

## **ANNEX 8**

### **LABOR AFFAIRS**

#### **Article 1**

1. Requirements for local labor personnel on operational and support installations in Spain will be met by Ministry of Defense.

2. For each installation or activity, two schedules of positions shall be established, one for local labor personnel and the other for United States personnel, reflecting the current situation, and taking into account the provisions of this Agreement. The schedule for local labor personnel and any subsequent modification shall be forwarded to the Spanish Ministry of Defense for its information. In any case, the proportionality which each schedule of positions represents should be maintained without the respective percentage of participation fluctuating over three percent. Any changes to this proportionality must be by agreement in the Permanent Committee.

3. Local labor personnel are personnel of Spanish nationality hired by the Ministry of Defense to render services at the IDAs. Except for third-country nationals currently employed under previous agreements, third-country labor personnel shall not be hired in the operational and support installations unless qualified Spanish personnel are not available.

4. The United States forces may organize youth employment programs during the summer vacation period, totally independent from the schedules of positions.

5. The schedules of positions for local labor personnel will be prepared in accordance with the labor category established by Spanish regulations. The United States forces may establish subgroups in order to cover the different levels of classifications as determined exclusively by the United States forces.

#### **Article 2**

1. The employment relationship of the local labor personnel shall be with the Spanish Ministry of Defense.

2. The labor regulations applicable to non-civil service civilian personnel of the Spanish Ministry of Defense referred to herein as <<the Spanish regulations>> will govern the terms and conditions of employment of local labor personnel, consistent with the provisions of this Annex. Special regulations governing this personnel and regulations issued in accordance with Article 9, paragraph 1, so long as consistent with the provisions of this annex, will also be applicable. With regard to collective bargaining, the provisions of the following paragraph shall apply.

3. The Spanish Ministry of Defense, in consultation with and in furtherance of the interests of the United States forces, shall negotiate with the representatives of local labor personnel. A United States representative may be present during the negotiations as a technical adviser. Such negotiations shall be limited to terms and conditions of employment agreed upon between the Spanish Ministry of Defense and the United States forces.

Any agreement between the Spanish Ministry of Defense and the representatives of such employees shall be subject to prior agreement of the Spanish Ministry of Defense and the United States forces.

The lack of agreement between the Spanish Ministry of Defense and representatives of local labor personnel shall not be subject to arbitration or judicial decision.

Disagreements between the Spanish Ministry of Defense and the United States forces shall be referred to the Permanent Committee for resolution.

### **Article 3**

The hiring of local labor personnel shall be conducted by the Spanish Ministry of Defense which shall establish the services necessary to meet the changing needs of such a labor relationship, with special reference to the organization of hiring competitions, referral of candidates, the signature of contracts, and the payment of wages.

### **Article 4**

The Spanish Ministry of Defense shall be responsible for:

1. Hiring of local labor personnel and issuing calls for and referring to the United States forces persons considered qualified for appointment as requested by the United States forces. To assist the United States forces in selection of personnel, a sufficient number of qualified applicants to meet the needs of the United States forces will be referred for each vacant position.

2. Formalizing the termination of the labor contracts of the local labor personnel, in accordance with the provisions of Spanish regulations, consistent with the provisions of this Annex, when so requested by the United States forces.

3. Monitoring the implementation of and compliance with legal provisions in the field of labor, social security, hygiene and work safety.

4. Effecting disciplinary actions at the initiative of the United States forces in accordance with Spanish regulations.

5. Paying local labor personnel, in accordance with payrolls prepared by the United States forces, their salaries, wages, and any other emoluments to which they may be entitled. The content and format of payrolls shall be subject to future consultation and agreement between the Spanish Ministry of Defense and the United States forces of all deductions or withholdings required by Spanish law, which shall be reflected in the said payrolls.

6. The Ministry of Defense shall have access to the documentation related to the employment of local labor personnel. When requested by the Spanish Ministry of Defense, the United States forces shall provide translation of pertinent documentation. The Spanish Ministry of Defense may conduct an inspection with respect to the actual occupancy of schedules of said personnel, in accordance with the norms of this Annex.

## **Article 5**

The United States forces shall be responsible for:

1. Determining, in accordance with their needs, the personnel lists and qualification requirements of positions to be filled by local labor personnel and transmitting such determinations to the Spanish Ministry of Defense.

2. Determining the selection for appointment as local labor personnel, on temporary or indefinite basis as defined by the Spanish Ministry of Defense. On an exceptional basis and with the approval of the Spanish Ministry of Defense, the United States forces may directly recruit and select persons for appointment to positions having a technical nature or specialized requirements, or to positions in labor shortage categories. Persons directly recruited by the United States forces must satisfy the conditions required of non-civil service civilian personnel of the Spanish Ministry of Defense.

3. Notifying the Spanish Ministry of Defense of the selection of personnel, and requesting the hiring of persons so selected by the United States forces.

4. Establishing the levels of compensation of local labor personnel including bonuses and fringe benefits, and transmitting such determination to the Spanish Ministry of Defense. The level of compensation for a position shall not be less than as established for said position by the Spanish regulations. The pay in excess of the amount established under Spanish pay schedules shall be received by local labor personnel as an additional supplement derived specifically from their work in service to the United States forces.

5. Determining, in accordance with the Spanish regulations, reassignments and promotions and notifying the Spanish Ministry of Defense thereof.

6. Proposing disciplinary action to the Commander of the base or establishment, in accordance with the Spanish regulations, who will lend maximum attention to said proposal and to the immediate imposition of a penalty, which will be executory in nature, with corresponds to the minor offenses provided for in said regulations, without prejudice to the definitive decision, which could be issued if it were the subject of an appeal.

7. Initiating disciplinary action for the imposition of penalties for the remaining labor offenses set forth in the applicable regulations and participating in the penalty proceedings opened for such a purpose, including a report which may propose a penalty.

8. Organizing the work of local labor personnel in order to take care of the needs of their own service most efficiently, specifying working schedules and vacation periods.

9. Promoting occupational training and safety and hygiene programs for local labor personnel.

**10.** Submitting to the Spanish Ministry of Defense the payrolls provided for in Article 4 paragraph 5, making available the necessary funds to meet all the expenses derived from the provision of services by the local labor personnel, not only in regard to wages but also for severance pay, reimbursement for travel expenses, social security contributions and other employee benefits.

## **Article 6**

**1.** When the United States forces consider it necessary to reduce the number of local labor personnel, they shall initiate consultations with the Spanish Ministry of Defense through the Permanent Committee, unless the reduction is necessitated by actions of the Government of Spain. Said consultations shall include the reason for the reduction of schedule of positions. If agreement is reached, the Ministry of Defense of Spain shall, within 30 days from the commencement of the consultations, notify the affected personnel of their dismissal, which will be effective thirty (30) days from such notification.

If no agreement is reached between the Ministry of Defense of Spain and the United States forces in the thirty-day period following commencement of the period of consultations, the matter shall be referred to the Permanent Committee to try to reach an agreement which is satisfactory to both sides. When such agreement is reached, dismissals, if any, shall be carried out in accordance with the provisions of the preceding paragraph.

If, on the contrary, sixty (60) days from the commencement of consultations differences have not been resolved in said Committee, the Ministry of Defense of Spain shall notify the personnel affected of their dismissal, which will be effective thirty days from said notification. The United States forces will not be responsible for the cost of the wages of the employees after ninety (90) days from the commencement of the period of consultation. By mutual agreement between the two Parties, the period of time in which to continue paying the employee's wages may extend beyond the aforementioned ninety (90) days. During the whole period of time exceeding said ninety (90) days, the Ministry of Defense of Spain shall cover 50% of the cost of the wages of the affected personnel.

2. In all cases the dismissal notification of the local labor personnel affected by reduction of the schedule of positions shall show a contract termination date which is at least thirty (30) calendar days after the date of said notification.

3. Local labor personnel whose utilization is terminated due to a reduction-in-force will have the right to severance pay in accordance with Spanish law.

4. Workers whose contracts are terminated for these reasons shall have priority rehire at any other IDA of the United States forces, within their same or similar occupational category.

5. For the purpose of determining the severance pay referred to in paragraph 3 of this Article, only continuous employment by the United States forces prior to April 1, 1973, for which no previous severance pay has been granted, and service rendered as local labor personnel shall be credited. This provision shall not include service rendered prior to September 26, 1970, by workers who, although having been employed by the United States forces during the period of such service, were not so employed on September 25, 1970.

6. Except where otherwise agreed, the norms and procedures of this Article will be applied in case of termination of local labor personnel because of a reduction in force or the expiration of this Agreement.

## **Article 7**

Subject to the provisions of Article 9 of this Annex, the Spanish Ministry of Defense shall resolve in accordance with the procedure stipulated by Spanish law any claim filed by local labor personnel. Final decisions of the Spanish Ministry of Defense shall be transmitted to the United States authorities through the Permanent Committee for execution.

## **Article 8**

1. The provisions of this Annex shall not apply to:
  - 1.1.1.1 Functions or activities of the Embassy of the United States, the United States Information Agency, the Office of the Defense Attache of the United States, the

Office of Defense Cooperation (ODC) or the liaison offices of the United States forces in Spain.

1.1.1.2 Employees of contractors or concessionaires performing work in Spain for the United States forces.

1.1.1.3 Employees hired privately by members of the force or the civilian component, and their dependents.

**2.** Employees referred to in paragraph 1.2 of this Article, except those who are employees of United States contractors and are nationals or legal residents in the United States, and the employees referred to in paragraph 1.3 of this Article shall be fully subject to Spanish labor legislation. However, the United States Government and its Armed Forces and their organizations, units, agencies or instrumentalities and members shall not be subject to Spanish Court actions initiated by employees referred to in paragraph 1.2 of this Article, nor shall the United States Government and its Armed Forces and their organizations, units, agencies and instrumentalities be subject to Spanish court actions initiated by employees referred to in paragraph 1.3 of this Article, based on claims arising from the employment of such persons.

**3.** The Government of the United States and its Armed Forces and their organization, units, agencies, or instrumentalities and members shall not be subject to Spanish court actions instituted by local labor personnel or by any person previously employed by the United States forces, based on claims arising from their employment or from their utilization pursuant to the provisions of this Annex.

## Article 9

In regard to the labor relationship covered by this Annex, the Permanent Committee shall exercise the following functions:

**1.** Propose to the Spanish Ministry of Defense such rules as it deems pertinent for adapting the Spanish regulations, and their supplementary rules, to the special conditions of employment of local labor personnel. These rules shall be sufficiently precise to guarantee United States participation in labor cases for the imposition of disciplinary sanctions on local labor personnel.

**2.** Consult and report to the Spanish Ministry of Defense prior to the rendering of Spanish administrative decisions pertaining to monetary and administrative claims submitted by local labor

personnel and resulting from the utilization of their services by the United States forces.

**3.** Consult and agree on the consequences for both governments of final decisions by Spanish administrative and judicial authorities regarding claims referred to in paragraph 2 of this Article. Such consequences may include sharing by Spain and the United States of the payment of monetary awards, and appropriate resolution of questions relating to the further utilization by the United States forces of the services of local labor personnel affected by such decisions.

**4.** The provision in the above paragraph will not impede the immediate compliance with the final decisions of the Spanish judicial or administrative authorities so long as the Government of Spain has exhausted all the judicial and administrative remedies provided for in Spanish law as requested by the United States forces.