

UNITED STATES



Treaty Series No. 59 (1963)

Polaris Sales Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the United States of America

Washington, April 6, 1963

[The Agreement entered into force on signature]

*Presented to Parliament by the Secretary of State for Foreign Affairs
by Command of Her Majesty
August 1963*

LONDON
HER MAJESTY'S STATIONERY OFFICE
ONE SHILLING NET

POLARIS SALES AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America, recalling and affirming the "Statement on Nuclear Defense Systems" (1) included in the joint communiqué issued on December 21, 1962, by the Prime Minister of Her Majesty's Government in the United Kingdom of Great Britain and Northern Ireland and the President of the United States of America, have agreed as follows:—

ARTICLE I

1. The Government of the United States shall provide and the Government of the United Kingdom shall purchase from the Government of the United States Polaris missiles (less warheads), equipment, and supporting services in accordance with the terms and conditions of this Agreement.

2. This Agreement shall be subject to the understandings concerning British submarines equipped with Polaris missiles (referred to in paragraphs 8 and 9 of the Nassau "Statement on Nuclear Defense Systems") agreed by the President of the United States and the Prime Minister at their meeting held in the Bahamas between December 18 and 21, 1962.

ARTICLE II

1. In recognition of the complexity of the effort provided for in this Agreement and the need for close coordination between the contracting Governments in giving effect to its terms, the two Governments shall promptly establish the organizational machinery provided for in the following paragraphs of this Article.

2. The Department of Defense, acting through the Department of the Navy, and the Admiralty, or such other agency as the Government of the United Kingdom shall designate, will be the Executive Agencies of their respective Governments in carrying out the terms of this Agreement. Appropriate representatives of the Executive Agencies are authorized to enter into such technical arrangements, consistent with this Agreement, as may be necessary.

3. A Project Officer will be designated by each Government's Executive Agency with direct responsibility and authority for the management of the activities of that Government under this Agreement. Each Project Officer will designate liaison representatives, in such numbers as may be agreed, who will be authorized to act on his behalf in capacities specified in technical arrangements and who will be attached to the Office of the other Project Officer.

(1) Cmnd. 1915

4. A Joint Steering Task Group will be established by the Project Officers to advise them, *inter alia*, concerning the development of new or modified equipment to meet specific requirements of the Government of the United Kingdom, and concerning interfaces between the equipment provided by the two Governments respectively. The Joint Steering Task Group will comprise the Project Officers (or their representatives), and principal liaison representatives, and may include selected leaders from among the scientists, industrialists and government executives of the United Kingdom and of the United States. The Joint Steering Task Group will meet approximately every three months alternately in the United Kingdom and in the United States under the chairmanship of the resident Project Officer.

ARTICLE III

1. The Government of the United States (acting through its Executive Agency) shall provide, pursuant to Article I of this Agreement, Polaris missiles (less warheads), equipment, and supporting services of such types and marks and in such quantities as the Government of the United Kingdom may from time to time require, and in configurations and in accordance with delivery programs or time tables to be agreed between the Project Officers. In the first instance the missiles, equipment, and supporting services provided by the Government of the United States shall be sufficient to meet the requirements of a program drawn up by the Government of the United Kingdom and communicated to the Government of the United States prior to the entry into force of this Agreement.

2. The missiles, equipment, and supporting services referred to in paragraph 1 of this article are the following:

- a. Polaris missiles (less warheads but including guidance capsules) ;
- b. missile launching and handling systems ;
- c. missile fire control systems ;
- d. ships navigation systems ;
- e. additional associated, support, test, and training equipment and services including, but not limited to:
 - (i) test and check-out equipment, specialized power supplies, power distribution systems and support equipment associated with the items enumerated in subparagraphs a, b, c, and d. of this paragraph and adequate in type and quantity to meet the requirements of installations both aboard ship and ashore ;
 - (ii) specialized equipment including the types specified in subparagraphs a, b, c, d, and e.(i) of this paragraph for use in such support and training facilities as may be provided by the Government of the United Kingdom ;
 - (iii) construction spares and spare parts adequate in scope and quantity to ensure the continued maintenance of the equipment specified in subparagraph a, b, c, d, e.(i), and e.(ii) of this paragraph ;

- (iv) (a) latest available United States technical documentation including *specifications, blueprints, and manuals* covering the missiles and equipment listed in subparagraphs a, b, c, d, e (i), e (ii) and e (iii) of this paragraph in sufficient scope and quantity to cover safety requirements and permit successful transport, installation, operation, and maintenance by the Government of the United Kingdom of all equipment purchased under the terms of this Agreement ;
- (b) latest available United States technical documentation, as may be necessary from time to time in individual cases, to permit *manufacture by the Government of the United Kingdom* to the extent necessary for the maintenance, repair, and modification of the items listed in subparagraphs a, b, c, d, e.(i), e.(ii) and e.(iii) of this paragraph ;
- (v) services, including:
 - (a) use, as appropriate, of existing support and missile range facilities in the United States ;
 - (b) assistance in program management techniques and, in addition, *those engineering and lead shipyard services required to ensure proper system integration, installation, and check-out in the United Kingdom ; to the extent required and available, appropriate modification, maintenance, and overhaul of the equipment listed in subparagraph a, b, c, d, e.(i), e.(ii), e.(iii) of this paragraph ;*
 - (c) research, design, development, production, test, or other engineering services as may be required to meet specific United Kingdom requirements ;
 - (d) training of naval and civil personnel in the service of the Government of the United Kingdom and United Kingdom contractors to the extent to which they are involved in the inspection, installation, operation, maintenance, repair, and modification of the equipment listed in subparagraphs a, b, c, d, e.(i) e.(ii), and e.(iii) of this paragraph.

ARTICLE IV

Future developments relating to the Polaris Weapon System, including all modifications made thereto, by the Government of the United Kingdom or the Government of the United States shall, in the areas enumerated in Article III, be made reciprocally available through their Executive Agencies in accordance with the terms of this Agreement, reciprocally applied.

ARTICLE V

The Government of the United Kingdom will provide the submarines in which will be installed the missiles and equipment to be provided under this Agreement, and will provide the warheads for these missiles. Close coordination between the Executive Agencies of the contracting Governments will be

maintained in order to assure compatibility of equipment. Information concerning the hull, auxiliary machinery, and equipment of United States submarines transmitted under the authority of this Agreement will be such as is necessary to obtain a satisfactory interface between the equipment provided by the two Governments respectively. This Agreement does not, however, authorize the sale of, or transmittal of information concerning, the nuclear propulsion plants of United States submarines.

ARTICLE VI

1. In carrying out this Agreement, the Government of the United States will use, to the extent practicable, established Department of Defense contracting procedures and existing Polaris contracts. In any event contracts for production or work for the Government of the United Kingdom will be incorporated in or placed on the same terms as those for the Government of the United States. When appropriate the United States Project Officer will direct that amendments be sought to existing contracts and that terms be incorporated in new contracts to safeguard any special requirements of the Government of the United Kingdom in the contract subject matter which may arise in connection with this Agreement, for example, to provide for any alterations or any reduction of quantities which may be necessary.

2. The missiles and equipment provided by the Government of the United States under this Agreement shall be fabricated to the same documentation and quality standards as are the counterparts for the United States Polaris Program.

3. The missiles and equipment provided by the Government of the United States under this Agreement will be integrated with the scheduled United States Polaris Program and will be fabricated on a schedule which will make the most efficient and economical use of existing United States production lines. Deliveries will be made upon a schedule to be defined by the Government of the United Kingdom, but which is consonant with the above fabrication schedule.

ARTICLE VII

1. The Government of the United States shall ensure that all supplies (which term throughout this Article includes, but without limitation, raw materials, components, intermediate assemblies and end items) which it will provide under this Agreement are inspected to the same extent and in the same manner (including the granting of waivers and deviations) as are the counterparts for the United States Polaris Program. The United Kingdom Project Officer or his designated representative may observe the inspection process and offer his advice to the United States Government Inspector regarding the inspection, without delay to, or impairment of the finality of, the inspection by the Government of the United States.

2. The United States Project Officer through appropriate procedures will notify the United Kingdom Project Officer when final inspection of each end item will take place, and will furnish a certificate or certificates upon completion of each such inspection stating that this inspection has been made and that such end item has been accepted as having met all requirements of the relevant acceptance documentation (subject to any appropriate waivers

and deviations). Copies of acceptance documentation and quality standards, together with reports required thereby, will be furnished to the United Kingdom Project Officer or his designated representative.

3. The Government of the United Kingdom will take delivery of the supplies as agreed pursuant to Article X following inspection, acceptance and certification by the Government of the United States. Delivery to the Government of the United Kingdom shall not relieve the Government of the United States from continuing responsibility for using its best endeavors thereafter to secure the correction or replacement of any items found not to have been manufactured in strict accordance with the documentation and quality standards referred to in Article VI or to be otherwise defective. Such corrections or replacements will be at the expense of the Government of the United Kingdom to the extent they are not covered by warranty or guaranty or otherwise recoverable by the Government of the United States.

4. The Government of the United States will use its best endeavors to obtain for or extend to the Government of the United Kingdom the benefit of any guarantees or warranties negotiated with United States contractors or subcontractors.

ARTICLE VIII

The Government of the United Kingdom shall indemnify and hold harmless the Government of the United States against any liability or loss resulting from unusually hazardous risks attributable to Polaris missiles or equipment identifiable, respectively, as missiles or equipment supplied or to be supplied to the Government of the United Kingdom under this Agreement. Unusually hazardous risks, for the purposes of this Agreement, are those defined by applicable statutes of the United States, or by any appropriate administrative act under the authority of such statutes, or held to exist by a court of competent jurisdiction. The Government of the United States shall give the Government of the United Kingdom immediate notice of any suit or action filed or of any claim made to which the provisions of this Article may be relevant. Representatives of the United Kingdom may be associated with the defense, before a court of competent jurisdiction, of any claim which may be borne in whole or in part by the Government of the United Kingdom. In procurement contracts for supplies and services made pursuant to this Agreement the Government of the United States is authorized to include unusually hazardous risk indemnification provisions substantially similar to those included in its own corresponding contracts.

ARTICLE IX

1. The Government of the United States will follow its normal procurement practices in securing all rights it considers to be essential to enable it to provide the missiles and equipment to be supplied to the Government of the United Kingdom under this Agreement. In addition, the Government of the United States shall notify the Government of the United Kingdom of any claim asserted hereafter for compensation for unlicensed use of patent rights alleged to be involved in the supply of such missiles and equipment to the Government of the United Kingdom, and the two Governments will consult as to the appropriate disposition of such claim.

2. The Government of the United Kingdom shall reimburse the Government of the United States for any payments made by the Government of the United States in settlement of liability, including cost and expenses, for unlicensed use of any patent rights in the manufacture or sale of the missiles and equipment supplied or to be supplied to the Government of the United Kingdom under this Agreement.

ARTICLE X

1. Delivery of equipment other than missiles to be provided under this Agreement for installation in submarines or supporting facilities to be provided by the Government of the United Kingdom shall be the responsibility of the Government of the United States and shall be made to those locations within the United Kingdom where the equipment is required. In addition to delivery of such equipment, the Government of the United States shall, subject to reimbursement for costs incurred, be responsible for providing such technical installation and testing services as are required by the Government of the United Kingdom for the satisfactory installation, check-out and testing of that equipment in submarines and supporting facilities of the United Kingdom.

2. Delivery of all missiles shall be made to appropriate carriers of the United Kingdom or, if it is agreed, of the United States, at such United States supply points as are agreed by the Executive Agencies of both Governments. The Government of the United States shall be responsible for the initial check-out of all missiles provided under this Agreement.

ARTICLE XI

1. The charges to the Government of the United Kingdom for missiles, equipment, and services provided by the Government of the United States will be:

- a. The normal cost of missiles and equipment provided under the joint United States-United Kingdom production program integrated in accordance with Article VI. This will be based on common contract prices together with charges for work done in United States Government establishments and appropriate allowance for use of capital facilities and for overhead costs.
- b. An addition of 5% to the common contract prices under subparagraph 1.a. of this Article for missiles and equipment provided to the United Kingdom, as a participation in the expenditures incurred by the Government of the United States after January 1, 1963, for research and development.
- c. Replacement cost of items provided from United States Government stock or, with respect to items not currently being procured, the most recent procurement cost.
- d. The actual cost of any research, design, development, production, test or other engineering effort, or other services required in the execution of this Agreement to meet specific United Kingdom requirements.
- e. The cost of packing, crating, handling and transportation.

f. The actual costs of any other services, not specified above, which the Project Officers agree are properly attributable to this Agreement.

2. Payments by the Government of the United Kingdom in accordance with paragraph 1. of this Article shall be made in United States dollars. Payments to United States agencies and contractors shall be made, as they become due, from a trust fund which will be administered by the United States Project Officer. All payments out of the Trust Fund shall be certified to be in accordance with the terms of the Agreement. The Trust Fund will consist initially of a sum to be paid as soon as possible after entry into force of this agreement and to be equivalent to the payments estimated to fall due during the first calendar quarter of programme operations. Before the end of that quarter and of each succeeding quarter deposits shall be made by the Government of the United Kingdom with the object of having sufficient money in the Fund to meet all the calls which will be made upon it in the succeeding three months.

3. If at any time, the unexpended balance in the Trust Fund established pursuant to paragraph 2. of this Article falls short of the sums that will be needed in a particular quarter by the Government of the United States to cover :

- a. payment for the value of items to be furnished from the stocks of, or services to be rendered by, the Government of the United States ;
- b. payment by the Government of the United States to its suppliers for items and services to be procured for the Government of the United Kingdom ; and
- c. estimated liability or costs that may fall to be met by the Government of the United States as a result of termination of such procurement contracts at the behest of the Government of the United Kingdom :

the Government of the United Kingdom will pay at such time to the Government of the United States such additional sums as will be due. Should the total payments received from the Government of the United Kingdom prove to be in excess of the final total costs to the Government of the United States, appropriate refund will be made to the Government of the United Kingdom at the earliest opportunity with final adjustment being made within thirty days after determination of said final costs.

4. The United States Project Officer will maintain a record of expenditures under this Agreement in accordance with established Navy Special Projects Office Accounting procedures which record will be available for audit annually by representatives of the Government of the United Kingdom.

ARTICLE XII

1. The provisions of this Article concerning proprietary rights shall apply to the work referred to in subparagraph 1.d. of Article XI of this Agreement (hereinafter called in this Article " the work ").

2. The Government of the United States shall ensure that the Government of the United Kingdom will receive a royalty-free, non-exclusive, irrevocable license for its governmental purposes :

- a. to practice or cause to be practiced throughout the world, all inventions conceived or first actually reduced to practice in the performance of the work ; and
- b. to use or cause to be used throughout the world, all technical information first produced in the performance of the work.

3. In addition, the Government of the United States shall take the following steps to ensure the right of the Government of the United Kingdom to reproduce, by manufacturers of its own choice, items developed in the performance of the work. In respect of those elements of this right not included in subparagraphs 2.a. and 2.b. of this Article, the Government of the United States shall :

- a. to the extent that it owns or controls such elements, accord free user rights to the Government of the United Kingdom ;
- b. obtain the agreement of contractors and subcontractors performing the work to make available to the Government of the United Kingdom, on fair and reasonable terms and conditions, those elements which the contractor or subcontractor owns or controls at the commencement of the work or acquires during the performance of the work ;
- c. use its best endeavors to obtain for the Government of the United Kingdom or to assist the Government of the United Kingdom to obtain directly or through its own manufacturers, on fair and reasonable terms and conditions, elements of this right not covered by subparagraphs 2.a. and 2.b. of this Article.

4. The Government of the United States shall also ensure that the Government of the United Kingdom will receive the same rights as those referred to in paragraphs 2. and 3. of this Article in respect of any material now or hereafter covered by copyright produced or delivered in the performance of the work.

5. The Government of the United States shall furnish to the Government of the United Kingdom, in such quantities as may be agreed :

- a. all documentation obtained by the Government of the United States under contracts placed for the performance of the work ;
- b. all documentation, owned or controlled by the Government of the United States, necessary for reproduction, by or on behalf of the Government of the United Kingdom, of items developed during the performance of the work.

6. It is understood that the Government of the United States will obtain for itself such of the rights referred to in subparagraphs 2.a., 2.b., and 3. of this Article as it may require for its governmental purposes.

7. The term " owned or controlled " as used in this Article means the right to grant a licence without incurring liability to any private owner of a proprietary or other legal interest.

8. The Government of the United States will use its best endeavors to ensure that there will be made available by United States manufacturers to the Government of the United Kingdom, on fair and reasonable terms and conditions, such technical assistance—for example, loan of engineers, or training—as the Government of the United Kingdom desires in order to permit the production by manufacturers of its own choice of the items developed in the performance of the work.

9. The Government of the United States will insert suitable provisions in all prime contracts for the work to ensure the availability to the Government of the United Kingdom of the rights, set forth in this Article, including a requirement that similar provisions be placed in subcontracts.

ARTICLE XIII

1. The Government of the United States, to the extent that it can do so without incurring liability to any private owner of a proprietary or other legal interest, shall grant to the Government of the United Kingdom: (i) the right to reproduce and use, royalty-free, the technical documentation referred to in subparagraph 2.e.(iv) of Article III for the purposes stated in that subparagraph; and (ii) a non-exclusive, royalty-free licence to practice or cause to be practiced any invention for these purposes.

2. In respect of any part of the technical documentation referred in paragraph 1 of this Article which the Government of the United States cannot furnish to the Government of the United Kingdom without incurring a liability to a private owner of a proprietary or other legal interest, the Government of the United States will use its best endeavours to assist the Government of the United Kingdom in securing for the Government of the United Kingdom on fair and reasonable terms and conditions the right to use such documentation for the purposes stated in subparagraph 2.e.(iv) of Article III.

ARTICLE XIV

1. The Government of the United Kingdom shall not, without the prior express consent of the Government of the United States, transfer, or permit access to, or use of, the missiles, equipment, services, or documents or information relating thereto which are provided by the Government of the United States under this Agreement, except to a United Kingdom officer, employee, national or firm engaged in the implementation of this Agreement.

2. The Government of the United Kingdom shall undertake such security measures as are necessary to afford classified articles, services, documents or information substantially the same degree of protection afforded by the Government of the United States in order to prevent unauthorized disclosure or compromise.

ARTICLE XV

Annually, on or before the first of July, the Project Officers will prepare a formal joint report to the contracting Governments of action taken and progress made under this Agreement and a forecast of schedules and costs for completion. In addition, other more frequent joint reports will be submitted, as agreed upon by the Project Officers, to the heads of the Executive Agencies.

ARTICLE XVI

This Agreement shall enter into force on the date of signature.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Washington this sixth day of April, 1963.

For the Government of the United Kingdom of
Great Britain and Northern Ireland :

D. ORMSBY GORE

For the Government of the United States of America :

DEAN RUSK

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