

No. 4446

**UNITED STATES OF AMERICA
and
AUSTRALIA**

Agreement (with exchange of notes) to facilitate the interchange of patent rights and technical information for defense purposes. Signed at Washington, on 24 January 1958

Official text: English.

Registered by the United States of America on 24 July 1958.

**ÉTATS-UNIS D'AMÉRIQUE
et
AUSTRALIE**

Accord (avec échange de notes) visant à faciliter l'échange mutuel de brevets d'invention et de renseignements techniques pour les besoins de la défense. Signé à Washington, le 24 janvier 1958

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 24 juillet 1958.

No. 4446. AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND AUSTRALIA TO FACILITATE THE INTERCHANGE OF PATENT RIGHTS AND TECHNICAL INFORMATION FOR DEFENSE PURPOSES. SIGNED AT WASHINGTON, ON 24 JANUARY 1958

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

Having agreed in the Security Treaty signed at San Francisco on September 1, 1951² to maintain and develop their individual and collective capacity to resist armed attack by means of continuous and effective self-help and mutual aid ;

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 ;

Agree as follows :

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 owners of such patents or technical information or those to whom rights have been ceded by the said owners on the one hand, and the user on the other, whether this user be a private person, a firm or a Government body ; and
- (b) In the absence of such commercial relationships, by encouraging the parties to enter into them.

¹ Came into force on 24 January 1958, the date of signature, in accordance with article IX (a).

² United Nations, *Treaty Series*, Vol. 131, p. 83.

However, the commercial relationships referred to in paragraphs (a) and (b) shall not be contrary to security requirements, and their provisions shall remain subject to the applicable laws of each of the Contracting Governments.

Article II

When technical information is supplied for defense purposes by one Contracting Government to the other, unless otherwise stipulated, the recipient Government shall treat the technical information as supplied for information only and use its best endeavors to insure 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 for purposes of defense by one Contracting Government to the other discloses an invention which is the subject of a patent or patent application held in secrecy in the country of origin, the recipient Government will, to the fullest extent possible under its laws, accord similar treatment to a corresponding patent application to be filed in the recipient country. The Contracting Governments agree to develop appropriate procedures to facilitate the carrying out of this Article.

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 purposes 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.

(b) When, for the purposes of defense, technical information is made available by a national of one Contracting Government to the other Government at the latter's request and use or disclosure is subsequently made of that information

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

(a) When an invention owned by one Contracting Government is used by the other Contracting Government for defense purposes, such use shall, to the extent that no liability is incurred by either Government to any private owner of a proprietary or other legal interest in the invention, be without cost to such other Government.

(b) Whenever either Contracting Government can grant to the other Contracting Government for defense purposes a license to use an invention not covered by (a) above without incurring liability to any private owner of a proprietary or other legal interest therein, it shall do so without cost to such other Government.

(c) Nothing in this Article shall affect any licensing or other agreement already in force at the date of this Agreement or any royalty or other compensation paid or agreed to be paid thereunder.

Article VI

Each Contracting Government shall designate a representative to meet with the representative of the other Contracting Government to constitute a Technical Property Committee. Each Government shall have the right to appoint special advisors for its representative. It shall be the function of this Committee:

- (a) To consider and make recommendations on such matters relating to the subject of this Agreement as may be brought before it by either Contracting Government ;
- (b) To make recommendations to the Contracting Governments concerning any question, brought to its attention by either Government, relating to patent rights and technical information which arises in connection with the mutual defense program ;
- (c) To assist, where appropriate, in the negotiation of commercial or other agreements for the use of patent rights and technical information in the mutual defense program ;
- (d) To take note of pertinent commercial or other agreements for the use of patent rights and technical information in the mutual defense program, and, where necessary, to obtain the views of the two Governments on the acceptability of such agreements ;