

Greenpeace

Toelichting bij het bilateraal akkoord van 1971 tussen de VS en België over militaire transporten in België

28 maart 2003

In bijlage: volledige tekst van het Akkoord van 1971

Dit akkoord kadert binnen het NAVO-verdrag:

Meer specifiek is het gebaseerd op de de NAVO-status overeenkomst van 19 juni 1951 (<http://www.nato.int/docu/basicxt/b510619a.htm>). Dit betekent dat alle bilaterale akkoorden betreffende deze transporten kaderen binnen het NAVO-verdrag en dat dus ook Art. 7 van het NAVO-verdrag van toepassing is (art. 7 maakt het NAVO-verdrag ondergeschikt aan het VN-handvest).

Dit akkoord handelt enkel over de logistieke ondersteuning van Amerikaanse troepen in Duitsland:

In de preambule staat duidelijk:

...which is to ensure the logistic support of the American forces **stationed in the central region of the Allied Command in Europe...**

Het akkoord gaat dus over de zgn. 'Rapid Reinforcement' met het oog op de verdediging tegen een inval van Soviet-troepen in W-Europa.

Dit wordt niet tegengesproken door Art. 5:

To the extent possible at th time, the Belgian Government will provide the Government of the United States of America with the services necessary for debarkation, transshipment, reception and transit of troops, materiel, equipment and supplies **to or from** the central region of the Allied Command in Europe.

Binnen het kader van de 'Rapid Reinforcement' is het evident dat troepen in beide richtingen moeten kunnen opereren. De finaliteit van de transporten is echter duidelijk: ondersteuning van het 'Allied Command in Europe'

Dit akkoord is enkel van toepassing op NAVO-operaties

De preambule vervolledigt

...which is to ensure the logistic support of the American forces stationed in the central region of the Allied Command in Europe...
for the purpose of achieving the objectives of the

North Atlantic Treaty

Dit is meteen de belangrijkste bepaling uit het akkoord. Gezien de oorlog tegen Irak duidelijk geen NAVO-operatie is, is dit akkoord helemaal niet van toepassing en kunnen er dus geen verplichtingen uit voortvloeien.

Zelfs indien deze overeenkomst zou aangepast zijn (door een bijkomende overeenkomst) aan het Nieuw Strategisch Concept van de NAVO van 1999, en meer bepaald aan de mogelijkheid voor de NAVO om zgn. 'out of area'-operaties uit te voeren (operaties buiten het grondgebied van de NAVO-lidstaten), dan nog blijft de bepaling dat het om een NAVO-operatie moet gaan. Indien er een bijkomende overeenkomst is van na 1999, dan had het Parlement hierbij betrokken moeten zijn.

In werking treding van de overeenkomst

Bijzonder opmerkelijk is dat de overeenkomst op een onduidelijke wijze in werking treedt. Artikel 1 stelt:

In a period of international tension, beginning upon the declaration of a state of simple alert by the Supreme Allied Commander, Europe, or at a prior time fixed by mutual agreement by the two Governments, activate and operate the line of communications and to this end:

Premier Verhofstadt heeft naar dit artikel verwezen om te stellen dat sinds 11 september de NAVO zich in een crisissituatie bevindt en dat dus deze overeenkomst in werking getreden is. Dit is betwistbaar, omdat deze oorlog tegen Irak niets te maken heeft met de 'war on terrorism'. Daarenboven blijkt uit een antwoord van Guy Coëme uit 1990 dat er wel degelijk een 'diplomatieke toelating' gegeven wordt indien er transporten via de luchthaven van Oostende plaatsvinden. Dit duidt erop dat in de opvolgende technische akkoorden, die kaderen binnen dit akkoord, er wel sprake zou zijn van een toelating. Vanzelfsprekend blijft het feit dat dit geen NAVO-operatie is en dus dit akkoord niet van toepassing is.

Absolute soevereiniteit van de Belgische Staat

België behoudt in alle omstandigheden de volledige soevereiniteit over zijn grondgebied. Dit blijkt duidelijk uit artikel 8:

1. In all circumstances, essential Belgian requirements (civilian and military) shall take priority over allied requirements of every type. The Belgian Government remains the only judge of exceptions which critical circumstances may justify.

Het kan moeilijk betwist worden dat de illegaliteit van deze oorlog tegen Irak en het feit dat België zich medeplichtig maakt aan oorlogsmisdaden die begaan worden door de VS in Irak als een 'critical circumstance' kan beschouwd worden. België kan dus eenvoudigweg op basis van art. 8 beslissen dit akkoord niet uit te voeren.

Negotiatie over geschillen

De overeenkomst voorziet in een procedure om geschillen tussen België en de VS over de toepassing van dit akkoord te regelen. Art. 14:

They will submit differences that may arise regarding the interpretation of the agreement to the Ministers of Defense of the two nations. The Ministers will resolve the differences by mutual agreement.

Dit betekent dat de Belgische regering de mogelijkheid had om met de Amerikaanse regering overleg te plegen over de interpretatie van deze overeenkomst. Van deze geschillenprocedure is blijkbaar geen gebruik gemaakt.

Beëindiging van het akkoord

Art. 15 bepaalt dat er voor het opzeggen van het akkoord een schriftelijke notificatie nodig is. Het akkoord wordt dan beëindigd zes maand na de notificatie.

Niets staat de regering in de weg om nu reeds een notificatie te sturen naar de Amerikaanse regering, om alle bilaterale akkoorden op te zeggen. Indien er een noodzaak is om nieuwe akkoorden te sluiten, kan het Parlement hierbij betrokken worden en kunnen bijkomende en expliciete garanties ingebouwd worden dat het VN handvest onder alle omstandigheden primeert.

Het Host Nation Support akkoord van 2000

Premier Verhofstadt verwees op 28 maart naar het Host Nation Support akkoord van 2000, dat naar verluidt de mogelijkheid zou inhouden om de communicatielijnen (LOC) te gebruiken voor operaties die niet alleen buiten het grondgebied van de lidstaten valt (out of area), maar ook voor operaties die niets met de NAVO te maken hebben.

Deze verklaringen, indien correct weergegeven, zijn om verschillende redenen problematisch:

- het Nieuw Strategisch Concept van de NAVO van 1999 houdt weliswaar de mogelijkheid in om out-of-area operaties uit te voeren , maar dan nog blijft de voorwaarde dat het om NAVO-operaties moet gaan, wat voor de oorlog tegen Irak niet het geval is.
- Een bijkomend akkoord dat verder gaat dan out-of-area operaties, maar tegelijk kadert binnen het NAVO-verdrag van 1949 en het NAVO-status akkoord van 1951, lijkt ons juridisch onmogelijk.
- Gezien het bijkomend akkoord van 2000 dateert, dient het Parlement het geratificeerd te hebben, wat niet het geval is. Men kan het niet afdoen als een technisch detail, het is een fundamentele wijziging van de akkoorden van 1971 en 1984 en 1994. Dit akkoord moet dus onmiddellijk overhandigd worden aan het parlement en het kan onmogelijk als bindend worden beschouwd.

Voor meer informatie:

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TRANSCRIPT OF THE ORIGINAL

AGREEMENT
BETWEEN BELGIUM AND THE UNITED STATES OF AMERICA
CONCERNING THE PREPARATION AND OPERATION
OF AN AMERICAN LINE OF COMMUNICATIONS IN BELGIUM

The Government of Belgium

and

The Government of the United States of America,

Noting the Agreement between the parties to the North Atlantic Treaty regarding the status of their forces, signed at London June 19, 1951 ;

Noting the Memorandum of March 14, 1952 between the Government of Belgium and the Government of the United States of America on relief from taxes and duties ;

Noting the Belgian law of April 11, 1962, authorizing the transit through and stationing in Belgium of troops of nations allied to Belgium under the North Atlantic Treaty;

Noting the administrative arrangement signed September 6, 1968 at Brussels and September 10, 1968 at Heidelberg between the Government of the United States of America and the Belgian Government concerning prefinancing by the American forces and possible subsequent reimbursement of NATO common infrastructure projects in Belgium, for work to be carried out on existing military land, called in the agreement "Administrative Agreement of 1968" ;

Considering that the installation, in time of peace, of American depots in Belgian territory is indispensable to permit the operation, beginning upon the declaration of a state of simple

alert by the Supreme Allied Commander, Europe, or at a prior time fixed by mutual agreement of the line of communications which is to ensure the logistic support of the American forces stationed in the central region of the Allied Command in Europe for the purpose of achieving the objectives of the North Atlantic Treaty;

Considering that the Belgian Government has already undertaken by agreement, to permit other states Parties to the North Atlantic Treaty, to use Belgian territory for logistic, military, and civil purposes;
Considering the duty of the Belgian Government to give priority to the use and allocation of its own resources for its essential national requirements, in all circumstances,

Are agreed as follows :

I. Subject of the Agreement

Article 1

Under the terms of this agreement, the Government of the United States of America may:

1. In time of peace:

- a. Establish depots for the purpose of the activation and operation of a line of communications across Belgian territory, for the use of American forces stationed in the central region of the Allied Command in Europe ;
- b. Station in Belgium American military and civilian personnel for the protection, maintenance, and operation of these depots ;
- c. Store reserves of equipment, materiel, and supplies at these depots ;

d. install communications equipment necessary for peacetime custodial and maintenance operations and to ensure the functioning of the line of communications. The specifics of these installations will be the subject of a technical agreement.

2. In a period of international tension, beginning upon the declaration of a state of simple alert by the Supreme Allied Commander, Europe, or at a prior time fixed by mutual agreement by the two Governments, activate and operate the line of communications and to this end:

- a. Reinforce the personnel of the existing depots ;
- b. Convey through Belgium reinforcements of personnel, materiel, equipment, and supplies ;
- c. to the extent possible at the time, establish and/or use supplementary depots, bivouac areas, and installations for debarkation, transshipment, reception and transit ;
- d. obtain various services.

II. Provisions for the Period Preceding the Activation and Operation of the Line of Communications

Article 2

1. The number and location of the depots as well as the nature and quantity of materiel, equipment, and supplies which may be stored within, will be the subject of technical agreements.

2. The same will be the case for the complement of civilian personnel (American and Belgian) and of American military personnel who will be charged with the protection, maintenance, and operation of the depots.

Article 3

1. For planning purposes:

a. The American military authorities will inform the Belgian military authorities of the various requirements of the American forces for the period of activation and operation of the line of communications.

b. the Belgian military authorities will note these requirements in their inventory of national requirements and of other allied requirements.

2. The Belgian Government will reserve sites intended for the establishment of supplementary depots and bivouac areas insofar as these reservations are compatible with other essential Belgian and allied requirements.

III. Provisions for the Period of Activation and Operation of the Line of Communications

Article 4

The reinforcement of personnel intended, on the one hand, for the protection, maintenance and operation of the depots and, on the other hand, for the activation of the entire line of communications, will be the subject of technical agreements.

At the end of the period of tension, as mentioned in Article 1, paragraph 2, to return to a normal peacetime situation, the United States will withdraw the additional personnel, materiel, equipment and supplies which it may have introduced into Belgium to activate and operate the line of communications, according to dispositions to be taken by common agreement between the two governments.

Article 5

To the extent possible at th time, the Belgian Government will provide the Government of the United States of America with the services necessary for debarkation, transshipment, reception and transit of troops, materiel, equipment and supplies to or from the central region of the Allied Command in Europe.

The Belgian military authorities will supervise the rendering of such services.

To the extent possible at the time, the Government of the United States of America may also use, according to terms and conditions fixed by mutual agreement with the Belgian Government: landing fields at airports, bivouac areas, and supplementary depots.

Article 6

1. The American military authorities may use, according to terms and conditions fixed by mutual agreement with the Belgian military authorities, facilities belonging to the American forces such as :

Port reception equipment;

Electronic transmission equipment;

Transport;

Medical installations;

Bridge-building equipment.

2. Furthermore, with the consent of the Belgian Government, the Government of the United States of America may equip, for the purpose of transshipment, debarkation, and transit, certain beaches on the Belgian coast as well as certain sites along waterways.

Article 7

To the extent possible at the time, the Belgian Government will make available to the American military authorities, at the

request of the (unreadable), and all other logistic support.

Article 8

1. In all circumstances, essential Belgian requirements (civilian and military) shall take priority over allied requirements of every type. The Belgian Government remains the only judge of exceptions which critical circumstances may justify.

2. In the event that all of the allied military requirements cannot be met within the desired time concurrently with Belgian civilian requirements and concurrently with allied military requirements will be met, taking into account the possibilities at the time, following the order of priorities determined by the Commander in Chief of the Allied Forces in Central Europe.

Provisions Common to Both Periods

Article 9

1. The Belgian Government will furnish the assistance of its agencies, such as they are, to facilitate the execution of this agreement and the technical agreements specifying the terms and conditions thereof.

This assistance will involve in particular making available depots and the recruitment, management and discharge of the civilian labor which will complement American personnel.

2. Debarkations in ports and airports, the movement of American vehicles and, generally, movements and transportation for American forces will be entirely subject to the regulations applicable in Belgium.

Article 10

All real expenses that the Belgian Government may incur in the execution of this agreement and the technical agreements specifying the terms and conditions thereof, will be borne by the Government of the United States of America. The latter will advance the necessary funds.

(not readable)

Article 11

1. Installations to be established on lands belonging to the Belgian State as well as modifications to existing installations owned by it, will be constructed or effected on behalf of and for the account of the Government of the United States of America.

(to be added later)

Article 12

1. In the event that the Government of the United States of America renounces all or part of the use of the installations which may have been built or modified at its request, the Belgian Government will decide on their disposition.

(to be added later)

Article 13

1. The care of depots, bivouac areas and other installations or sites used for the line of communications will be ensured by American forces in conformity with Belgian laws and regulations. The American military authorities may assign Belgian civilian labor for that purpose, according to terms and conditions to be agreed upon with the Belgian military authorities.

2. The depots, bivouac areas and other installations or sites will be considered as Belgian military installations where ground defense is concerned. Therefore, they will benefit, if necessary and to the extent possible, from clearing operations by Belgian forces.

Article 14

1. The military authorities referred to in this agreement are, on the one hand, the Commander of American forces in Europe and, on the other hand, the Chief of the General Staff of the Belgian armed forces.

These authorities shall be responsible for the execution of the agreement.

They will submit differences that may arise regarding the interpretation of the agreement to the Ministers of Defense of the two nations. The Ministers will resolve the differences by mutual agreement.

The military authorities will designate members of their staffs who will represent them in committees or working groups to which they may assign studies to be carried out jointly.

Upon consent of both governments, representatives of other parties to the North Atlantic Treaty may be invited to participate in appropriate meetings or discussions concerning Line of Communications planning.

2. Differences that may arise regarding the interpretation of the technical agreements specifying the terms and conditions of execution of this agreement will be resolved by mutual agreement by the authorities who signed the technical agreements.

Article 15

1. This agreement shall enter into force on the date of its signature.

It shall continue in force as long as each of the parties is bound by obligations resulting from the North Atlantic Treaty, unless one of the parties denounces it before ceasing to be bound by the aforesaid Treaty. The denunciation, which shall be by written notification to the other party, will take effect six months after the receipt of this notification.

2. This agreement may be revised at the request of one of the parties.

(unreadable)

et en anglais, les deux textes faisant également foi.

DONE at Brussels, the 16th and 19th of July, 1971,
in English and French, both texts being equally authentic.

Pour le Gouvernement belge::

Pour le Gouvernement des
Etats-Unis d'Amerique:

For the Belgian Government:

For the Government of the
United States of America:

HARMEL

John S D EISENHOWER

16 juillet 1971

July 19, 1971