign Military Sales (FMS) case that was entered into prior to the effective date of this MOA, continues to be covered by the provisions of the 2000 MOU.

B. The provisions of this MOA apply to the following purchasing methods for defense products and services:

   1. Purchases by Spain from the United States under the U.S. Foreign Military Sales (FMS) Program in accordance with the U.S. Arms Export Control Act and associated regulations, policies, and procedures.

   2. Direct commercial procurement contracts made outside of the Department of Defense-to-Ministry of Defense channels, whether by the U.S. DoD with suppliers located in Spain or by the Ministry of Defense of Spain with suppliers located in the United States.

C. Notwithstanding any other provisions of this MOA, if special arrangements for GQA support are made under an international cooperative project agreement in which the Participants participate, those special arrangements shall have precedence over this MOA.

D. A Request for GQA services under this MOA shall normally be restricted to those cases in which quality cannot be verified satisfactorily after receipt of the deliverables of a contract or where GQA support at the source is essential. GQA services should not normally be requested for non-complex, non-critical, or low-risk products or contracts.

SECTION III
Definitions and General Information

A. The following definitions apply to this MOA:

1. Acquirer: A Participant's organization or agency that enters into a contractual relationship with a Supplier and defines the product and quality requirements.

2. Authorities: The National Authorities are defined as the Defense Contract Management Agency (DCMA) for the U.S. DoD and the Dirección General de Armamento y Material, Subdirección General de Inspección y Servicios, Area de Inspecciones Industriales (DGAM/SDGINSERT/AII) for the Ministry of Defense of Spain.

3. Classified Information: Official information that requires protection in the interests of national security and is so designated by the application of a security classification marking. This information may be in oral, visual, magnetic, or documentary form or in the form of equipment or technology.

4. Controlled Unclassified Information: Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. It could include information that has been declassified but remains controlled.

5. Delegator: The representative authorized by the purchasing Authority to request GQA support to the host Authority.

6. Delegatee: The representative authorized by the host Authority to ensure GQA support is performed on behalf of the purchasing Authority.

7. Government Quality Assurance (GQA): The process by which the appropriate national Authorities establish confidence that the contractual requirements relating to quality are met by the Supplier.

8. Government Quality Assurance Representative (GQAR): The Government representative authorized by an Authority to perform GQA at the Supplier's plant on behalf of the Delegator in accordance with an RGQA.

9. Request for Government Quality Assurance (RGQA): The formal written request of the Delegator to the Delegatee to perform GQA on a defense contract.

10. Supplier: A company that enters into a contract to provide products to the Acquirer.

B. Referenced documents (most recent edition):

1. NATO STANDARDIZATION AGREEMENT (STANAG) 4107 – Mutual Acceptance of Government Quality Assurance and Usage of the Allied Quality Assurance Publications (AQAP)

2. ALLIED QUALITY ASSURANCE PUBLICATION (AQAP) 2070 – NATO Mutual Government Quality Assurance (GQA) Process

C. Each Authority is responsible for arranging for the performance of the required GQA support by its appropriate national organization. Each Authority shall identify a Central Control Point (CCP) for receipt of an RGQA. The CCP contact information (e.g., mailing address, email address, phone numbers, etc.) shall be maintained and kept current in NATO STANAG 4107.

1. Requests by the U.S. Participant for GQA services in Spain shall be sent via DCMA Southern Europe to the DGAM/SDGINSERT/AII.

2. Requests by the Spanish Participant for GQA services in the United States shall be sent electronically to the DCMA DoD Central Control Point (DoD CCP).

D. 1. FMS purchases are U.S. Government (Acquirer) contracts and do not normally require an RGQA to be initiated by the Government of Spain purchaser. FMS purchases shall be afforded the same GQA support as the U.S. DoD invokes for similar procurements that it makes for its own use. However, when special or specific GQA requirements are necessary for FMS purchases, the requirements shall be communicated directly to the U.S. Government Acquirer (purchase office), which shall forward the information to DCMA. If assistance is required by the Spanish Delegator, he or she shall contact the DCMA DoD CCP directly.

2. For all other defense related contracts issued by the U.S. Participant or the Spanish Participant, either Authority may request the other Authority to provide GQA services based on the process described in AQAP 2070.

E. Where GQA support on major programs or projects is contemplated, the Authorities shall consider conducting a joint GQA requirements review and planning meeting to ensure contractual requirements are thoroughly understood and to plan the GQA surveillance jointly.

F. The Authorities agree to keep each other well informed regarding their GQA practices and resources to help ensure that requests for GQA support are reasonable and prudent. Continuous GQA process improvement efforts and opportunities shall be shared between the Authorities.

G. The Authorities may perform other necessary contract administration functions (e.g., government property surveillance) through their own representatives, including GQA functions not delegated in an RGQA. In such cases, the Delegator or purchasing Authority shall inform the other Authority in order to avoid duplication of work.

H. Visits by representatives of the Acquirer's Authority to its Supplier's plant shall be coordinated with the Delegatee's Authority, which should be invited to attend meetings with the visiting representatives. The Acquirer's access to its suppliers, subcontractors, and their records, as may be authorized contractually, shall not be impaired or affected in any way by the provisions of this MOA

SECTION IV
GQA Delegation Process

A. The procedures and processes of STANAG 4107 and AQAP 2070 shall be used when:

1. Either Authority is requesting GQA services from the other Authority.

2. Either Authority is performing GQA services on behalf of the other Authority.

B. When GQA services are contemplated, the Delegator shall ensure:

1. Authorization (usually by contract or purchase order) is provided for GQAR access to the supplier or subcontractor's facilities and records, and the use of supplier or subcontractor assets, as necessary, for the performance of GQA services.

2. Appropriate quality assurance standards are imposed by the contract and/or subcontract. These QA standards are not limited to contractual Allied Quality Assurance Procedures (AQAPs), and may include QA standards such as the International Organization for Standardization (ISO) 9001, Military QA standards, National QA standards, or other similar standards.

3. When non-military QA standards are used in a contract and/or subcontract, additional GQA requirements shall be specified as necessary on the RGQA.

C. To the greatest extent possible, the RGQA shall be risk-based. Each Authority shall use its own national practices to identify the specific risks that the Delegator requires to be mitigated by the GQA surveillance or the specific risk-related tasks the Delegator requires to be performed. The risks and/or risk-related tasks shall be documented in accordance with AQAP 2070.

D. The Delegator may request the Delegatee to participate in other contractual matters/activities specifically related to GQA. The Delegatee may decline such requests if the Delegatee considers the request outside the scope of normally acceptable GQA practices.

E. Where the Acquirer has identified and/or imposed mandatory GQA requirements, these requirements shall be identified as such in the RGQA.

F. Critical product characteristics or processes (including safety of flight) that may require a more intensive GQA approach (other than risk-based) shall be coordinated with the Delegatee in advance of issuing an RGQA. It is the Delegator's responsibility to identify in the RGQA the critical characteristics or processes requiring GQA surveillance. The Delegatee may propose an alternative GQA approach.

G. Rejection of an RGQA shall be on an exception basis only and shall be limited to unusual circumstances. Should it be necessary to reject an RGQA, the Delegator shall be notified in accordance with AQAP 2070. The notification shall include a statement of reasons for the RGQA rejection. The Delegatee should propose an alternative GQA approach in lieu of rejecting the RGQA.

H. The Delegator may modify an RGQA during contract performance after consultation with the Delegatee. Based on knowledge of the supplier's current or past performance, the Delegatee shall advise the Delegator when the risks or tasks identified on the RGQA are considered unwarranted, excessive, or insufficient. The Delegator is the final authority for defining the GQA requirements. The Delegatee may reject a modified RGQA in accordance with paragraph G. of this Section.

I. If the requirements imposed by an RGQA include functions beyond the current technical capabilities or resource capacities of the Delegatee, the Delegatee shall immediately notify the Delegator. In such cases, the Delegatee shall not procure technical experts or additional resources needed to perform the functions without the written consent of the Delegator.

J. The responsibilities of the Authorities' representatives associated with subcontract delegations and deviation permits and concessions shall be as defined in AQAP 2070, and shall be included in the RGQA.

K. If at any time during the course of the GQA performance the Delegatee cannot proceed with the GQA surveillance, the Delegatee shall inform the Delegator of the reasons as expediently possible. Situations warranting notification shall include, but are not limited to:

   1. Deficiencies in the Supplier's quality management system, processes, or product.

   2. Deficiencies expected to be a cause of excessive contract delivery delay.

L. The Delegatee shall establish and maintain records of all GQA surveillance activity performed in support of an RGQA in accordance with AQAP 2070.

M. The Acquirer shall retain final authority over contract interpretations and enforcement actions, and it shall advise the assigned GQA support office in a timely fashion on such matters.

SECTION V
Responsibility and Liability

A. Nothing in this MOA shall relieve the Supplier of any responsibilities under the contract. The Participant (including its Authority), its officers, or its representatives will assume no liability when acting under this MOA on behalf of the other Participant..

B. Should defective materials or services be detected subsequent to delivery, the Delegatee shall assist the Delegator in the investigation of such defects.

SECTION VI
Security and Protection of Information

A. Any Classified Information, data, or material exchanged under the terms of this MOA shall be protected in accordance with each Participant's national laws and regulations for the protection of such information and the current military security agreement between the U.S. Government and the Government of the Kingdom of Spain for the protection of classified information.

B. The highest level of Classified Information that will be disclosed under this MOA shall be consistent with (1) the terms of the RGQA and the contract under which QA services will be performed, and (2) the military security agreement between the United States and Spain for the protection of classified information that is in effect at the time.

C. Each Participant shall take all lawful steps available to it to keep information exchanged in confidence under this MOA free from disclosure under any legislative provision, unless the other Participant consents to such disclosure.

D. To assist in providing the desired protection, each Participant shall mark such information furnished to the other with a legend indicating the country of origin, the security classification, the condition of release, and, if unclassified, the fact that the information relates to this MOA and that it is furnished in confidence.

E. Unclassified information provided by either Participant to the other in confidence, and information produced by either Participant pursuant to this MOA requiring confidentiality, shall be safeguarded in a manner that ensures its proper protection from unauthorized disclosure.

F. 1. If the Delegatee requires access to Controlled Unclassified Information (CUI) (e.g., export controlled drawings and specifications) in order to perform the required GQA surveillance at the Supplier's plant, the CUI shall be provided, controlled, and protected in accordance with the Participants' national laws and regulations, including the Participants' export control laws and regulations.

2. Both Participants recognize that it is the Supplier's responsibility to comply with export control laws and regulations. Host nation GQA personnel are not responsible for performing oversight or surveillance of a Supplier's compliance with export controls or export licenses.

G. In the event of termination or expiration of this MOA, the provisions of this Section shall continue to apply.

SECTION VII
Charges

A. GQA services provided under this MOA shall be provided free of charge, subject to a joint review under Section VIII (Review and Revision) of this MOA of the services being exchanged. If, as a result of a joint review, either Authority determines that charges shall be necessary, charges may be imposed after not less than twelve months advance notice.

B. In the event of unusually heavy resource requirements incurred by the Delegatee, appropriate charges may be negotiated by the Participants. The expenses for product expended during the performance of GQA either on contracts or subcontracts (e.g., destructive testing, live firing tests, etc.) shall be borne in accordance with arrangements made between the contracting parties.

SECTION VIII
Review and Revision

A. This MOA shall be jointly reviewed by the Authorities every three years to ensure that the provisions of this MOA are being implemented effectively, that the quality of services being provided continue to meet the needs of the Authorities, and that general reciprocity is being maintained. However, if considered necessary by either Authority, a joint review may be initiated at any time during the intervening years.

B. If, as a result of such a review, either Authority determines that this MOA needs to be amended, the Authorities shall consult regarding the need for an amendment. If the Authorities agree that an amendment is needed, they shall undertake to negotiate and conclude an amendment to the MOA.

C. The Authorities are responsible for managing and continuously improving their implementation of the reciprocal GQA process.

SECTION IX
Duration and Termination

A. This MOA shall enter into force on the date of the last signature and shall remain in force for five years. Unless otherwise stated in writing by either Participant, the duration of the MOA shall be extended automatically for successive five-year periods.

B. Either Participant may terminate this MOA by providing written notification of its intention to the other Participant six months in advance of the effective date of the termination.

C. Unless otherwise agreed, if either Participant terminates this MOA, GQA services shall continue to be provided until contract completion for those contracts for which GQA support is being provided under this MOA.

D. Any misunderstanding regarding the interpretation or application of this MOA shall be resolved by consultation between the Authorities or the Participants and shall not be referred to any international tribunal or third party for settlement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this MOA.

DONE in MADRID on this 10 of JUNE, 2014, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA

Under Secretary of Defense for Acquisitions, Technology, and Logistics

Date: MAY 19 2014
Place: Washington, D.C.

FOR THE MINISTRY OF DEFENSE OF THE KINGDOM OF SPAIN

Director General of Armament and Material

Date: 10/JUNIO/2014
Place: