

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE UNITED STATES ATLANTIC COMMAND (USCINCLANT)
AND
THE DEFENSE DEPARTMENT OF THE ICELANDIC FOREIGN MINISTRY
REGARDING
THE RESOLUTION OF CERTAIN GROUNDWATER CONTAMINATION

PREAMBLE

Whereas, contaminated groundwater has been discovered or is suspected in Keflavik, Njardvik and the agreed base areas (hereinafter "the agreed areas"); and

Whereas, the government of each party has a duty to promote public health and safety; and

Whereas, the parties are desirous of taking common action in response to these circumstances;

Therefore the parties have determined that it would be mutually beneficial to construct a common potable water system to service the "Keflavik and Njardvik Water Authority" (hereinafter called the "Water Authority") and the agreed areas.

ARTICLE I

References

This Memorandum of Understanding (hereinafter "MOU") is entered into in the spirit of: the North Atlantic Treaty signed in Washington on 4 April 1949; the Defense Agreement signed at Reykjavik on 5 May 1951 between the Government of Iceland and the Government of the United States of America; and the exchange of notes of 22 October 1974 between those governments relating to the 1951 Defense Agreement.

ARTICLE II

Parties

The parties to this MOU are the Commander in Chief, United States Atlantic Command (USCINCLANT) and the Defense Department of the Icelandic Ministry for Foreign Affairs.

ARTICLE III

Purpose

The purpose of this Memorandum of Understanding is to provide for the construction, subject to agreed terms and conditions, of a potable water supply system which shall service the Water Authority and the agreed areas and to identify the parties' rights and responsibilities with respect to the construction, funding, management and use of the water system.

ARTICLE IV

The System Described

1. The water system (hereinafter "the public utility") to be constructed pursuant to this MOU will encompass waterworks and a distribution system to the end-point where it enters subdistribution into Keflavik, Njardvik and the agreed areas. Subdistribution systems will be the responsibility of the respective parties.
2. The public utility will produce, treat in a manner consistent with Icelandic practices and distribute potable water, provided that disposition of waste water will remain the individual responsibility of the respective parties and is not part of the public utility.

ARTICLE V

Construction

1. Construction of the public utility will be the sole responsibility of the Government of Iceland and is not considered a NATO infrastructure project nor a U.S. military construction project.
2. The appropriate Icelandic authorities will competitively select, based on price and quality, the contractor to construct the new public utility pursuant to its laws. Should those authorities create a committee or designate the water authority to oversee any aspect of the design and/or construction of the system, the Iceland Defense Force, acting as the U.S. representative, will be granted observer status.
3. The U.S. representative will attend all meetings and sessions of the committee or Water Authority in which discussions or decisions are made with respect to design and/or construction. The U.S. representative will be provided copies of minutes, reports, and plans which relate or are developed with respect to the design and construction of the system. The U.S. representative will be invited to inspect and provide input into the design and construction process. On completion of design but prior to initiation of construction, the Government of Iceland will call a meeting between its competent authorities and the Iceland Defense Force, acting as the U.S. representative, to discuss and approve the design.
4. The U.S. contribution to the construction project will be to fund the construction of the public utility. The U.S. contribution will be made in two payments. The first payment will be deposited with the appropriate Icelandic authorities as soon as possible following the date that this MOU enters into force and will be in the amount of US \$8.0 million. The second payment in the amount of US \$1 million for training and start-up costs will be made when the system commences operation. Any sums expended in excess of the funds agreed to in this MOU will be borne by the Government of Iceland.
5. The United States Government will not incur any obligation or financial responsibility arising from construction, management, or operation of the public utility.

System Management

The Government of Iceland's contribution to the construction project will be to take all necessary, expeditious and effective measures to ensure a continuous and ample supply of potable water to the communities of Keflavik, Njardvik and the agreed areas during the term of this MOU.

ARTICLE VII

Resource Sharing

1. For the U.S. contribution of funding of construction of the system, the Iceland Defense Force is entitled on a continuing basis to draw 83 liters per second of system capacity delivered to the existing water system on the Patterson ramp area, at no further cost for a period of 15 years beginning with the agreed date on which service by the public utility commences. However, to the extent that the Iceland Defense Force underutilizes its share of the aforementioned capacity, the other party may absorb the balance.

2. Those non-Iceland Defense Force activities on the agreed areas which presently draw water from the U.S. subdistribution system on the agreed areas may continue to draw their water supply needs at current levels from the U.S. subdistribution system. Modifications to increase those levels for non-Iceland Defense Force activities on the agreed areas will be conditioned on the availability of water in excess of the Iceland Defense Force needs.

3. The Iceland Defense Force will continue to treat water utilized on the agreed areas in accordance with its requirements. To ensure that the system on the agreed areas is maintained in proper working order to meet the emergency needs of the Iceland Defense Force, and to serve its satellite locations isolated from the main subdistribution system on the agreed areas, the Iceland Defense Force may produce a limited amount of water. Water produced by the Iceland Defense Force to maintain the system may be consumed by it to avoid waste.

ARTICLE VIII

Rate Setting

Fifteen years after the commencement of service by the public utility, the United States shall be entitled to purchase on behalf of the Iceland Defense Force potable water from the water authority or its successor at a negotiated fixed rate. The negotiated fixed rate will be fair and reasonable based on usage and, in view of the U.S. contribution toward construction of the public utility, such rate will reflect the most favorable public rate to the most favored buyer.

ARTICLE IX

Ancillary Provisions

1. This MOU shall be the dispositive common solution to the water contamination problem that has evolved. Accordingly, the United States Government and the Government of Iceland agree, for purposes of this MOU, to

forego the claims process described in Article 12 of the Annex to the 1951 Defense Agreement on the Status of United States Personnel and Property, done at Reykjavik, 8 May 1951. Further, each party agrees to assume the responsibility of the other, as follows: The United States Government agrees to hold the Government of Iceland harmless from any claims of any nature attributable to the pollution of groundwater which may be presented by those who were, are or may in the future be present in Iceland under the auspices of the 1951 Defense Agreement; and, the Government of Iceland agrees to hold the United States Government harmless from any claims of any nature attributable to the pollution of groundwater which may be presented by all other persons (whether natural or juridical).

2. Since the construction project provided for herein alleviates the hazard, if any, to public health and safety, tracing and cleanup of sources of contaminants is not of essence to this MOU and neither party is required to undertake or restore water sources in which contaminants were confirmed or suspected prior to the date this MOU is concluded. Each party will, however, continue to provide the other party with scientific and technical data which may be acquired in conjunction with monitoring, tracing or other activity which, at its discretion, may be independently initiated by a party.

ARTICLE X

Funding

1. The implementation of this MOU will be in accordance with the respective national laws and implementing regulations of the parties and will remain subject to the availability of appropriated funds. Each party will notify the other promptly if funds have not or will not be made available to carry out the purposes of this MOU.

ARTICLE XI

Amendments

This MOU may be amended by written agreement of the parties.

ARTICLE XII

Disputes

All differences between the parties relating to the interpretation or application of this MOU shall be settled by negotiations between the two parties without recourse to judicial forums. Differences which cannot be settled by direct negotiations between the parties shall be referred to the U.S.-Iceland Defense Council, established pursuant to the Agreement Relating to the Presence of Defense Forces in Iceland, done at Reykjavik, 6 December 1956. The two parties shall exert their best efforts to resolve disputes at the lowest possible level.

ARTICLE XIII

Duration

This MOU shall remain in force as long as the Defense Agreement concluded

between the Government of the United States and the Government of Iceland on 5 May 1951, as amended, or a successor agreement, remains in force.

ARTICLE XIV

Effective Date

1. This MOU shall enter into force on the day immediately following the date on which both of the following conditions have been completed: (a) USCINCLANT has notified the Defense Department of the Icelandic Foreign Ministry that the construction funds to be contributed by the United States Government, as specified in Article V, paragraph 4 of this MOU, are available for expenditure and (b) the Defense Department of the Icelandic Foreign Ministry notifies USCINCLANT in writing that Iceland's necessary internal procedures have been satisfied, including the conclusion of all necessary subsidiary agreements.

2. Should either party, prior to the entry into force of this MOU, take any action, including the execution of any contracts, in anticipation of this MOU coming into force, that party shall accept all risks in the event that the MOU does not enter into force.

Done at Reykjavik, this 17 day of July, 1989.

FOR USCINCLANT:

FOR THE DEFENSE DEPARTMENT OF
THE ICELANDIC FOREIGN MINISTRY:

Thomas F. Hall
Rear Admiral Thomas F. Hall

Thorsteinn Ingolfsson
Ambassador Thorsteinn Ingolfsson

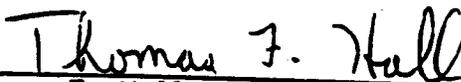
AMENDMENT 1 TO
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE UNITED STATES ATLANTIC COMMAND (USCINCLANT)
AND
THE DEFENSE DEPARTMENT OF THE ICELANDIC FOREIGN MINISTRY
REGARDING
THE RESOLUTION OF CERTAIN GROUNDWATER CONTAMINATION

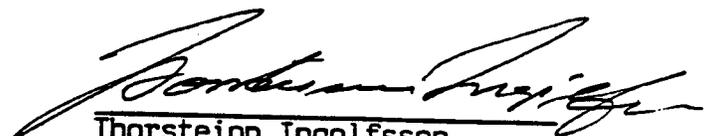
Consistent with the purposes and policies of the Memorandum of Understanding Between the United States Atlantic Command (USCINCLANT) and the Defense Department of the Icelandic Foreign Ministry Regarding the Resolution of Certain Groundwater Contamination (MOU), dated 17 July 1989, and in furtherance of the stated determination in the Preamble of the MOU that it is mutually beneficial to construct a common potable water system to service the Keflavik and Njardvik Water Authority and the agreed areas, the parties hereby agree, in accordance with Article XI of the MOU, to amend paragraph 1 of Article VII (Resource Sharing) to change the connection point to the Iceland Defense Force subdistribution system from the "Patterson ramp" area to the "Graenas gate" area. This amendment takes effect on the date that this document is signed by the U.S. and Icelandic Chairmen of the U.S.-Iceland Defense Council.

Done at the Iceland Defense Force, Keflavik International Airport,
this 25th day of January, 1990.

FOR USCINCLANT:

FOR THE DEFENSE DEPARTMENT OF
THE ICELANDIC FOREIGN MINISTRY:


Thomas F. Hall
Rear Admiral, U.S. Navy
U.S. Chairman


Thorsteinn Ingolfsson
Ambassador
Icelandic Chairman