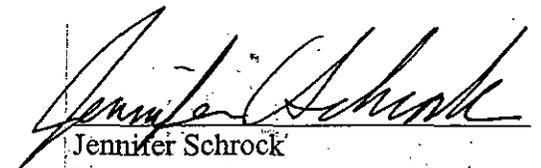


MEMORANDUM OF UNDERSTANDING
AMONG THE
DEPARTMENT OF DEFENCE
OF AUSTRALIA
AND THE
DEPARTMENT OF NATIONAL DEFENCE
OF CANADA
AND THE
MINISTRY OF DEFENSE OF THE REPUBLIC
OF FINLAND
AND THE
MINISTRY OF DEFENSE OF THE STATE
OF KUWAIT
AND THE
MINISTRY OF DEFENSE OF THE KINGDOM
OF SPAIN
AND THE
FEDERAL DEPARTMENT OF DEFENSE, CIVIL PROTECTION AND SPORTS OF
THE SWISS CONFEDERATION
AND THE
THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA
CONCERNING THE
COOPERATIVE FRAMEWORK FOR THE F/A-18 PROGRAM

(Short Title: F/A-18 FRAMEWORK) Certified to be a true copy:


Jennifer Schrock
International Agreements Specialist
Navy International Programs Office

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(Short Title: F/A-18 FRAMEWORK MOU)

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INTRODUCTION

The Department of Defence of Australia, the Department of National Defence of Canada, the Ministry of Defense of the Republic of Finland, the Ministry of Defense of the State of Kuwait, the Ministry of Defense of the Kingdom of Spain, the Federal Department of Defense, Civil Protection and Sports of the Swiss Confederation, and the Department of Defense of the United States of America (U.S. DoD), hereinafter referred to as the "Participants":

Having a common interest in the F/A-18 and related weapons systems;

Recognizing the benefits to be obtained from standardization, rationalization, and interoperability;

Desiring to improve their F/A-18 and related weapons systems capabilities through the application of emerging technology;

Recognizing the long-standing success of the foreign military sales arrangements between the U.S. DoD and each of the other Participants for F/A-18 weapons systems; and

Desiring to establish a framework within this Memorandum of Understanding (MOU) to facilitate the negotiation and implementation of bilateral and multilateral Project Arrangements (PAs) for F/A-18-related cooperative research, development, testing, evaluation, and production (including follow-on support) efforts;

Have reached the following understandings:

SECTION 1

DEFINITIONS

1.1. The Participants have jointly decided upon the following definitions for terms used in this MOU:

| | |
|------------------------|--|
| Background Information | Project Information not generated in the performance of a PA. |
| Classified Information | Official Information that requires protection in the interests of national security and is so designated by the application of a security classification. This Information may be in oral, visual, magnetic or documentary form or in the form of equipment or technology. |
| Contract | Any mutually binding legal relationship under national laws which obligates a Contractor to furnish supplies or services, and obligates one or more of the Participants to pay for them. |
| Contracting | The obtaining of supplies or services by Contract from sources outside the government organizations of the Participants. Contracting includes description of supplies and services required, solicitation and selection of sources, preparation and award of Contracts, and all phases of Contract administration. |
| Contracting Agency | The entity within the government organization of a Participant that has authority to enter into, administer, or terminate Contracts. |
| Contracting Officer | A person representing a Contracting Agency of a Participant who has the authority to enter into, administer, or terminate Contracts. |
| Contractor | Any entity awarded a Contract under a PA by a Participant's Contracting Agency. |

| | |
|-------------------------------------|--|
| Contractor Support Personnel | Persons specifically identified for support Contracts who provide administrative, managerial, scientific, or technical support services to a Participant under a Contract with that Participant that prohibits using Information received under the Contract for any purpose other than those authorized under this MOU or applicable PA. |
| 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 or pursuant to a PA, the Information will be marked to identify its "in confidence" nature. It could include Information which has been declassified, but remains controlled. |
| Cooperative Project Personnel (CPP) | Military members or civilian employees of a Parent PA Participant assigned to another PA Participant's establishment who perform managerial, engineering, technical, administrative, Contracting, logistics, financial, planning or other functions in furtherance of a project. |
| Defense Purposes | Manufacture or other use in any part of the world by or for the armed forces of any Participant. Section 13 (Third Party Sales and Transfers) will apply to any sale or transfer to a Third Party. |
| Designated Security Authority (DSA) | The security office approved by national authorities to be responsible for the security aspects of this MOU. |
| Financial Costs | PA costs met with monetary contributions. |
| Foreground Information | Project Information generated in the performance of a PA. |
| Host PA Participant | The PA Participant whose nation serves as the location of the hosting project office. |

Information

Knowledge that can be communicated by any means, 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, computer software (which includes source code and object code), 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.

Intellectual
Property Rights

Intellectual Property Rights means all copyright and neighboring rights, all rights in relation to inventions (including Patent rights), registered and unregistered trademarks (including service marks), registered and unregistered designs, confidential information (including trade secrets and know how), circuit layouts and all other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields.

Non-Financial Costs

PA costs met with non-monetary contributions.

Parent PA
Participant

The PA Participant which sends its CPP to the project office located in the nation of another PA Participant.

Participant

A signatory to this MOU represented by its military and civilian personnel. Contractors and Contractor Support Personnel will not be representatives of a Participant under this MOU.

Patent

Legal protection of the benefit 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.

- Project Arrangement (PA) An individually negotiated implementing arrangement, concluded after the MOU has entered into effect, which details the provisions of cooperation between or among two or more Participants.
- PA Participant A signatory to a PA concluded pursuant to this MOU.
- Project Equipment Any material, equipment, end item, subsystem, component, special tooling or test equipment that is either owned by one PA Participant and provided for use in a PA, or is jointly acquired by more than one PA Participant for use in a PA.
- Project Information Information provided to, generated in, or used in a PA.
- Project Invention Any invention or discovery formulated or made (conceived or "first actually reduced to practice") pursuant to this MOU or in the course of work performed under a PA. 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 Plan A part of a PA that provides a description of the project's delivery requirements and milestones.
- Third Party A government other than the government of a Participant and any person or other entity whose government is not the government of a Participant.

1.2. List of Abbreviations:

| | |
|----------|--|
| CG | Classification Guide |
| CPP | Cooperative Project Personnel |
| DSA | Designated Security Authority |
| FMPD | Financial Management Procedures Document |
| HISC | Hornet International Steering Committee |
| MOU | Memorandum of Understanding |
| PA | Project Arrangement |
| PMO | Project Management Office |
| PO | Project Officer |
| PSC | Project Steering Committee |
| PSI | Project Security Instruction |
| U.S. DoD | Department of Defense of the United States of America |
| WG | Working Group |

SECTION 2

OBJECTIVES

2.1. The objectives of this MOU are to:

2.1.1. Establish a framework and general principles that will apply to the multinational exchange of Information and to the initiation, conduct, and management of cooperative efforts in PAs concluded pursuant to this MOU; and

2.1.2. Promote cooperation among the Participants in F/A-18-related acquisition arrangements and research, development, testing, evaluation, and production (including follow-on support) efforts.

SECTION 3

SCOPE OF WORK

3.1. Information exchange is permitted under this MOU specifically for the purposes of discussing issues and problems of F/A-18 weapons systems readiness, maintenance, and performance; identifying opportunities for F/A-18-related acquisition arrangements or cooperative research, development, testing, evaluation, and production (including follow-on support) efforts; for discussing and harmonizing the Participants' requirements for such acquisition arrangements or cooperative activities; and for formulating, developing, and negotiating PAs. Work under this MOU may include development of reports that summarize issues and problems of F/A-18 weapons system readiness, maintenance, and performance, and reports that set out the scope of work, financial plans, and management plans for a proposed project that can be used to form the basis for negotiating a PA.

3.2. The overall work to be carried out under individually negotiated PAs concluded pursuant to this MOU includes F/A-18-related cooperative research, development, testing, evaluation, and production (including follow-on support) activities in areas including, but not limited to, the following:

- 3.2.1. Hardware and software.
- 3.2.2. Aircraft, engine, and ground support equipment.
- 3.2.3. Aircrew and maintenance trainers.
- 3.2.4. Spare/replacement parts.
- 3.2.5. Documentation and associated publications.

SECTION 4

GENERAL PA PROVISIONS

4.1. Two or more Participants may enter into individual PAs as PA Participants without seeking the approval of the other MOU Participants. The proposed PA Participants will, however, provide the other Participants with a summary of the proposed project before signature of the PA.

4.2. A PA will not confer any benefits or impose any responsibilities upon a Participant who is not a signatory of that PA. MOU Participants who do not sign a PA will be considered Third Parties to that PA with respect to gaining access to Project Information and Project Equipment in accordance with the provisions of Section 13 (Third Party Sales and Transfers).

4.3. Unless specifically stated otherwise in the relevant PA, the provisions of this MOU will apply to each PA under this MOU. In the event of a conflict between the provisions of this MOU and a PA, the MOU will prevail, except that on a case-by-case basis, a PA may contain specific provisions that are identified as deviating from the provisions of this MOU, in which case the deviating PA provisions will prevail.

4.4. PAs entered into pursuant to this MOU will incorporate by reference the provisions of this MOU. Each PA will contain specific provisions concerning but not limited to the PA's individual objectives, scope of work, management, financial provisions, and termination, withdrawal, entry into effect, and duration. PAs will generally follow the format and content provided at Annex A (Sample Project Arrangement).

SECTION 5

MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

5.1. The Participants will establish a Hornet International Steering Committee (HISC) with executive-level oversight for this MOU. The HISC will consist of a representative appointed by each Participant. The HISC will meet twice a year preferably in conjunction with other F/A-18-related international conferences. If desired, additional meetings may be held at the mutual consent of all the HISC representatives. Each meeting of the HISC will be chaired by the U.S. HISC representative and co-chaired by a HISC representative of one of the other Participants. The co-chair responsibility will rotate among the other Participants on an annual basis, unless otherwise mutually determined by the HISC. Decisions of the HISC on MOU matters will be made unanimously. If no Project Steering Committee (PSC) is established under a PA, decisions on matters pertaining to that PA will be mutually determined by the PA Participants' HISC representatives. In the event that the HISC is unable to reach a timely decision on an issue, each HISC representative will refer the issue to its higher authority for resolution. The HISC will be responsible for:

- 5.1.1. Exercising executive-level oversight of the MOU.
- 5.1.2. Monitoring overall use and effectiveness of this MOU including the review of progress towards accomplishing Section 2 (Objectives) and Section 3 (Scope of Work).
- 5.1.3. Fostering maximum F/A-18-related cooperation among the Participants.
- 5.1.4. Establishing and coordinating Working Groups (WGs) to conduct MOU-related activities as set out in paragraph 3.1 of Section 3 (Scope of Work).
- 5.1.5. Assessing reports that set out F/A-18 readiness and performance problems and issues, and reports that set out proposed scopes of work, financial plans, and management plans for potential PAs.
- 5.1.6. Providing recommendations to the Participants for new PAs under this MOU.

- 5.1.7. Resolving MOU issues brought forth by one or more of the Project Officers (POs) under a PA.
- 5.1.8. Reviewing and forwarding to the Participants for approval recommended amendments to this MOU in accordance with Section 20 (Amendment, Termination, Entry Into Effect, and Duration).
- 5.1.9. Designating a point of contact for each Participant for equitable exchange of Information for the purposes of carrying out paragraph 3.1 of Section 3 (Scope of Work), and identifying issues concerning security, Classified Information, or Controlled Unclassified Information that may be associated with a potential PA.
- 5.1.10. Providing recommendations to the Participants for the addition of new Participants in accordance with Section 15 (Participation of Additional Nations).
- 5.1.11. Monitoring Third Party sales and transfers authorized in accordance with Section 13 (Third Party Sales and Transfers).

5.2. If a WG is established by the HISC under this MOU, it will be responsible for preparing and developing a report that sets out the scope of work, financial plans, and management plans on a proposed PA, or a report that addresses F/A-18 readiness and performance problems and issues, and submitting the report for approval to the HISC members involved in the WG.

5.3. PAs under this MOU will generally be directed and administered by POs assigned by the Participants to the PA. The POs will have primary responsibility for effective implementation, efficient management, and direction of the PA in accordance with this MOU. If desired and mutually determined among PA Participants, a PSC may be established for an individual PA.

5.4. If a PSC is established for a PA, each PA Participant will appoint a representative to the PSC. PSC members may also be HISC members. The PSC will have responsibility for executive oversight of that PA and will meet as often as set out in the PA or as often as the PSC members mutually determine. Decisions of the PSC will be made unanimously. In the event that the PSC is unable to reach a timely decision on an issue, each PSC

representative will refer the issue to its higher authority for resolution. In the meantime, the parts of the PA not at issue will continue to be implemented without interruption under the direction of the POs while the issue is being resolved by higher authority.

5.5. If a PSC is established for a PA, the PSC's responsibilities will include but will not be limited to the following:

- 5.5.1. Exercising executive-level oversight of the PA.
- 5.5.2. If necessary, reviewing and approving any Financial Management Procedures Documents (FMPDs) as described in paragraph 6.3 of Section 6 (Financial Provisions) of this MOU.
- 5.5.3. Reviewing the progress and the implementation of the PA.
- 5.5.4. Resolving issues forwarded by one or more of the POs.
- 5.5.5. Reviewing and forwarding to the Participants for approval recommended amendments to the PA in accordance with Section 20 (Amendment, Termination, Entry into Effect, and Duration) of the MOU.
- 5.5.6. Approving plans to manage and control the transfer of Project Equipment provided by any PA Participant or Project Equipment that is jointly acquired by more than one PA Participant to support the execution of the PA in accordance with Section 8 (Project Equipment) of this MOU.
- 5.5.7. Approving plans for the disposal of jointly acquired Project Equipment under the PA in accordance with Section 8 (Project Equipment) of this MOU.
- 5.5.8. Maintaining oversight of the security aspects of the PA, including, if applicable, reviewing and obtaining approval from the appropriate Designated Security Authority (DSA) of a Project Security Instruction (PSI) and a Classification Guide (CG).

5.5.9. Reviewing the status reports submitted by the POs.

5.6. The POs for a PA will be responsible for:

5.6.1. Managing the cost, schedule, performance requirements, technical, security and financial aspects of the PA.

5.6.2. Updating and executing the Project Plan.

5.6.3. Referring any issues that cannot be resolved by the POs to the PSC or if none, to the PA Participants' HISC representatives.

5.6.4. Developing and recommending amendments to the PA to the PSC or if none, to the PA Participants' HISC representatives.

5.6.5. Developing and implementing PSC-approved plans to manage and control the transfer of Project Equipment provided by any PA Participant or Project Equipment that is jointly acquired by more than one PA Participant in accordance with Section 8 (Project Equipment) of this MOU.

5.6.6. Developing and implementing PSC-approved plans for the disposal of jointly acquired Project Equipment under their respective PA in accordance with Section 8 (Project Equipment) of this MOU.

5.6.7. If necessary, carrying out any additional management responsibilities set out in a PA, such as preparing and implementing the approved PSI and a CG for the PA.

5.6.8. Providing a PA status report twice a year to the PSC, or if none, to the PA Participants' HISC representatives.

5.6.9. If necessary, developing the FMPD for a PA, as described in paragraph 6.3 of Section 6 (Financial Provisions) of this MOU, and forwarding it to the PSC, or if none, to the PA Participants' HISC representatives, for approval.

5.6.10. Forwarding recommendations to the PSC, or if none, to the PA Participants' HISC representatives, for the addition of new MOU Participants to their respective PA in accordance with Section 15 (Participation of Additional Nations).

5.7. Any additional duties of the POs will be specified in the corresponding PA.

5.8. If no PSC is formed for a specific PA, then the POs will also be responsible for those PSC responsibilities identified in paragraph 5.5 above.

5.9. A Project Management Office (PMO) may be formed to facilitate management of an individual PA as follows:

5.9.1. The structure, responsibilities, and organization of the PMO will be detailed in the corresponding PA.

5.9.2. The Participants recognize that performance of work under an individual PA may require Cooperative Project Personnel (CPP) of a PA Participant to be assigned to work in another PA Participant's establishments. The provisions for the conduct of CPP assigned to another PA Participant's establishments are included as Annex (1) (Cooperative Project Personnel for the [insert name of project] Project) to Annex A (Sample F/A-18 Project Arrangement).

SECTION 6

FINANCIAL PROVISIONS

6.1. The Participants will maintain and fund their own organizations for managing this MOU and its associated PAs. Furthermore, the following costs will be borne entirely by the Participant incurring the costs or on whose behalf the costs are incurred:

- 6.1.1. Costs associated with any unique national requirements identified by a Participant.
- 6.1.2. Costs associated with national representation at meetings.
- 6.1.3. Any other costs not expressly stated as shared costs or any costs that are outside the scope of this MOU or a PA to which the Participant is a signatory.

6.2. Detailed descriptions of the financial and non-financial arrangements for a specific PA will be mutually determined by the Participants to the PA and will be included in that PA. These will include the total cost of the PA, each PA Participant's share of the total cost, and, if jointly decided, a funding schedule. Each PA Participant will contribute financial or non-financial contributions, or both, which represent its equitable share of the full costs as set out in each PA pursuant to this MOU. Such costs include overhead costs, administrative costs, and costs of claims. Each PA Participant will receive an equitable share of the results of each PA, as set out in each PA.

6.3. For each PA, the POs will be responsible for establishing the detailed financial management procedures under which the project will operate. Where necessary, these procedures, which must be consistent with the national accounting and audit requirements of the PA Participants, will be detailed in a FMPD developed by the POs and subject to the approval of their respective HISC members, or PSC if one is established. Each PA Participant will provide funds in accordance with the estimated schedule of financial contributions outlined in each PA and, when necessary, contained in the FMPD.

6.4. The PA Participants will use their best efforts to perform, or to have performed, the work specified in the PA and

fulfill all the responsibilities under the PA within the cost estimates specified in each PA. Each PA Participant will bear the full Financial Costs and Non-Financial Costs it incurs for performing, managing, and administering its activities under the PA, and all such costs will be included as part of each PA Participant's contributions to the PA, including their share of the costs of any Contract.

6.5. For PAs with shared costs that involve the establishment of CPP assignments to another PA Participant's facilities, the PA will address the financial and non-financial contributions, required CPP administration and associated support services including, but not limited to, costs of travel incurred in support of PA efforts, training costs, Contract award, Contract administration, office space, security services, information technology services, communications services, and supplies.

6.6. In addition to the shared costs of administration and associated support services costs described in paragraph 6.5 of this Section, the cost of CPP assigned to another PA Participant's facilities will be borne as follows:

6.6.1. The Host PA Participant will bear the costs of all pay and allowances of Host PA Participant personnel in the Host PA Participant office.

6.6.2. The Parent PA Participant will bear the following costs:

6.6.2.1. All pay and allowances of its CPP.

6.6.2.2. Transportation of CPP, CPP dependents, and their personal property to the place of assignment in the Host PA Participant's nation prior to the CPP's commencement of a tour of duty in the host office or field activity, and return transportation of the foregoing from the place of assignment in the Host PA Participant's nation upon completion or termination of the tour of duty.

6.6.2.3. Compensation for loss of, or damage to, the personal property of CPP or the CPP's dependents, subject to the Parent PA Participant's laws and regulations.

6.6.2.4. Preparation and shipment of remains and funeral expenses in the event of the death of CPP or CPP dependents.

6.7. For PAs without shared costs that involve the assignment of one PA Participant's CPP to the facilities of another PA Participant, the PA Participants will bear the costs as set out in 6.6, except that the Host PA Participant will also bear the assignment-related administrative and support costs such as CPP costs of travel incurred in support of a PA, CPP-related training, office space, security services, information technology services, communications services, and supplies.

6.8. When the PA Participants mutually determine that one PA Participant will Contract on behalf of one or more of the other PA Participants or on behalf of all the other PA Participants pursuant to a PA, each PA Participant will make funds available in the amounts and at the times set out in the estimated schedule for monetary contributions, as specified in the PA or the FMPD.

6.9. For PAs, the Participants recognize that it may become necessary for the Contracting PA Participant, consistent with its national laws, to incur contractual or other responsibilities for the benefit of the other PA Participants prior to receipt of the other PA Participants' funds. In such event, the other PA Participants will make such funds available in such amounts and at such times as may be required by the Contract or other responsibility and will pay their equitable share, as mutually determined by the PA Participants, of any damages and costs that may accrue from the performance or cancellation of the Contract or other responsibilities in advance of the time such payments, damages, or costs are due.

6.10. A PA Participant will promptly notify the other PA Participants if available funds are not adequate to fulfill its responsibilities as mutually determined in the PA. If a PA Participant notifies the other PA Participants that it is terminating or reducing its funding for the PA, the PA Participants will immediately consult with a view toward continuation on a modified basis. In the event that an understanding to continue on a modified basis cannot be reached by the PA Participants, Section 20 (Amendment, Termination, Entry into Effect and Duration) and the applicable PA provisions concerning withdrawal or termination may apply.