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DEFENCE



Treaty Series No. 25 (1975)

Agreement

to amend the Agreement
of 3 August 1959 to Supplement the
Agreement between the Parties to the
North Atlantic Treaty regarding the
Status of their Forces with respect
to Foreign Forces stationed in
the Federal Republic of Germany

Bonn, 21 October 1971

[The Agreement entered into force on 18 January 1974]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
March 1975*

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AGREEMENT
TO AMEND THE AGREEMENT OF 3 AUGUST 1959
TO SUPPLEMENT THE AGREEMENT BETWEEN THE
PARTIES TO THE NORTH ATLANTIC TREATY REGARDING
THE STATUS OF THEIR FORCES WITH RESPECT TO
FOREIGN FORCES STATIONED IN THE
FEDERAL REPUBLIC OF GERMANY

The Kingdom of Belgium, the Federal Republic of Germany, the French Republic, Canada, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America;

Desiring to adapt Article 56 of the Agreement of 3 August 1959 to Supplement the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces with respect to Foreign Forces stationed in the Federal Republic of Germany⁽¹⁾ (hereinafter referred to as the "Supplementary Agreement to the NATO Status of Forces Agreement") and the provisions of the Protocol of Signature⁽¹⁾ re Article 56, paragraph 9, to German law to the extent compatible with the special military requirements of the Allied Forces in the territory of the Federal Republic of Germany;

Have agreed as follows :

ARTICLE 1

Article 56 of the Supplementary Agreement to the NATO Status of Forces Agreement shall be amended as follows :

1. In paragraph 1 sub-paragraph (a) the words "and shop agreements (Dienstvereinbarungen)" shall be inserted after the words "decrees regulating working conditions (Dienststörungen) ".

2. Paragraph 2 shall read as follows :

(a) If a German Labour Court decides that the contract of employment has not come to an end by notice to terminate, and if during the Labour Court proceedings the employer has declared to the Court that continuation of employment is precluded by military interests particularly worthy of protection, the Court shall fix ex officio the compensation payable in the event that the continuation of the employment is refused. This procedure shall apply to proceedings to obtain protection against dismissal (Kündigungsschutzverfahren) as well as to other actions for a declaratory judgment (Feststellungsklage), or for damages or specific performance (Leistungsklage) arising out of the contract of employment. The amount of compensation shall be determined according to the provisions of German labour law. A refusal to continue employment may only be based on the ground

⁽¹⁾ Treaty Series No. 73 (1963), Cmnd. 2191.

that continuation of employment is precluded by military interests particularly worthy of protection. Such a refusal must be submitted in writing by the highest service authority to the Labour Court without delay, and in any case, not later than twenty-one days after service of the court decision. The refusal shall be served by the Court upon the person under notice. Upon service of the refusal, the contract of employment shall be deemed to be terminated. Continued employment shall not preclude the filing of an appeal against the court decision. If continued employment is refused, the period prescribed for filing an appeal against the amount of compensation awarded shall not begin until the refusal has been served on the person under notice.

- (b) The highest service authority within the meaning of this paragraph shall be the highest agency located in the Federal Republic of Germany that is administratively responsible for the employing agency of the person under notice.
- (c) This paragraph shall not apply to members of works councils (Betriebsvertretungen).

ARTICLE 2

The Protocol of Signature re Article 56, paragraph 9, to the Supplementary Agreement to the NATO Status of Forces Agreement shall be amended as follows:

1. Paragraph 1 shall read as follows:

The individual administrative units and establishments (Betriebe) of a force or of a civilian component as set up in the territory of the Federal Republic of Germany and defined by the force concerned shall be agencies within the meaning of the Personnel Representation Law (Personalvertretungsgesetz) of 5 August 1955 (Bundesgesetzblatt Teil I, page 477), referred to in this Section as "the Law". Those headquarters which are administratively immediately subordinate to the highest service authority of a force and to which other agencies are administratively subordinate shall be the intermediate authorities. The highest service authority shall be the headquarters of a force, designated by the sending State concerned, exercising final authority over matters that are subject to works council participation.

2. The first and second sentences of paragraph 2 shall be deleted; in the third sentence the words "of a district works council" shall be replaced by the words "of a works council above the local level (Stufenvertretung)".

3. The first sentence of paragraph 3 shall read as follows:

In discussions with the works council, the head of the agency may be represented by a person holding a responsible position in the management of the agency and authorized to negotiate with the works council to the same extent as the head of the agency.

The second and third sentences shall be deleted.

4. Paragraph 4 shall read as follows:

Application of those provisions of the Law which govern eligibility for works council office, and relate to length of employment with an agency, may be waived if so agreed by the majority of employees of a given agency and the head of such agency. Persons entitled to vote in works council elections, but not possessing the voting right for the German Bundestag for lack of German nationality, shall be eligible for works council office if they meet all other requirements and have been employed for three years by the same sending State in the territory of the Federal Republic of Germany.

5. Paragraphs 5 and 12 shall be deleted, and paragraphs 6 to 11 inclusive shall be renumbered as paragraphs 5 to 10 inclusive.

6. In paragraph 5, sentence 2, the words "highest authority" shall be replaced by the words "highest service authority".

7. Paragraph 6 shall read as follows:

(a) The rights of co-determination provided for in the Law shall be applicable with respect to:

the implementation of vocational training schemes established by the force concerned, and

the management of welfare facilities maintained exclusively for civilian labour.

They shall also be applicable with respect to:

the establishment of the beginning and end of daily work hours and breaks,

the determination of the time and place of payment of earnings, and

the drawing up of the leave plan,

to the extent that in a given case no compelling reasons exist making the exercise of those rights incompatible with the fulfilment of the defence responsibilities of the force; in the case of disagreement as to whether such reasons exist, the highest service authority shall decide on the matter and transmit a written statement of its decision to the chairman of the works council involved.

(b) In other cases of co-determination provided for in the Law as well as in those cases where the rights of co-determination are not applicable by virtue of the second sentence of sub-paragraph (a) above, the co-operation procedure shall apply.

(c) The conciliatory committee envisaged in the co-determination procedure shall consist of two members, one to be appointed by the highest service authority and one by the appropriate works council of that authority, as well as an impartial chairman to be agreed upon by both sides. If no agreement can be reached on the chairman, the appointment shall be made by the Secretary General of the North Atlantic Treaty Organisation. The highest service authority may insist

upon the members of the conciliatory committee being cleared to handle classified material.

ARTICLE 3

1. The provisions applicable prior to the coming into force of this Agreement shall continue to apply to proceedings, instituted before the entry into force of this Agreement, to obtain protection against dismissal as well as to other actions for a declaratory judgment or for damages or specific performance arising out of the contract of employment.

2. The period of office of works councils existing at the date of entry into force of the present Agreement shall remain unaffected.

ARTICLE 4

1. This Agreement shall be subject to ratification or approval. The instruments of ratification or approval shall be deposited by the signatory States with the Government of the United States of America which shall notify each signatory State of the date on which the instruments are deposited.

2. This Agreement shall enter into force⁽²⁾ thirty days after the deposit of the last instrument of ratification or approval.

In witness whereof, the undersigned Representatives duly authorized thereto have signed this Agreement.

Done at Bonn, this twenty-first day of October 1971, in the German, English and French languages, all three texts being equally authentic⁽³⁾, in a single original, which shall be deposited in the archives of the Government of the United States of America, which shall transmit a certified true copy to each signatory State.

⁽²⁾ The Agreement entered into force on 18 January 1974.

⁽³⁾ Texts in the German, English and French languages will be published in the United Nations Treaty Series, available through Agency Section, Her Majesty's Stationery Office, PO Box 569, London, SE1 9NY. Tel. 01-928 6977, ext. 410.

SIGNATURES, RATIFICATIONS AND APPROVALS

<i>State</i>	<i>Date of Deposits of Instruments of Ratification or Approval (A)</i>
Belgium	19 December 1973
Canada	20 June 1972
France	10 May 1973
Germany, Federal Republic of	27 September 1973
Netherlands	20 November 1972 (A) ^(*)
United Kingdom	2 June 1972
United States	8 June 1972 (A)

(*) For the Kingdom in Europe.

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