



NATO AGREEMENT

**FOR THE
MUTUAL SAFEGUARDING
OF SECRECY OF INVENTIONS
RELATING TO DEFENCE AND
FOR WHICH APPLICATIONS
FOR PATENTS HAVE BEEN MADE**



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A. INTRODUCTION

1. Before the existence of the "NATO Agreement on the Mutual Safeguarding of Secrecy of Inventions relating to Defence and for which applications for patents have been made", the imposition of secrecy on an invention relating to defence in one of the NATO countries for which a patent application had been made usually entailed the prohibition of application for a patent for the same invention in other NATO countries. By adopting the Agreement, NATO countries removed this prohibition which had constituted a serious obstacle to the reciprocal communication of inventions relating to defence and had adversely affected the promotion of collaboration in the framework of the Alliance in the research, development and production of military equipment.

2. The "NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions relating to Defence and for which applications for patents have been made" was prepared by the experts of the Working Group on Industrial Property (AC/94). The Agreement was approved by the NATO Council on 16th July, 1959 (C-R(59)27, C-M(59)67), and signed by the NATO Permanent Representatives on 21st September, 1960. It entered into force on 12th January, 1961 following deposit of the instruments of ratification by the first two countries (the United States and Norway). The original text of the Agreement, as signed by Permanent Representatives, is deposited in the archives of the Government of the United States of America. This Agreement has received number 396 UNTS 3 in the "United Nations Treaty Series".

3. The Agreement is complemented by Implementing Procedures which provide ways and means of operating under the articles of the Agreement. These Procedures, which were also prepared by the Working Group on Industrial Property, contain in Appendices 1 and 2 useful information for those governmental services employing them. As this information might be subject to changes, it will be constantly kept up to date and recipients of the present edition will receive corrigenda as necessary. On the other hand, the Procedures might be revised in accordance with their Section F. Any modifications resulting from such revision will also be circulated to recipients.

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B. NATO AGREEMENT FOR THE MUTUAL SAFEGUARDING OF SECRECY
OF INVENTIONS RELATING TO DEFENCE AND FOR WHICH
APPLICATIONS FOR PATENTS HAVE BEEN MADE

The Governments of Belgium, Canada, Denmark, France, The Federal Republic of Germany, Greece, Italy, Luxembourg, The Netherlands, Norway, Portugal, Turkey, The United Kingdom and The United States of America,

Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949;

desirous of encouraging economic collaboration between any or all of their Governments, as agreed in Article 2 of the Treaty;

mindful of the undertaking they have entered into under the terms of Article 3, to maintain and develop, by means of continuous and effective self-help, their individual and collective capacity to resist armed attack;

considering that the imposition of secrecy on an invention relating to defence in one of the North Atlantic Treaty Organization countries has generally as its corollary, when a patent has been applied for, or granted, the prohibition to apply for a patent for the same invention in other countries, including North Atlantic Treaty Organization countries;

considering that the territorial limitation resulting from this prohibition may cause prejudice to the applicants for patents and consequently adversely affects economic collaboration between North Atlantic Treaty Organization countries;

considering that mutual assistance makes desirable reciprocal communication of inventions relating to defence and that in some cases such communication may be obstructed by this prohibition;

considering that if the Government originating the prohibition is prepared to authorise the filing of an application for a patent in one or more of the other North Atlantic Treaty Organization countries, provided that the Governments of these countries also impose secrecy on the invention, the latter should not be free to refuse to impose secrecy;

considering that provision has been made between the Governments of the Parties to the North Atlantic Treaty for the mutual protection and safeguarding of the classified information they may interchange;

Have agreed as follows

ARTICLE V

This Agreement shall not prevent the signatory Governments from entering into bilateral agreements for the same purpose. Existing bilateral agreements shall remain unaffected.

ARTICLE VI

The instruments of ratification or approval of this Agreement shall be deposited as soon as possible with the Government of the United States of America which will inform each signatory Government of the date of deposit of each instrument.

This Agreement shall enter into force 30 days after deposit by two signatory Parties of their instruments of ratification or approval. It shall enter into force for each of the other signatory Parties 30 days after the deposit of its instrument of ratification or approval.

ARTICLE VII

This Agreement may be denounced by any contracting Party by written notice of denunciation given to the Government of the United States of America which will inform all the other signatory Parties of such notice. Denunciation shall take effect one year after receipt of notification by the Government of the United States of America but shall not affect obligations already contracted and the rights or prerogatives previously acquired by the signatory Parties under the provisions of this Agreement.

In witness whereof the undersigned Representatives duly authorised thereto, have signed this Agreement.

Done in PARIS this 21st day of September, 1960 in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the United States of America which will transmit a duly certified copy to the Governments of the other signatory Parties.

For the Kingdom of Belgium :

André de Staercke

For Canada :

Jules Léger

For the Kingdom of Denmark

M.A. Wassard

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**C. IMPLEMENTING PROCEDURES FOR THE NATO AGREEMENT FOR THE
MUTUAL SAFEGUARDING OF SECRECY OF INVENTIONS RELATING TO DEFENCE
AND FOR WHICH APPLICATIONS FOR PATENTS HAVE BEEN MADE (1)**

1. The following procedures have been formulated in accordance with the undertaking in Article I of the NATO Agreement for the mutual safeguarding of secrecy of inventions relating to defence and for which applications for patents have been made, signed in Paris on 21st September, 1960, hereinafter referred to as the NATO Agreement and in conformity with NATO security requirements.

2. The procedures can be implemented only if :

(a) the government of the country of origin and the government of the receiving country each has legal authority to impose secrecy within its own jurisdiction on inventions, disclosure of which might prejudice its national security and to prohibit any such disclosure ;

(b) the legal authority to which reference is made in sub-paragraph (a) above (including any enabling and enforcement means) and the arrangements for physical security are adequate and sufficient to safeguard all aspects of the security of the subject matter of the inventions concerned, to a standard not inferior to NATO security requirements from the time when the subject matter of the inventions is received officially by the government of the receiving country until its release from secrecy by the government of the country of origin and

(c) adequate measures are available to the government of the country of origin to prohibit the unauthorised filing abroad of applications for patents in respect of inventions, disclosure of which might prejudice national security, and to authorise within its discretion the filing abroad of applications for patents in respect of inventions subject to secrecy restrictions.

PROCEDURES

A. GENERAL CONDITIONS AND REQUIREMENTS

Applications for patents received in one NATO country from another with a request that they be placed in secrecy under the provisions of the NATO Agreement shall be placed in secrecy in the receiving country and shall be accorded a degree of security classification at least equal to the degree of security classification given to them by the country of origin (2), provided that :

(1) *The present text incorporates the amendments made to the original text as a result of the first revision of the Implementing Procedures, which was approved by the NATO Council on 15th March, 1967*

(2) *In this Section, reference should be made to the comparative table at Appendix 3.*

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- g) The foregoing provisions do not exclude the possibility of an Applicant making application without employing the services of a Patent Agent, Attorney or other representative in any country where national legislation and regulations permit. The transmission of the relevant documents within the receiving country must be in accordance with the security regulations and practices of that country.
- (4) To assist in evaluating the invention for defence interests, an appropriate Defence Agency of the receiving government is furnished, in accordance with the security regulations and practices of the receiving country, with a copy of the specification and any drawings annexed thereto, and of the resumé and claims included in the patent application filed in the Patent Office of the receiving country and the filing date and serial number of the patent application. This copy is furnished for information only and without prejudice to any rights of the Applicant.
- (5) If the receiving government so requires, the Applicant shall furnish to the government of origin, with a view to its being transmitted to the appropriate Agency of the receiving government in accordance with Article III of the NATO Agreement, a waiver in writing of any claim to compensation for loss or damage due solely to the imposition of secrecy on the invention by the receiving government when imposed under provisions of the NATO Agreement.

B. CORRESPONDENCE RELATING TO THE APPLICATION

All correspondence relating to the application under these procedures shall pass only through the same secure channels as specified for the original patent application, excepting correspondence exclusively relating to payments of taxes and fees provided that such correspondence contains no information pertaining to the invention, the subject of the application. Other unclassified formal notification (such as extension of time limits or similar notices) may be sent by the foreign Patent Office at its discretion directly to the Applicant or his authorised representative without any special security arrangements.

C. REMOVAL OF SECRECY

The notice of the government of the country of origin of its intention to remove its own measures of secrecy in accordance with Article IV of the NATO Agreement shall be addressed to the appropriate Defence Agency of the governments of the receiving countries. If after the six weeks period provided for in the above agreement the government of the country of origin removes secrecy it will immediately so inform the appropriate Defence Agency of the governments of the receiving countries, which governments will then remove secrecy measures. The names and addresses of the national agencies of the receiving countries to which the announcement concerning the removal of secrecy should be forwarded are listed in Appendix 2(c).

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