

AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF POLAND AND THE
GOVERNMENT OF THE UNITED STATES OF AMERICA
CONCERNING THE DEPLOYMENT OF
GROUND-BASED BALLISTIC MISSILE DEFENSE INTERCEPTORS
IN THE TERRITORY OF THE REPUBLIC OF POLAND

Preamble

The Government of the Republic of Poland and the Government of the United States of America (hereafter referred to as the “Parties”);

Recognizing that the proliferation of weapons of mass destruction and the means of their delivery, including ballistic missiles, poses a grave threat to international peace and security, and to the Parties, their allies, and friends;

Acting in compliance with international law, including binding multilateral and bilateral international agreements, and in particular with the provisions of the North Atlantic Treaty done at Washington on April 4, 1949, the Agreement between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces done at London on June 19, 1951 (hereafter referred to as the “NATO SOFA”), the Acquisition and Cross-Servicing Agreement between the Ministry of National Defense of the Republic of Poland and the Department of Defense of the United States of America done at Warsaw on November 22, 1996, and the Agreement between the Government of the Republic of Poland and the Government of the United States of America Concerning Security Measures for the Protection of Classified Information in the Military Sphere done at Warsaw on March 8, 2007 (hereafter referred to as the “GSOMIA”);

Recognizing the applicability of the Agreement between the Republic of Poland and the United States of America to Supplement the NATO SOFA (hereafter referred to as the “Poland-U.S. Supplemental SOFA”), upon its entry into force;

Recognizing also the need to combine and enhance their efforts for purposes of individual and collective self-defense, to maintain international peace and security, and to further enhance their capabilities for an appropriate response to threats and attacks, including those of a terrorist nature;

Reaffirming that deployment of ground-based ballistic missile defense interceptors in the territory of Poland represents an important contribution by the Republic of Poland to the building and further enhancement of the United States missile defense system;

Recognizing that cooperation with allies and friends, and including members of the North Atlantic Treaty Organization (hereafter referred to as “NATO”), in defense against the

threat of ballistic missiles is important, and that deployment of United States ground-based ballistic missile defense interceptors in the territory of Poland will enhance and complement the existing security relationship between the Republic of Poland and the United States and contribute to international peace and security and to the security of the Republic of Poland, the United States, and NATO;

Bearing in mind their common defense interests and recognizing that cooperation in the field of ballistic missile defense constitutes one of the elements of broader bilateral security cooperation, which should contribute to the strengthening of the security of the Parties;

Recognizing their shared vision of broader and deeper strategic cooperation between the Republic of Poland and the United States and, in its pursuit, the establishment of the Strategic Cooperation Consultative Group (SCCG) to facilitate consultations on the enhancement of their mutual security, including the transformation and modernization of Polish Armed Forces, within the framework of Article 3 of the North Atlantic Treaty;

Recognizing that the United States intends to provide information to, and to coordinate with, the Republic of Poland concerning contingency planning for the security and defense of the Base;

Have agreed as follows:

Article I **Purpose and Scope**

1. This Agreement establishes the rights and obligations of the Parties with respect to the use by the United States of the Closed Area on the territory of Poland in the locality of Slupsk-Redzikowo for the purpose of deployment there and use of non-nuclear ground-based ballistic missile defense interceptors.

2. Upon entry into force of the Poland-U.S. Supplemental SOFA, each and every provision of that agreement shall apply, *mutatis mutandis*, to this Agreement, unless this Agreement specifically provides that a particular provision of the Poland-U.S. Supplemental SOFA does not apply. For matters not covered by this Agreement or the Poland-U.S. Supplemental SOFA, to the extent such matters are covered by the NATO SOFA, the NATO SOFA shall apply.

Article II **Definitions**

For purposes of this Agreement, the following terms are defined:

“Base” means a Closed Area in the territory of Poland in the locality of Slupsk-Redzikowo, used by United States forces pursuant to the provisions of this Agreement and for the duration thereof, for the purpose of deployment there and use of ground-based ballistic missile defense interceptors. The Base constitutes an Agreed Facility and Area.

“Closed Area” means an area restricted for defense and security reasons as provided in Polish law.

“Facility” means the area located within the Base where the Missile Defense Complex and supporting infrastructure are located and with respect to which the United States controls access. The Facility constitutes an Agreed Facility and Area.

“Missile Defense Complex” means the area located within the Facility with respect to which the United States maintains a heightened degree of access control.

The terms “force”, “civilian component”, “United States forces”, “dependent”, “United States contractor”, “United States contractor employees”, and “Agreed Facility and Area”, shall have the meaning as defined in the Poland-U.S. Supplemental SOFA.

Article III **Status and Operation of the Base**

1. The Base is the property of the Republic of Poland.
2. The United States forces shall use the Base without prejudice to the sovereignty and laws of the Republic of Poland.
3. The Base shall be designated a Closed Area in accordance with Polish law.
4. Polish law applies in the area of the Base. The force and the civilian component and the members thereof, as well as their dependents, shall have the duty to respect the laws of the Republic of Poland in the area of the Base and elsewhere in the territory of Poland.
5. All buildings, non-relocatable structures and assemblies connected to the soil on the Base, including those constructed, used, altered or improved by United States forces, are the property of the Republic of Poland, while movable objects and fixtures remain the property of United States forces and United States contractors, as appropriate.

6. The United States shall be responsible to maintain good order and discipline within the United States forces present on the Base, in accordance with United States internal laws and regulations.

7. Operations on the Base shall be conducted with due regard for public health and safety.

8. The United States shall not conduct without the consent of the Republic of Poland flight tests of ground-based ballistic missile defense interceptors deployed on the Base.

9. The number of the members of the force and the civilian component to be deployed initially at the Base, as well as a description of the major elements of the Missile Defense Complex, are set forth in the Annex. The total number of members of the force and the civilian component stationed at the Base, as well as any permanent changes in that number, shall be reported to the Republic of Poland upon initial deployment and every six months thereafter, and shall be the subject of periodic consultations between the Polish Ministry of National Defense and the United States Department of Defense. The number of members of the force and the civilian component shall not exceed the number set forth in the Annex without the prior consent of the Polish Ministry of National Defense.

10. The United States shall notify, and consult with, the Republic of Poland prior to major modifications to the Missile Defense Complex and to major missile defense components on the Base.

11. The United States shall provide to the Republic of Poland data concerning United States forces, United States contractors, United States contractor employees working or living on the Base, and dependents. Provisions regarding the type, frequency, and procedures for the provision of such data shall be established in an implementing arrangement to this Agreement.

Article IV **Command and Control**

1. Except as provided in paragraphs 6 - 8 below, the Base, including Polish military and civilian personnel of the Polish Ministry of National Defense staying on the Base and other Polish nationals employed by the Polish Ministry of National Defense on the Base, shall be under Polish command exercised by a representative of the Polish Armed Forces (hereafter referred to as the "Polish Commander").

2. The Polish Commander shall be identified within thirty days of entry into force of this Agreement. The Polish Commander or his or her designee shall be the Polish point of contact regarding activities related to Base operations. The Polish point of contact shall have an office on the Base.

3. The United States shall, within thirty days of entry into force of this Agreement, identify a representative of the United States forces (hereafter referred to as the “U.S. Commander”) who shall be the United States single point of contact regarding day-to-day activities under this Agreement, and who shall have authority over the Facility and United States forces, dependents, United States contractors, United States contractor employees, and other individuals employed by United States forces on the Base.

4. The Polish Commander shall, *inter alia*:

- a. advise regarding relations with Polish governmental institutions and facilitate contacts with such institutions;
- b. participate in coordinating mutual logistics support for the military and civilian personnel deployed on the Base;
- c. participate in coordinating the provision of security on the grounds of the Base;
- d. participate in coordinating reciprocal training on the grounds of the Base; and
- e. advise the U.S. Commander regarding Polish law relevant to Base operation.

5. The Polish Ministry of National Defense shall be responsible to the maximum extent possible for obtaining any necessary Polish authorizations and the United States shall assist the Polish Ministry of National Defense, as appropriate.

6. The Polish Commander may notify the U.S. Commander of actions by United States forces, dependents, United States contractors, and United States contractor employees on the Base that appear to be inconsistent with Polish law. Such notification by the Polish Commander shall be duly considered by the U.S. Commander.

7. The United States shall have exclusive command and control over ballistic missile defense activities and operations on the Base.

8. The U.S. Commander also shall be responsible for matters relating to immovable property, infrastructure, installations, supplies, equipment, and materiel located on the Base, but outside the Facility, that are operated exclusively by the United States.

Article V **Use of the Base**

1. The United States shall have exclusive use of, and unrestricted access to, the Facility on the Base in accordance with this Agreement.

2. The United States may undertake construction activities on, and make alterations and improvements to, and maintain, sustain, and operate ballistic missile defense structures and infrastructure on the Base. Such structures and infrastructure include, but are not limited to, ground-based missile defense interceptors and associated processing, storage, and launch facilities; communications facilities; security and access facilities; administrative, maintenance, and storage facilities; utilities infrastructure (including

back-up power generation and distribution); fuel handling and storage facilities; fire protection; and housing and personnel support facilities. In the course of such activities, the United States may:

- a. use, alter, or demolish existing structures and infrastructure on the Facility; and
- b. clear existing vegetation and excavate soil on the Facility.

3. Prior to beginning a construction activity on the Base, the United States shall submit to the Polish Ministry of National Defense relevant documentation concerning the planned construction activity. Responsibility for translating such documents shall be specified in an implementing arrangement.

4. United States forces shall utilize local Polish physical persons and legal entities as suppliers of articles and services to the extent feasible for the performance of a contract when the bids of such suppliers are competitive and constitute the best value.

5. A no-fly zone and a limited no-fly zone will be established in the airspace over and around the Base. Detailed parameters for the aforesaid zones, as well as the principles of their establishment and operation, and of cooperation between relevant Polish and United States authorities regarding the use of Polish airspace, will be established in an implementing arrangement to this Agreement.

6. The Republic of Poland shall ensure that use of the land areas surrounding the Base is consistent with operation of the Base.

7. The United States shall furnish relevant information to allow the Republic of Poland to regulate the use of land areas surrounding the Base. The specific parameters and limitations on land use will be established in an implementing arrangement that the Parties shall conclude within ninety days of signature of this Agreement.

Article VI **Access to the Base**

1. The Polish Commander and his or her authorized representative shall have access to the entire area of the Base. Access to the Missile Defense Complex shall be provided promptly consistent with operational, safety, and security requirements.

2. Representatives of competent agencies of the Republic of Poland and rescue services shall be granted prompt access to the Base, including the Facility:

- a. to respond to emergencies, such as fires or serious accidents;
- b. to pursue persons who have committed an offense outside the Base and have entered the Base; and
- c. upon request, for other official purposes specified under Polish law.

3. The Polish Commander shall, with the concurrence of the U.S. Commander, establish the procedures for access to the Base, including appropriate safety and security measures to be applied for entering the Base, and shall issue appropriate passes to the Base.

4. The United States shall control access to the Facility on the Base.

Article VII **Security of the Base**

1. The Republic of Poland shall be responsible for providing security and protection of the Base outside the perimeter of the Facility.

2. The United States, in coordination with the Republic of Poland, shall be responsible for providing security and protection of the Facility on the Base.

3. The United States shall provide information to, and coordinate with, the Republic of Poland concerning contingency planning for the security and defense of the Base prior to the Missile Defense Complex achieving operational status.

4. The Republic of Poland recognizes the right of the United States to protect its ballistic missile defense assets during transportation within the territory of Poland outside of the Base. The Republic of Poland and the United States shall coordinate regarding security for these assets during transportation.

5. In the event that security and protection are to be provided by contractors, such entities shall comply with the relevant requirements of Polish law.

6. In the event either commander becomes aware of a crisis situation on the Base that may affect the safety of the population inhabiting the region, that commander shall promptly notify the other commander.

7. The Parties undertake to cooperate, as appropriate, with respect to intelligence and counter-terrorist protection of the Base. The Republic of Poland and the United States will carry out this cooperation through appropriate institutions or organizations to be identified in an implementing arrangement.

8. The Parties shall enter into implementing arrangements to establish procedures for the timely exchange of intelligence and counter-intelligence information regarding all threats related to the Base. In accordance with such implementing arrangements, and in order to effectively protect the Base, the Parties shall, as appropriate, exchange information on relevant threats related to the Base.

Article VIII
Classified Information

All classified information provided or generated pursuant to this Agreement shall be stored, handled, transmitted, and safeguarded in accordance with the GSOMIA.

Article IX
Use of the Ballistic Missile Defense System

1. Within the context of, and consistent with, the North Atlantic Treaty and the emerging Polish-U.S partnership on missile defense, the United States is committed:

- a. to the security of the Republic of Poland; and
- b. to defend by means of its ballistic missile defense system the Republic of Poland against ballistic missile attack.

2. The United States shall provide to the Republic of Poland the same type of situational awareness as the United States has agreed to provide to other major allies, including the status of the system, missiles being tracked by the system, the origin and projected impact of such missiles, and missile defense engagements.

3. The Republic of Poland and the United States shall consult regularly concerning the United States ballistic missile defense system as it relates to the defense of the North Atlantic area, including the Republic of Poland. In this respect, the Parties shall establish working groups for substantive exchanges and work on pre-planned execution plans on how the ballistic missile defense system would operate for the defense of the North Atlantic area, including the Republic of Poland.

4. The Base and the ground-based ballistic missile defense interceptors deployed there shall be used by the United States exclusively for purposes consistent with international law, including the Charter of the United Nations and the framework of the right of individual or collective self-defense.

5. To enable close cooperation in ballistic missile defense between the Republic of Poland and the United States, timely exchange of relevant information on the functioning and development of the ballistic missile defense system, as well as in the interest of reinforcement of mutual confidence, the United States shall establish liaison officer position(s) at appropriate location(s), which may be filled by appropriate official(s) from the Polish Ministry of National Defense. Specific arrangements shall be established in a separate agreement.

Article X
Environment, Health, and Safety

1. The Parties agree to implement this Agreement in a manner consistent with the protection of the natural environment and human health and safety.
2. The United States shall have the duty to respect the relevant laws of the Republic of Poland concerning the environment, health, and safety.
3. The Republic of Poland confirms its policy to implement its environmental, health, and safety laws and regulations, with due regard for the health and safety of United States forces, United States contractors, United States contractor employees, and dependents.
4. The United States will take prompt action to remedy known imminent and substantial endangerments to human health and safety due to environmental contamination resulting from U.S. Department of Defense operations that is located on, or emanating from, the Facility. Such U.S. action shall be in accordance with applicable U.S. laws and regulations and with due regard for Polish environmental regulations.
5. Consistent with paragraph 2 of this Article, prior to commencing construction work on the Base, the United States shall provide to the Republic of Poland data and information in its possession that is reasonably necessary to enable the Republic of Poland to implement its environmental regulations.

Article XI
Coordination with Polish Authorities

The Polish and U.S. Commanders may consult regarding local matters with the Provincial Governor (Wojewoda), the Speaker of the Provincial Legislature (Marszalek Wojewodztwa), and the County Commissioner (Starosta), who have authority over the area where the Base is located.

Article XII
Closure of the Facility on the Base

In the event United States forces discontinue use of the Facility on the Base, the United States shall return as the sole and unencumbered property of the Republic of Poland any agreed facility or area, or any portion thereof, including non-relocatable structures and assemblies constructed by the United States forces therein once no longer used by United States forces. The Parties shall agree on the terms of return of the property, including having consultations on compensation for the residual value, if any, of improvements or construction.

Article XIII
Financial Responsibilities

1. Each Party shall be responsible for the costs of carrying out its obligations under this Agreement:

(a) Except as may be otherwise agreed, the United States shall be responsible for the cost of:

- (1) construction, maintenance, sustainment, and operation of ground-based ballistic missile defense interceptors and related facilities on the Facility; and
- (2) services requested, received, and rendered in direct connection with such interceptors and facilities, such as utilities and telecommunications lines which it will pay at a rate no less favorable than that granted to Polish Armed Forces located at the Base, except as may be otherwise agreed.

(b) Except as may be otherwise agreed, the Republic of Poland shall be responsible for the cost of:

- (1) construction, maintenance, sustainment, and operation of facilities under Polish command, or for the exclusive or primary use by Polish authorities, at the Base; and
- (2) local taxes related to the Base with regard to ownership of land and other immovable property.

(c) If, in connection with the construction and operation of the Base, it becomes necessary to construct or modify premises, facilities, roads, utilities, communications, or other infrastructure located on the Base, or outside the Base but directly associated with it, and used both by the Republic of Poland and the United States, the costs shall be divided between the Republic of Poland and the United States by mutual agreement.

(d) If the Parties agree that the Republic of Poland shall assist the United States in performing its security responsibilities for the Facility, the United States shall reimburse the Republic of Poland for the agreed costs of agreed specified services provided by the Republic of Poland to assist the United States in performing its security responsibilities for the Facility on the Base.

2. In accordance with the obligations of the Parties under this Agreement and their respective national laws, the obligations of the Parties under this Agreement shall be subject to the availability of funds appropriated for such purposes. This paragraph is without prejudice to any obligations of the Parties arising pursuant to the NATO SOFA. If the United States decides to accept a request from the Republic of Poland for reimbursement in accordance with paragraph 4 of Article XIV, the United States will make available funds for such reimbursement upon the conclusion of its national legal procedures.

Article XIV

Claims

1. Claims arising in the Republic of Poland for damage in the territory of Poland shall be handled in accordance with Article VIII of the NATO SOFA.
2. The United States will take legal responsibility for damage or loss resulting from the operation of elements of the United States ballistic missile defense system deployed on the Base if the United States determines, given the circumstances, that it should bear responsibility for such damage or loss, and it will settle claims for such damage or loss in accordance with U.S. law.
3. The Republic of Poland will take legal responsibility for damage or loss resulting from the operation of elements of the United States ballistic missile defense system deployed on the Base if the Republic of Poland determines, given the circumstances, that it should bear responsibility for such damage or loss because such damage or loss was the result of actions or negligence by the Republic of Poland.
4. The Parties shall consult on the most appropriate way to handle any other claim, including a claim by a third party, that is not covered by the NATO SOFA. In the event of such a claim against the Republic of Poland for loss or damage, including for loss or damage outside the territory of Poland, attributable to the operation of ground-based ballistic missile defense interceptors deployed in the territory of Poland, the United States shall provide appropriate assistance and legal support to the Republic of Poland with respect to any such claim, including any litigation arising therefrom. The United States will give sympathetic consideration to a request from the Republic of Poland for reimbursement of a final judgment from a claim based on damage or loss attributable to the operation of ground-based ballistic missile defense interceptors deployed in the territory of Poland.
5. Nothing in this Article constitutes a waiver of sovereign immunity by either of the Parties.

Article XV

Implementation and Settlement of Disputes

1. As appropriate, the Parties and their designees may enter into implementing arrangements to carry out the provisions of this Agreement.
2. Disputes concerning the interpretation or application of this Agreement, including disputes between the commanders concerning the day-to-day operation of the Base, shall be resolved at the lowest competent level by means of consultation between the Parties. A dispute may be submitted for further consideration, and, where possible, resolution, to

the Joint Commission to be established by the Parties, but it may not be referred to any national or international court, tribunal, or other similar body, or any third party for settlement.

Article XVI
Entry into Force, Amendment, and Duration

1. This Agreement shall enter into force in accordance with the internal laws of each Party and upon the date of the later of the written notifications whereby the Parties inform each other that all their internal procedures necessary to bring this Agreement into force have been fulfilled.
2. This Agreement shall remain in force for an initial period of twenty years, and be automatically renewed for five-year periods unless either Party notifies the other in writing at least two years prior to the expiration of the initial twenty-year period or a succeeding five-year period of its intent to terminate the Agreement.
3. This Agreement may be amended by written agreement of the Parties.
4. This Agreement may be terminated at any time by either Party upon a two-year written notice to the other Party.

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

DONE at _____, this day of _____2008, in duplicate, in the Polish and English languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE REPUBLIC OF POLAND:

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

Annex

The U.S. ground-based ballistic missile defense site is located in the Closed Area on the territory of Poland in the locality of Slupsk-Redzikowo. The site, which is depicted on the appended map, includes the Base, Facility, and Missile Defense Complex, as defined in Article II of the Agreement.

The boundaries of the Base, Facility, and Missile Defense Complex at the site are as shown in the appended map. The Parties may update the map by entering into a specific implementing arrangement for that purpose.

The Missile Defense Complex shall be composed of:

- a. administrative, maintenance, storage and repair facility;
- b. water supply facility;
- c. utility distribution facility;
- d. primary power plant;
- e. emergency back-up power generators;
- f. electrical distribution substation;
- g. fiber optic communications distribution facility;
- h. satellite communications systems for data and voice;
- i. in-flight interceptor communications system facilities;
- j. fuel storage and distribution facility for back-up power generators;
- k. propellant storage facility;
- l. oxidizer storage facility;
- m. security entrance and exit control station;
- n. security monitoring facility;
- o. interceptor field mechanical-electrical building;
- p. interceptor field consisting of ten silos;
- q. interceptor monitoring facility;
- r. interceptor receiving and processing facility; and
- s. interceptor components storage igloos.

The number of members of the U.S. force and the civilian component deployed initially at the Base shall not exceed 500.

Appendix:
Base Map