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ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

INTERNATIONAL
SECURITY AFFAIRS

In reply refer to:
I-7208/76

MEMORANDUM FOR THE SECRETARY OF DEFENSE

SUBJECT: Danish Reservations on F-16 Letter of Offer
and Acceptance - INFORMATION MEMORANDUM

The Honorable Orla Moller, Minister of Defense, Denmark
may express concern over certain F-16 Letter of Offer
and Acceptance (LOA) conditions during his visit with
you on 16 July 1976.

The attached papers on the F-16 issue are extracts from
the briefing package coming to you for your meeting
with MOD Moller. Secretary Shrontz, ASD/I&L and Colonel
Preston, ISA(SA) are prepared to discuss the issues in
more detail if you desire.

Denmark

you have it

Eugene V. McJuliffe
Assistant Secretary of Defense
International Security Affairs

Attachments
a/s

16 JUL 1976

14 JUL 1976

msh

SEC DEF CONTR No. X-2110

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F-16. The Danes will procure 48 F-16s, with an option to procure 10 more -- the largest single defense procurement in Danish history. Deliveries are to begin in 1980. The Danes recently presented strong reservations about the F-16 draft Letter of Offer and Acceptance (LOA). They have expressed their determination that, in accordance with the Memorandum of Understanding signed in June 1975, they be treated as a full partner and not as just a consumer. Møller may leave a "technical paper" with you on the F-16 issue. The Danes are also concerned with possible cost overruns and that Danish firms might not win enough offset contract awards.

Details of Danish reservations about the LOA are at Tab D.

Talking Points:

- Stress the F-16's importance in improving NATO's capability, and US determination to make the project a success.
 - Express appreciation for Danish "technical paper", if he leaves it with you.
 - Assure Møller that we consider all members of the consortium to be co-product ion partners and not consumers.
 - Inform Danish MOD that unresolved issues involve US statutory requirements upon which we must remain firm.
- F-16 Multinational Steering Committee Contractual and Financial Subcommittee will meet in Washington, 16 August to determine if additional accommodation possible.
- Express confidence that consortium will resolve outstanding LOA issues for final Steering Committee approval in September.



Danish Reservations on F-16 Letter of Offer and Acceptance (LOA)

BACKGROUND:

Five nation Memorandum of Understanding (MOU) for F-16 co-production program signed June 1975.

- US and European Participating Governments (EPGs) in F-16 program are Belgium, Denmark, The Netherlands, Norway.
- MOU provides overall program policy, while financial arrangements requires LOA for each country pursuant to U.S. Arms Export Control Act.

Standard Foreign Military Sales (FMS) conditions of sale (DD Form 1513) not considered appropriate by EPG for this program.

- DOD advised all EPG countries during MOU negotiations that FMS conditions apply.
 - US agreed to revise conditions to the extent possible yet stay within statutory limitations in view of partnership concept..

CURRENT STATUS:

DOD negotiations with EPGs reduced issues to four major areas:

- Limitation of US liability and acceptance of risk.
- US termination liability.
- Applicability of FMS legislation.
- Pricing and payment guidelines.
- Danish MOD expected to address their specific reservations regarding LOA conditions. Danish Government taking a stronger position on reservations than other countries. Their reservations along with US position listed below:
 - Reservation: Opposed to direct reference to FMS legislation in LOA.
 - US Position: US Arms Export Control Act is authority to enter into, and governs US implementation of, the program; reference should remain.



- Reservation: Strong desire to participate in decisions involving changes to contractual prices.
 - US Position: Agree to consult with EPG on price changes but USG prevented by law to guarantee a fixed price.
- Reservation: US should assume all risks (including consequential loss to EPG) resulting from US cancellation of the program.
 - US Position: US will use best efforts subject to Congressional authorization, but cannot commit. USG legally incapable of assuming their consequential damages.
- Reservation: US should commit to 12 months advance notification of upward adjustments to the payment schedule.
 - US Position: US will use best efforts to provide advance notification but cannot commit or assume liability for late, payments. Payments required from purchaser in time to meet contractors requests for funds under U.S. law.

Significant major concessions made by U.S. to date.

