

Turkey - Memorandum of understanding for a bilateral missile defense architecture analysis. Signed at Washington and Ankara May 31 and June 6, 2001. Entered into force June 6, 2001.

---

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA  
AND THE TURKISH GENERAL STAFF OF THE REPUBLIC OF TURKEY  
FOR A BILATERAL MISSILE DEFENSE ARCHITECTURE ANALYSIS

I certify this memorandum of understanding between the Department of Defense of the United States of America and the Turkish General Staff of the Turkish Republic, to be a true copy of the original document signed by Lt Gen Ronald T. Kadish, Director, Ballistic Missile Defense Organization.

[Signature]

STEVEN C. WINKIE  
International Affairs Directorate  
Ballistic Missile Defense Organization

[PAGE BREAK]

TABLE OF CONTENTS

PREAMBLE

ARTICLE I: DEFINITION OF TERMS

ARTICLE II: OBJECTIVES

ARTICLE III: SCOPE OF WORK

ARTICLE IV: MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

ARTICLE V: FINANCIAL PROVISIONS

ARTICLE VI: CONTRACTING PROVISIONS

ARTICLE VII: CONFIGURATION MANAGEMENT

ARTICLE VIII: PROJECT EQUIPMENT

ARTICLE IX: DISCLOSURE AND USE OF PROJECT INFORMATION

ARTICLE X: CONTROLLED UNCLASSIFIED INFORMATION  
ARTICLE XI: VISITS TO ESTABLISHMENTS  
ARTICLE XII: SECURITY  
ARTICLE XIII: THIRD PARTY SALES AND TRANSFERS  
ARTICLE XIV: LIABILITY AND CLAIMS  
ARTICLE XV: CUSTOMS DUTIES, TAXES, AND SIMILAR CLAIMS  
ARTICLE XVI: SETTLEMENT OF DISPUTES  
ARTICLE XVII: LANGUAGE  
ARTICLE XVIII: AMENDMENT, TERMINATION, ENTRY INTO FORCE AND DURATION

[PAGE BREAK]

#### PREAMBLE

The Department of Defense of the United States of America and the Turkish General Staff (TGS) of the Republic of Turkey, hereinafter referred to as the "Parties":

Having a common interest in defense;

Recognizing the benefits to be obtained from improving mutual defense capabilities through the exploitation of emerging Extended Air Defense (EAD) technologies;

Having a mutual need to conduct advanced simulations to determine the optimum application of such technologies;

Having a mutual need for common modeling and simulation tools to satisfy common EAD experimental and operational requirements;

Reaffirming the "NATO Status of Forces Agreement", "NATO Agreement on the Communication of Technical Information for Defense Purposes" and "NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defense and for Which Applications for Patents Have Been Made";

Recognizing the benefits of cooperation, the Parties, therefore, have decided to conduct a Bilateral Missile Defense Architecture Analysis, hereinafter referred to as the "Bilateral Analysis Project." Within this Project they may exchange information and cooperate in examining concepts for the defeat of various types of Theater Ballistic Missiles (TBM). The Parties may also perform related tests, evaluations, and research and development

(R&D) work by employing U.S. -developed models and simulation (M&S) tools, products and their accompanying software;

Have agreed as follows:

## ARTICLE I DEFINITION OF TERMS

The Parties have agreed upon the following definitions for terms used in this Memorandum of Understanding (MOU):

**Bilateral Analysis Project:** The cooperative effort between the United States Department of Defense and Turkish General Staff to conduct a Bilateral Missile Defense Architecture Analysis to examine concepts for the defeat of various types of Theater Ballistic Missiles (TBM) and expand the scope of extended air defense research and development.

**Commander's Analysis & Planning Simulation (CAPS):** A computer work-station hosted capability, including hardware and software, that is designed to provide a quick response analysis capability of many-on-many theater level mission planning for the war fighter.

**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.

**Computer Data Base:** A collection of data recorded in a form capable of being processed by a computer. This definition does not include computer software.

**Computer Program:** A set of instructions, rules, or routines recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.

**Computer Software:** Computer programs, source code, source code listings, design details, algorithms, processes, flow charts, formulae, and related materials that would enable the software to be reproduced, recreated, or recompiled. Computer Software does not include Computer Data Bases or Computer Software Documentation.

**Computer Software Documentation:** Owner's manuals, user's manuals, installation instructions, operating instruction, and other similar items, regardless of storage medium, that explain the capabilities of the Computer Software or provide instructions for using the Computer Software.

**Configuration Management:** General term for control software versions, which include registration and tracking of software versions, problem/trouble reports and change requests.

**Contract:** Any mutually binding legal relationship under national laws which obligates a Contractor to furnish supplies or services, and obligates one or both of the Parties to pay for them.

**Contracting Agency:** The entity within the government organization of a Party, which has authority to enter into, administer, or terminate Contracts.

**Contracting Officer:** A person representing a Contracting Agency of a Party who has the authority to enter into, administer, or terminate Contracts.

**Contractor:** Any entity awarded a Contract by a Party's Contracting Agency.

**Controlled Unclassified Information:** Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under this MOU, the information shall be marked to identify its "in confidence" nature. It could include information, which has been declassified, but remains controlled.

**Defense Purposes:** Manufacture or other use in any part of the world by or for the armed forces of either Party.

**Designated Security Authority (DSA):** The security office approved by national authorities to be responsible for the security aspects of this MOU.

**Executable Software:** Working version of computer software that has been compiled and linked for at least one hardware platform. It is in a format that the computer can directly execute. Unlike source files, humans can not read executable files. To transform a source file into an executable file, it must pass through a compiler or assembler.

**Extended Air Defense Simulation (EADSIM):** A computer work station-hosted capability, including both hardware and software, which is designed to support a quick response, top level analysis of a many-on-many, theater-level simulation of air and missile warfare.

**Financial Cost Ceiling:** The maximum amount to be expended under the MOU without the prior written approval of the Parties.

**Financial Costs:** Project costs met with monetary contributions.

**Non-Financial Costs:** Project costs met with non-monetary contributions.

**Patent:** Legal protection of the right to exclude others from making, using, or selling an invention. The term refers to any and all Patents including, but not limited to, Patents of implementation, improvement or addition, petty Patents, utility models, appearance design Patents, registered designs, and inventor certificates or like statutory protection as well as divisions, reissues, continuations, renewals, and extensions of any of these.

Program Manager: A general term for an individual manager, exercising authority over the planning, direction, and control of tasks and associated functions essential for support of designated programs. The authority vested in this individual may include such functions as research, development, procurement, production, material distribution, and logistic support, when so assigned.

Project: Bilateral Analysis Project.

Project Background Information: Information not generated in the performance of the Project.

Project Equipment: Any material, equipment, end item, subsystem, component, special tooling or test equipment jointly acquired or provided for use in the Project.

Project Foreground Information: Information generated in the performance of the Project.

Project Information: Any information provided to, generated in, or used in this Project regardless of form or type, including, but not limited to, that of a scientific, technical, business, or financial nature, and also including photographs, reports, manuals, threat data, experimental data, test data, designs, specifications, processes, techniques, inventions, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations, whether in magnetic tape, computer memory, or any other form and whether or not subject to copyright, patent, or other legal protection.

Project Invention: Any invention or discovery formulated or made (conceived or "first actually reduced to Practice") in the course of work performed under a Project. The term first actually reduced to practice means the first demonstration, sufficient to establish to one skilled in the art to which the invention pertains, of the operability of an invention for its intended purpose and in its intended environment.

Project-Related Data Bases, Computer Programs, Computer Software, and Computer Software Documentation: All computer-related Project Information associated with Project development, production, and logistics support efforts. Examples include, but are not limited to, production engineering software, training software, and test equipment software, among and others.

Technical Information: Recorded information, regardless of the form or method of the recording, of scientific or technical nature (including computer software documentation).

Third Party: A government or other than the government of a Party and any person or other entity whose government is not the government of a Party.

## ARTICLE II OBJECTIVES

2.1. The objectives of this Project are:

2.1.1. Conduct a Bilateral Missile Defense Joint Architecture Analysis.

2.1.2. Enable Turkish analysts to gain proficiency in the use of common extended air defense tools such as EADSIM and CAPS and expertise in missile defense architecture analysis.

2.1.3. Develop a common basis for future cooperative efforts in ballistic missile defense such as joint analysis or extended air defense exercises.

2.1.4. Establish a basis for Turkey to obtain state of the art air and missile defense simulation capabilities using tools such as EADSIM and CAPS.

### ARTICLE III SCOPE OF WORK

3.1. The Ballistic Missile Defense Organization (BMDO) and TGS Scientific Decision Support Center (SDSC) shall:

3.1.1. Participate in meetings to develop an Analysis Plan.

3.1.2. Conduct analysis at home locations.

3.1.3. Conduct periodic meetings to review progress and coordinate analysis.

3.1.4. Brief the U.S. -Turkey Missile Defense Technical Experts Group (TEG) on progress.

3.1.5. Prepare a final analysis report.

3.2. The BMDO shall:

3.2.1. Provide the TGS's SDSC access to EADSIM and CAPS Software for use in the Bilateral Analysis Project to carry out this MOU in an executable form only. Provide a system database of sufficient fidelity for the conduct of the Project for use in EADSIM and CAPS. Provide releasable updates of approved EADSIM and CAPS Software to Turkey during the life of this MOU.

3.2.2. Provide Help Line assistance via the respective Common Software Developer/Support Teams to the SDSC.

3.2.3. Provide necessary personnel and resources to plan, schedule, conduct, and share with Turkey, results of experimentation and analyses using EADSIM and CAPS Programs during the period of this MOU.

3.2.4. Provide Configuration Management policies for any recommended changes to EADSIM or CAPS Hardware or Software configurations to SDSC.

3.2.5. Incorporate Turkish requirements into EADSIM and CAPS consistent with the overall BMDO Extended Air Defense (EAD) Common Software objectives and available resources.

3.2.6. Assist the SDSC in learning to use EADSIM and CAPS.

3.2.7. Assist in the development of appropriate baseline EAD scenario analysis to include development of system representations of sufficient fidelity and integration and use of data approved for release to Turkey.

3.3. The SDSC shall:

3.3.1. Provide a detailed description of planned EADSIM and CAPS analysis to be performed during the period of this MOU to BMDO.

3.3.2. Provide BMDO results of all studies and analysis conducted during the period and scope of this MOU.

3.3.3. Provide necessary personnel and resources to plan, schedule, conduct, and share with the U.S., results of experimentation and analyses using EADSIM and CAPS Programs during the period of this MOU.

3.3.4. Provide adequate space, power, environmental control, and security necessary to host the EADSIM and CAPS Programs Software.

3.3.5. Provide access to BMDO and U.S. Army Space and Missile Defense Command (SMDC) personnel and their contractor support personnel necessary for any cooperative work and for the maintenance of the transferred EAD Program Common Software.

3.3.6. Submit software trouble reports and software change requests as required to the U.S. Project Manager (PM).

#### ARTICLE IV

#### MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

4.1. This Project shall be directed and administered on behalf of the TEG which will serve as the Steering Committee (SC) for this project. PM's will be appointed by the Parties. The SC shall have overall authority over the PMs, in accordance with this MOU. The PMs shall have primary responsibility for effective implementation, efficient management, and direction of the Project in accordance with this MOU. The Parties shall maintain and fund their own organizations for managing this Project.

4.2. The SC shall meet at the request of either Party but as a minimum at the end of each phase of the Project. In the event that the SC is unable to reach a timely decision on an issue, each Party shall refer the issue to its higher authority for resolution. In the meantime, the approved Project shall continue to be implemented without interruption under the direction of the PMs while the issue is resolved by higher authority.

4.3. The SC shall be responsible for:

4.3.1. Exercising executive-level oversight of the Project.

4.3.2. Approving and reviewing progress in accordance with the analysis plan and approval of a final Project report.

4.3.3. Reviewing the financial status of the Project to ensure compliance with the provisions of Article V (Financial Provisions).

4.3.4. Resolving issues brought forth by the PMs.

4.3.5. Reviewing and forwarding to the Parties for approval recommended amendments to this MOU in accordance with Article XVIII (Amendment, Termination, Entry Into Force, and Duration).

4.3.6. Monitoring Third Party sales and transfers authorized in accordance with Article XIII (Third Party Sales and Transfers).

4.3.7. Reviewing status reports submitted by the PMs.

4.3.8. Reviewing and recommending action concerning alternative use of Project Background Information.

4.4. For matters under their cognizance the PMs shall be responsible for:

4.4.1. Managing the cost, schedule, performance, requirements, technical, security and financial aspects of the Project.

4.4.2. Executing the approved Project.

4.4.3. Developing and submitting any required changes to the approved Project to the SC for approval.

4.4.4. Executing the financial aspects of the Project in accordance with Article V (Financial Provisions).

4.4.5. Referring issues to the SC that cannot be resolved by the PMs.

4.4.6. Providing a written semi-annual status report to the SC, and other such reports as directed by the SC.

4.4.7. Developing and submitting and analysis plan to the SC for approval.

## ARTICLE V FINANCIAL PROVISIONS

5.1. Each Party shall contribute its equitable share of the full Financial Costs and Non-financial Costs of the Project, including overhead and administrative costs. The assignment of work represents a sharing of work to be performed under the Project.

5.2. Each Party shall, subject to paragraph 5.1, fund the full extent of its participation in this Project. The Parties estimate that the performance of the obligations under this MOU shall not cost more than a Financial Cost Ceiling of \$2,300,000 U.S. dollars. The U.S. dollar shall be the reference currency for the Project.

5.3. The full Financial Costs and Non-financial Costs of the Project shall be shared according to the following percentages:

U.S. 52.60%  
Turkey 47.40%

5.4. The Parties shall use their best efforts to perform, or to have performed, the work specified in Article III (Scope of Work) and fulfill all the obligations under this MOU within the Financial Cost Ceiling specified in paragraph 5.2.

5.5. Each Party shall bear the full Financial Costs and Non-financial Costs it incurs for performing, managing, and administering its activities under this MOU and all such costs shall be included as part of each Party's contributions to the Project. These costs include Financial and Non-Financial contributions (e.g., salaries, travel, and per diem costs for its Project personnel), as well as any Contract costs. Values have been mutually agreed to for Project Non-Financial contributions and are reflected in a paragraph 5.9. Both Financial and Non-Financial contributions are detailed in this article.

5.6. Cooperative efforts of the Parties over and above the jointly agreed work set forth in Article III (Scope of Work) shall be subject to future agreement by the Parties.

5.7. The following costs shall be borne entirely by the Party incurring the costs:

5.7.1. Costs associated with any unique national requirements identified by a Party.

5.7.2. Any other costs outside the scope of this MOU.

5.8. A Party shall promptly notify the other Party if available funds are not adequate to fulfill its obligations under this MOU. If a Party notifies the other Party that it is terminating or reducing its funding for this Project, both Parties shall immediately consult with a view toward continuation on a modified basis or termination in accordance with Article XVIII, (Amendment, Termination, Entry Into Force, and Duration).

5.9. Financial and Non-Financial Contributions:

5.9.1. Financial contributions required to support the Project shall be shared as follows:

U.S. \$900,000  
Turkey \$270,000

5.9.2. As part of its equitable share of Project costs, each Party shall provide Non-Financial contributions, including both personnel and other resources to support this Project, as shown below:

U.S.: EADSIM and CAPS Simulations: \$310,000

Turkey: Six man years in analyst labor: \$820,000

5.9.3. Total contribution.

U.S FY 01	U.S FY 02	TOTAL
DoD (NF) \$310,000		
(F) \$300,000	\$600,000	
Total \$610,000	\$600,000	\$1,210,000

TU FY 01	TU FY 02	
MoD (NF) \$280,000	\$540,000	
(F) \$90,000	\$180,000	
Total \$370,000	\$720,000	\$1,090,000
GRAND TOTAL		\$2,300,000

ARTICLE VI  
CONTRACTING PROVISIONS

6.1. If either Party determines that contracting is necessary to fulfill that Party's obligations under Article III (Scope of Work) of this MOU, that Party shall contract in accordance with its respective national laws, regulations and procedures. Sources from both Parties' industries shall be allowed to compete on an equal basis for such Contracts.

6.2. When one Party individually contracts to perform a task under this MOU, it shall be solely responsible for its own contracting and the other Party shall not be subject to any liability arising from such Contracts.

6.3. For all contracting activities performed by either Party, the PMs shall, upon request, be provided a copy of all statements of work prior to the development of solicitations.

6.4. Each Party's Contracting Agency shall negotiate to obtain the rights to use and disclose Project Information required by Article IX (Disclosure and Use of Project Information). Each Party's Contracting Agency shall insert into its prospective Contracts (and require its subcontractors to insert in subcontracts) suitable provisions to satisfy the requirements of this MOU, including Article IX (Disclosure and Use of Project Information), Article X (Controlled Unclassified Information), Article XII (Security) and Article XIII (Third Party Sales and Transfers). During the contracting process, each Party's Contracting Officer shall advise prospective Contractors of their obligation to immediately notify the Contracting Agency, before Contract award, if they are subject to any license or agreement that shall restrict that Party's freedom to disclose information or permit its use. The Contracting Officer shall also advise prospective Contractors to employ their best efforts not to enter into any new agreement or arrangement that shall result in restrictions.

6.5. In the event a Party's Contracting Agency is unable to secure adequate rights to use and disclose Project Information as required by Article IX (Disclosure and Use of Project Information), or is notified by Contractors or potential Contractors of any restrictions on the disclosure and use of information, that Party's PM shall notify the other Party's PM of the restriction(s).

6.6. Each Party's PM shall promptly advise the other Party's PM of any cost growth, schedule delay, or performance problems of any Contractor for which its Contracting Agency is responsible.

## ARTICLE VII CONFIGURATION MANAGEMENT

7.1. The BMDO is responsible for configuration management and control of the EADSIM and CAPS Software. Configuration Management shall remain in accordance with a Configuration Management Plan for the EADSIM and CAPS software, as directed by the BMDO project lead.

7.2. Turkey shall be responsible for the configuration management and control of Turkey's site-unique software, maintaining the software in accordance with BMDO configuration management procedures.

7.3. Any Turkish site-unique software developed and offered as a candidate item for inclusion in EADSIM and CAPS, may become a part of the appropriate software baseline when accepted by BMDO.

## ARTICLE VIII PROJECT EQUIPMENT

8.1. Any Project Equipment which is jointly acquired on behalf of both Parties for use under this MOU shall be disposed of during this Project or when the Project ceases, as agreed by the TEG.

8.2. Disposal of Project Equipment, Project Related Data Bases, Computer Programs, Computer Software, and Computer Software Documentation shall be disposed of during this Project or when the Project ceases and may include a transfer of the interest of one Party in such Project Equipment to the other Party, or the sale of such Project Equipment to a Third Party in accordance with Article XIII (Third Party Sales and Transfers) of this MOU. The Parties shall share the consideration from jointly acquired Project Equipment transferred or sold to a Third Party in the same ratio as costs are shared under this MOU.

## ARTICLE IX DISCLOSURE AND USE OF PROJECT INFORMATION

9.1. General: Both Parties recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out this Project. The Parties intend to acquire sufficient Project Information and rights to use such information to enable the development of the Project. The nature and amount of Project Information to be acquired shall be consistent with the objectives stated in Article II (Objectives), Article III (Scope of Work), and Article VI (Contracting Provisions).

### 9.2. Government Project Foreground Information

9.2.1. Disclosure: Project Foreground Information generated by a Party's military or civilian employees shall be disclosed without charge to both Parties.

9.2.2. Use: Each Party may use all Government Project Foreground Information without charge for Defense Purposes. The Party generating Government Project Foreground Information shall also retain its rights of use thereto. Any sale or other transfer to a Third Party shall be subject to the provisions of Article XIII (Third Party Sales and Transfers) of this MOU.

### 9.3. Government Project Background Information

9.3.1. Disclosure: Each Party, upon request, shall disclose to the other Party any relevant Government Project Background Information generated by its military or civilian employees, provided that:

9.3.1.1. such Project Background Information is necessary to or useful in the Project, with the Party in possession of the information determining whether it is "necessary to" or "useful in" the Project;

9.3.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights; and

9.3.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

9.3.2. Use: Government Project Background Information disclosed by one Party to the other may be used without charge by the other Party for Project Purposes only; however, the furnishing Party shall retain all its rights with respect to such Project Background Information.

#### 9.4. Contractor Project Foreground Information

9.4.1. Disclosure: Project Foreground Information generated and delivered by Contractors shall be disclosed without charge to both Parties.

9.4.2. Use: Each Party may use without charge for its Defense Purposes all Contractor Project Foreground Information generated and delivered by Contractors of the other Party. The Party whose Contractors generate and deliver Contractor Project Foreground Information shall also retain rights of use thereto in accordance with the applicable Contract(s). Any sale or other transfer to a Third Party of Contractor Project Foreground Information shall be subject to the provisions of Article XIII (Third Party Sales and Transfers) of this MOU.

#### 9.5. Contractor Project Background Information

9.5.1. Disclosure: Any Project Background Information (including information subject to proprietary rights) generated and delivered by Contractors shall be made available to the other Party provided the following conditions are met:

9.5.1.1. such Project Background Information is necessary to or useful in the Project, with the Party in possession of the information determining whether it is "necessary to" or "useful in" the Project;

9.5.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights; and

9.5.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

9.5.2. Use: Project Background Information furnished by one Party's Contractors and disclosed to the other Party may be used without charge by the other Party for Project Purposes only, and may be subject to further restrictions by holders of proprietary rights; however, the furnishing Party shall retain all its rights with respect to such Project Background Information.

## 9.6. Alternative Uses of Project Information

9.6.1. Any Project Background Information provided by one Party shall be used by the other Party only for the purposes set forth in this MOU, unless otherwise consented to in writing by the providing Party.

9.6.2. The prior written consent of each Party shall be required for the use of Project Foreground Information for purposes other than those provided for in this MOU.

## 9.7. Proprietary Project Information

9.7.1. All Project Information subject to proprietary interests shall be identified and marked, and it shall be handled as Controlled Unclassified Information.

9.7.2. The provisions of the NATO Agreement on the Communication of Technical Information for Defense Purposes, done at Brussels on 19 October 1970, and the Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defense Purposes, approved by the North Atlantic Council on 1 January 1971, shall apply to proprietary Project Information related to this MOU.

## 9.8. Patents

9.8.1. Where a Party owns title to a Project Invention, or has the right to receive title to a Project Invention, that Party shall consult with the other Party regarding the filing of a Patent application for such Project Invention. The Party which has or receives title to such Project Invention shall, in other countries, file, cause to be filed, or provide the other Party with the opportunity to file on behalf of the Party holding title, or its Contractors, as appropriate, Patent applications covering that Project Invention. If a Party having filed or caused to be filed a Patent application decides to stop prosecution of the application, that Party shall notify the other Party of that decision and permit the other Party to continue the prosecution.

9.8.2. The other Party shall be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.

9.8.3. The other Party shall acquire a non-exclusive, irrevocable, royalty-free license to practice or have practiced, by or on behalf of the Party, throughout the world for Defense Purposes, any Project Invention.

9.8.4. Patent applications to be filed under this MOU which contain Classified Information, shall be protected and safeguarded in accordance with the requirements contained in the NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defense and for Which Applications for Patents Have Been Made, done in Paris on 21 September 1960, and its Implementing Procedures.

9.8.5. Each Party shall notify the other Party of any Patent infringement claims made in its territory arising in the course of work performed under the Project. Insofar as possible, the other Party shall provide information available to it that may assist in defending the claim. Each Party shall be responsible for handling all Patent infringement claims made in its territory, and shall consult with the other Party during the handling and prior to any settlement, of such claims. The Parties shall share the costs of resolving Patent infringement claims in the same percentage as they share the full Financial Costs and Non-financial Costs of the Project or agree to an alternative arrangement. The Parties shall, in accordance with their national laws and practices, give their authorization and consent for all use and manufacture in the course of work performed under the Project of any invention covered by a Patent issued by their respective countries.

## ARTICLE X CONTROLLED UNCLASSIFIED INFORMATION

10.1 Except as otherwise provided in this MOU or as authorized in writing by the originating Party, Controlled Unclassified Information provided or generated pursuant to this MOU shall be controlled as follows:

10.1.1. Such information shall be used only for the purposes authorized for use of Project Information as specified in Article IX (Disclosure and Use of Project Information).

10.1.2. Access to such information shall be limited to personnel whose access is necessary for the permitted use under subparagraph 10.1.1., and shall be subject to the provisions of Article XIII (Third Party Sales and Transfers).

10.1.3. Each Party shall take all lawful steps, which may include national classification, available to it to keep such information free from further disclosure (including requests under any legislative provisions), except as provided in subparagraph 10.1.2., unless the originating Party consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification shall be given to the originating Party.

10.2. To assist in providing the appropriate controls, the originating Party shall ensure that Controlled Unclassified Information is appropriately marked. The SC shall decide, in advance and in writing, on the markings to be placed on the Controlled Unclassified Information. The appropriate markings shall be defined in the Project Security Instruction and a Classification Guide as required in Article 12.5.

10.3. Controlled Unclassified Information provided or generated pursuant to this MOU shall be handled in a manner that ensures control as provided for in paragraph 10.1.

10.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Parties shall ensure the Contractors are legally bound to control such information in accordance with the provisions of this Article.

## ARTICLE XI VISITS TO ESTABLISHMENTS

11.1. Each Party shall permit visits to its government establishments, agencies and laboratories, and Contractor industrial facilities by employees of the other Party or by employees of the other Party's Contractor(s), provided that the visit is authorized by both Parties and the employees have any necessary and appropriate security clearances and a need-to-know.

11.2. All visiting personnel shall be required to comply with security regulations of the host Party. Any information disclosed or made available to visitors shall be treated as if supplied to the Party sponsoring the visiting personnel, and shall be subject to the provisions of this MOU.

11.3. Requests for visits by personnel of one Party to a facility of the other Party shall be coordinated through official channels, and shall conform with the established visit procedures of the host country. Requests for visits shall bear the name of the Project.

11.4. Lists of personnel of each Party required to visit, on a continuing basis, facilities of the other Party shall be submitted through official channels in accordance with recurring international visit procedures.

## ARTICLE XII SECURITY

12.1. All Classified Information provided or generated pursuant to this MOU shall be stored, handled, transmitted, and safeguarded in accordance with the General Security of Military Information Agreement between the Republic of Turkey and the United States of America, of 21 March 1986 and including the Security Procedures for Industrial Operations Annex thereto, of 14 July 1986.

12.2. Classified Information shall be transferred only through official government-to-government channels or through channels approved by the DSAs of the Parties. Such Classified Information shall bear the level of classification, denote the country of origin, the conditions of release, and the fact that the information relates to this MOU.

12.3. Each Party shall take all lawful steps available to it to ensure that Classified Information provided or generated pursuant to this MOU is protected from further disclosure, except as permitted by paragraph 12.8., unless the other Party consents to such disclosure. Accordingly, each Party shall ensure that:

12.3.1. The recipient shall not release the Classified Information to any government, national organization, or other entity of a Third Party without the prior written consent of the originating Party in accordance with the procedures set forth in Article XIII (Third Party Sales and Transfers).

12.3.2. The recipient shall not use the Classified Information for other than the purposes provided for in this MOU.

12.3.3. The recipient shall comply with any distribution and access restrictions on information that are provided under this MOU.

12.3.4. The recipient shall ensure that all personnel with access to the information possess a NATO Secret Clearance.

12.4. The Parties shall investigate all cases in which it is known or where there are grounds for suspecting that Classified Information provided or generated pursuant to this MOU has been lost or disclosed to unauthorized persons. Each Party also shall promptly and fully inform the other Party of the details of any such occurrences, and of the final results of the investigation and of the corrective action taken to preclude recurrences.

12.5. The U.S. PM, in coordination with the Turkish PM, shall prepare a Project Security Instruction and a Classification Guide for the Project. The Project Security Instruction and the Classification Guide shall describe the methods by which Project Information, both Controlled Unclassified Information and Classified Information, shall be classified, marked, used, transmitted, and safeguarded. The Project Security Instruction and Classification Guide shall be developed prior to the exchange of any Classified Information. They shall be reviewed and forwarded to the Parties' DSAs for approval and shall be applicable to all government and Contractor personnel participating in the Project. The Classification Guide shall be subject to regular review and revision with the aim of downgrading the classification whenever this is appropriate. The Project Security Instruction and the Classification Guide shall be approved by the appropriate DSA prior to the transfer of any Classified Information or Controlled Unclassified Information.

12.6. The DSA of the Party in which a classified Contract is awarded will assume responsibility for administering within its territory security measures for the protection of the Classified Information, in accordance with its laws and regulations. Prior to the release to a Contractor, prospective Contractor, or subcontractor of any Classified Information received under this MOU, the DSAs will:

12.6.1. Ensure that such Contractor, prospective Contractor or subcontractor and their facility(ies) have the capability to adequately protect Classified Information up to NATO Secret.

12.6.2. Grant a security clearance to the facility(ies), if appropriate.

12.6.3. Grant a security clearance for all personnel whose duties require access to Classified Information, if appropriate.

12.6.4. Ensure that all persons having access to the Classified Information are informed of their responsibilities to protect the Classified information in accordance with national security laws and regulations, and provisions of this MOU.

12.6.5. Ensure that all persons having access to the Classified Information possess a NATO Secret Clearance.

12.6.6. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is properly protected.

12.6.7. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of this MOU.

12.7. Contractors, prospective Contractors, or subcontractors which are determined by DSAs to be under financial, administrative, policy or management control of nationals or entities of a Third Party, may participate in a Contract or subcontract requiring access to Classified Information provided or generated pursuant to this MOU only when enforceable measures are in effect to ensure that nationals or other entities of a Third Party shall not have access to Classified Information. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the other Party shall be consulted for approval prior to permitting such access.

12.8. For any facility wherein Classified Information is to be used, the responsible Party or Contractor shall approve the appointment of a person or persons to exercise effectively the responsibilities for safeguarding at such facility the information pertaining to this MOU. These officials shall be responsible for limiting access to Classified Information involved in this MOU to those persons who have been properly approved for access and have a need-to-know.

12.9. Each Party shall ensure that access to the Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the Classified Information in order to participate in the Project.

12.10. The existence of this MOU is unclassified and the contents are For Official Use Only. Classified information may only be exchanged if such exchange is sufficiently justified, processed, and approved in accordance with the national disclosure policies and procedures of the Parties. The TGS regards information concerning the terms of this MOU and any Project Information provided by or produced in cooperation with the TGS to be sensitive. The TGS requests the terms of this MOU and any Project Information provided by or produced in cooperation with the TGS not be released to the public.

## ARTICLE XIII

### THIRD PARTY SALES AND TRANSFERS

13.1. The Parties shall not sell, transfer title to, disclose, or transfer possession of Project Foreground Information or jointly acquired or produced Project Equipment to any Third Party, without the prior written consent of the other Party. Furthermore, neither Party shall permit any such sale, disclosure, or transfer, including by the owner of the item, without the prior written consent of the other Party. Such consent shall not be given

unless the government of the intended recipient consents in writing with the Parties that it shall:

13.1.1. not retransfer, or permit the further retransfer of, any equipment or information provided; and

13.1.2. use, or permit the use of, the equipment or information provided only for the purposes specified by the Parties.

13.2. A Party shall not sell, transfer title to, disclose, or transfer possession of Project Equipment or Project Background Information provided by the other Party to any Third Party without the prior written consent of the Party which provided such equipment or information. The providing Party shall be solely responsible for authorizing such transfers and, as applicable, specifying the method and conditions for implementing such transfers.

#### ARTICLE XIV LIABILITY AND CLAIMS

14.1. Claims against either Party or its personnel shall be dealt with in accordance with the terms of Article VIII of the NATO Status of Forces Agreement (NATO SOFA) dated 19 June 1951. Civilian employees of the Parties assigned to duty within their government's Defense Department or Ministry shall be deemed for the purpose of Article VIII of NATO SOFA to be members of a civilian component within the meaning of Article I of NATO SOFA while present in the territory of the other Party for the purpose of this MOU.

14.2. Claims arising under or related to any Contract awarded pursuant to Article VI (Contracting Provisions) shall be resolved in accordance with the provisions of the Contract.

14.3. Employees and agents of Contractors shall not be considered to be civilian personnel employed by a Party for the purpose of paragraph 14.1.

#### ARTICLE XV CUSTOMS DUTIES, TAXES, AND SIMILAR CLAIMS

15.1 Customs duties, import and export taxes, and similar charges shall be administered in accordance with each Party's respective laws and regulations. Insofar as existing national laws and regulations permit, the Parties shall endeavor to ensure that such readily identifiable duties, taxes and similar charges, as well as quantitative or other restrictions on imports and exports, are not imposed in connection with work carried out under this Project.

15.2. Each Party shall use its best efforts to ensure that customs duties, import and export taxes, and similar charges are administered in a manner favorable to the efficient and

economical conduct of the work. If any such duties, taxes, or similar charges are levied, the Party in whose country they are levied shall bear such costs.

#### ARTICLE XVI SETTLEMENT OF DISPUTES

16.1. Disputes between the Parties arising under or relating to this MOU shall be resolved only by consultation between the Parties and shall not be referred to a national court, an international tribunal, or to any other person or entity for settlement.

#### ARTICLE XVII LANGUAGE

17.1. The working language for the Project shall be the English language.

17.2. All data and information generated under this MOU and its implementing Contracts and provided by one Party to the other Party shall be furnished in the English language.

#### ARTICLE XVIII AMENDMENT, TERMINATION, ENTRY INTO FORCE AND DURATION

18.1. All activities of the Parties under this MOU shall be carried out in accordance with their national laws. The obligations of the Parties shall be subject to the availability of funds for such purposes.

18.2. In the event of a conflict between an Article of this MOU and any Annex to this MOU, the Article shall control.

18.3. Except as otherwise provided, this MOU may be amended by the mutual written consent of the Parties.

18.4. This MOU may be terminated at any time upon the written consent of the Parties. In the event both Parties consent to terminate this MOU, the Parties shall consult prior to the date of termination to ensure termination on the most economical and equitable terms.

18.5. Either Party may terminate this MOU upon 180 days written notification of its intent to terminate to the other Party. Such notice shall be the subject of immediate consultation by the TEG to decide upon the appropriate course of action to conclude the activities under this MOU. In the event of such termination, the following rules apply:

18.5.1. The terminating Party shall continue participation, financial or otherwise, up to the effective date of termination.

18.5.2. Each Party shall be responsible for its own Project-related costs associated with termination of the Project.

18.5.3. All Project Information and rights therein received under the provisions of this MOU prior to termination shall be retained by the Parties, subject to the provisions of this MOU.

18.5.4. All Project Equipment will be disposed of in accordance with Article VIII of this MOU.

18.6. The respective rights and obligations of the Parties regarding Article VIII (Project Equipment), Article IX (Disclosure and Use of Project Information), Article X (Controlled Unclassified Information), Article XII (Security), Article XIII (Third Party Sales and Transfers), and Article XIV (Liability and Claims), and this Article XVIII (Amendment, Termination, Entry into Force, and Duration) shall continue to apply notwithstanding termination or expiration of this MOU.

18.7. This MOU, which consists of 18 Articles, shall enter into force upon signature by both Parties and shall remain in force for seven years. It may be extended by written agreement of the Parties.

18.8. This MOU has been prepared in duplicate, in both the English and Turkish languages. In the event of conflict between the English and Turkish texts, the English text will take precedence.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their governments, have signed this MOU.

DONE, in duplicate, in the English and Turkish languages.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA

Signature: [Signature]

Name: Ronald T. Kadish, LtGen,

Location: USAF Title: Director, BMDO

Date: May 31, 2001

Location: Washington, D.C.

FOR THE TURKISH GENERAL STAFF OF THE REPUBLIC OF TURKEY

Signature: [Signature]

Name: Resat TURGUT, LtGen, TUAF

Title: Chief of the TGS General Plans and Policy Division

Date: June 06, 2001

Location: ANKARA