

No. 5663

**UNITED STATES OF AMERICA
and
SPAIN**

**Exchange of notes constituting an agreement relating to the
interchange of patent rights and technical information
for defense purposes. Madrid, 13 and 21 July 1960**

Official texts: English and Spanish.

Registered by the United States of America on 28 March 1961.

**ÉTATS-UNIS D'AMÉRIQUE
et
ESPAGNE**

**Échange de notes constituant un accord relatif à l'échange
de brevets d'invention et de renseignements techniques
pour les besoins de la défense. Madrid, 13 et 21 juillet
1960**

Textes officiels anglais et espagnol.

Enregistré par les États-Unis d'Amérique le 28 mars 1961.

No. 5663. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND SPAIN RELATING TO THE INTERCHANGE OF PATENT RIGHTS AND TECHNICAL INFORMATION FOR DEFENSE PURPOSES. MADRID, 13 AND 21 JULY 1960

I

The American Chargé d'Affaires ad interim to the Spanish Minister of Foreign Affairs

Madrid, July 13, 1960

No. 51

Excellency :

I have the honor to refer to discussions between representatives of our Governments concerning a proposal for an agreement to govern the interchange of patent rights and technical information for defense purposes, as specified in Article II of the Mutual Defense Assistance Agreement between Spain and the United States of America, signed in Madrid on September 26, 1953.² In accordance with those discussions, I submit for your Excellency's consideration the proposed text of such an agreement, as follows :

AGREEMENT TO FACILITATE INTERCHANGE OF PATENT RIGHTS AND TECHNICAL INFORMATION FOR DEFENSE PURPOSES

The Government of the United States of America and the Government of Spain,

Having agreed in the Mutual Defense Assistance Agreement signed in Madrid on September 26, 1953, to negotiate, upon the request of either of them, appropriate arrangements between them respecting patents and technical information;

Desiring generally to assist in the production of equipment and materials for defense, by facilitating and expediting the interchange of patent rights and technical information; and

Acknowledging that the rights of private owners of patents and technical information should be fully recognized and protected in accordance with the law applicable to such patents and technical information;

Have agreed as follows :

¹ Came into force on 21 July 1960 by the exchange of the said notes.

² United Nations, *Treaty Series*, Vol. 207, p. 61, and Vol. 265, p. 374.

Article I

Each Contracting Government shall, whenever practicable without undue limitation of, or impediment to, defense production, facilitate the use of patent rights, and encourage the flow and use of privately-owned technical information, as defined in Article VIII, for defense purposes—

- (a) through the medium of any existing commercial relationships between the owner of such patent rights and technical information and those in the other country having the right to use such patent rights and technical information; and
- (b) in the absence of such existing relationships, through the creation of such relationship by the owner and the user in the other country, provided that, in the case of classified information, such arrangements are permitted by the laws and security requirements of both Governments, and provided further that the terms of all such arrangements shall remain subject to the applicable laws of the two countries.

Article II

When, for defense purposes, technical information is supplied by one Contracting Government to the other for information only, and this is stipulated at the time of supply, the recipient Government shall treat the technical information as disclosed in confidence and use its best endeavors to ensure that the information is not dealt with in any manner likely to prejudice the rights of the owner thereof to obtain patent or other like statutory protection therefor.

Article III

When technical information made available, under agreed procedures, by one Contracting Government to the other for the purposes of defense discloses an invention which is the subject of a patent or patent application held in secrecy in the country of origin because of national defense reasons, similar treatment shall be accorded a corresponding patent application filed in the other country in accordance with the laws in force in the latter country regarding patents or patent applications held in secrecy, which will be fully applicable.

Article IV

- (a) Where privately-owned technical information
 - (i) has been communicated by or on behalf of the owner thereof to the Contracting Government of the country of which he is a national, and
 - (ii) is subsequently disclosed by that Government to the other contracting Government for the purpose of defense and is used or disclosed by the latter Government without the express or implied consent of the owner,
- the Contracting Governments agree that, where any compensation is paid to the owner by the Contracting Government first receiving the information, such payment shall be without prejudice to any arrangements which may be made between the two governments regarding the assumption as between them of liability for compensation. The Technical Property Committee established under Article VI of this Agreement will discuss and make recommendations to the Governments concerning such arrangements.