

No. 3983

**UNITED STATES OF AMERICA
and
JAPAN**

**Agreement (with Protocol) to facilitate interchange of
patent rights and technical information for purposes
of defense. Signed at Tokyo, on 22 March 1956**

Official texts: English and Japanese.

Registered by the United States of America on 20 August 1957.

**ÉTATS-UNIS D'AMÉRIQUE
et
JAPON**

**Accord (avec Protocole) en vue de faciliter l'échange mutuel
de brevets et de renseignements techniques pour les
besoins de la défense. Signé à Tokyo, le 22 mars
1956**

Textes officiels anglais et japonais.

Enregistré par les États-Unis d'Amérique le 20 août 1957.

No. 3983. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN TO FACILITATE INTERCHANGE OF PATENT RIGHTS AND TECHNICAL INFORMATION FOR PURPOSES OF DEFENSE. SIGNED AT TOKYO, ON 22 MARCH 1956

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

Having agreed in the Mutual Defense Assistance Agreement between the United States of America and Japan signed at Tokyo on March 8, 1954,² to make, upon the request of either of them, appropriate arrangements between them respecting industrial property rights 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 under the Mutual Defense Assistance Agreement ; and

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

Have agreed as follows :

Article I

Each 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 purposes of defense,

- (a) through the medium of any existing commercial relationships between the owner of such patent rights and technical information in one country and those in the other country having the right to use such patent rights and technical information ; and

¹ In accordance with article IX (a), the Agreement came into force on 6 June 1956, the date of receipt by the Government of the United States of America of a note from the Government of Japan stating that Japan has approved the Agreement in accordance with its legal procedures.

² United Nations, *Treaty Series*, Vol. 232, p. 169 ; Vol. 251, p. 404 ; Vol. 265, Vol. 272, and Vol. 273.

(b) in the absence of such existing relationships, through the creation of such commercial relationships by the owner and the user ;

provided that, in the case of classified information, such arrangements shall not conflict with security requirements, and provided further that the terms of all such arrangements shall be subject to the applicable laws of the two countries.

Article II

When, for purposes of defense, technical information is supplied by one Government to the other for information purposes only, and such fact is so 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 Government to the other for purposes of defense discloses an invention which is the subject of a patent application held in secrecy in the country of origin, similar treatment shall be accorded a corresponding patent application filed in the other country.

Article IV

(a) Where privately-owned technical information

- (i) has been communicated by or on behalf of the owner thereof to the Government of the country of which he is a national, and
- (ii) is subsequently disclosed by that Government to the other Government for purposes of defense and is used or disclosed by the latter Government without the express or implied consent of the owner,

the Governments agree that, where any compensation is paid to the owner by the 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 the present Agreement will discuss and make recommendations to the Governments concerning such arrangements.

(b) When, for purposes of defense, technical information is made available by a national of one country to the Government of the other country at the latter

Government's request and is subsequently used or disclosed by that Government for any purpose whether or not for defense, the recipient Government shall, at the owner's request, take such steps as may be possible under its laws to provide prompt, just, and effective compensation for such use or disclosure to the extent that the owner may be entitled thereto under such laws.

Article V

When one Government, or an entity or agency owned or controlled by such Government, owns or has the right to authorize the use of an invention or technical information and that invention or technical information is used by the other Government for purposes of defense, the using Government shall be entitled to use the invention or technical information without cost, except to the extent that there may be liability to a private owner with established interests in the invention or technical information. The two Governments shall cooperate to ensure that, prior to such use, the using Government is informed of any such established interests in the invention or technical information.

Article VI

Each Government shall designate a member (or members) to constitute a Technical Property Committee. It shall be the function of this Committee :

- (a) To consider and make recommendations to the Governments on such matters relating to the subject of the present Agreement as may be brought before it by either Government ;
- (b) To make recommendations to the Governments concerning any question, brought to its attention by either Government, relating to the interchange or use of patent rights and technical information for purposes of defense ;
- (c) To assist, where appropriate, in the negotiation of commercial or other agreements for the use of patent rights and technical information for purposes of defense ;
- (d) To take note of pertinent commercial or other agreements for the use of patent rights and technical information for purposes of defense, and, where necessary and appropriate, to obtain the views of the two Governments on the acceptability of such agreements ;
- (e) To assist, where appropriate, in the procurement of licenses and to make recommendations to the Governments, where appropriate, respecting payment of indemnities covering inventions or technical information used for purposes of defense ;
- (f) To facilitate the interchange and use of patent rights and technical information in connection with technical collaboration between and among the defense services of the two Governments ;