

No. 7867

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**ITALY  
and  
NETHERLANDS**

**Exchange of notes constituting an agreement for the safeguarding of secrecy of inventions relating to defence.  
Rome, 29 May 1964**

*Official text: French.*

*Registered by Italy on 2 August 1965.*

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**ITALIE  
et  
PAYS-BAS**

**Échange de notes constituant un accord pour la sauvegarde  
du secret des inventions intéressant la défense. Rome,  
29 mai 1964**

*Texte officiel français.*

*Enregistré par l'Italie le 2 août 1965.*

[TRANSLATION — TRADUCTION]

No. 7867. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT<sup>1</sup> BETWEEN ITALY AND THE NETHERLANDS FOR THE SAFEGUARDING OF SECRECY OF INVENTIONS RELATING TO DEFENCE. ROME, 29 MAY 1964

I

Rome, 29 May 1964

Sir,

I have the honour to inform you that in view of the desire of the appropriate authorities in our two countries to secure a firm basis for the administrative handling of secret patents and patent applications, the Government of the Kingdom of the Netherlands is prepared, pending the entry into force with respect to the Government of the Kingdom of the Netherlands and the Government of the Italian Republic of the NATO "Agreement for the mutual safeguarding of secrecy of inventions relating to defence and for which applications for patents have been made", which was signed at Paris, on 21 September 1960,<sup>2</sup> provisionally to observe with respect to the Government of the Italian Republic the regulations of the Agreement and of the Rules of Procedure established in application of the Agreement which were adopted by the Atlantic Council on 7 March 1962.

Under the Netherlands Patents Act at present in force, accelerated procedure is required to be followed for the preliminary examination of an application for a patent on which secrecy has been imposed for reasons of defence; and if the invention seems to be patentable, secrecy may be maintained only by the issue of a secret patent in the name of the Netherlands State. That means that secrecy may be maintained only if the rights resulting from the application are transferred to the Kingdom of the Netherlands; this transfer, moreover, may be made while reserving all possible rights to the patentee and may be made subject to a resolatory condition in the event of the removal of secrecy.

Consequently the above-mentioned Agreement and Rules of Procedure will be provisionally applied to the Netherlands on the following conditions:

(1) The competent authority in the Italian Republic shall ensure that applications originating in Italy for patents which relate to defence and which, being already classified as secret in Italy, must also be classified as secret in the Netherlands, are accompanied by a statement from the applicant in which the

<sup>1</sup> Came into force on 29 May 1964 by the exchange of the said notes.

<sup>2</sup> United Nations, *Treaty Series*, Vol. 394, p. 3; Vol. 421, p. 348, Vol. 451, p. 340, Vol. 460, p. 324, and Vol. 535.

latter declares himself willing to assign his rights to the Kingdom of the Netherlands on the following conditions :

- (a) The assignment of the patentee's rights to the Netherlands State shall be gratuitous, the removal of secrecy having the effect of a resolutive condition;
- (b) All the rights relating to the exploitation of the invention which is the subject of the patent shall be reserved to the patentee, subject to the safeguarding of secrecy. The costs relating to the issue and maintenance of the patent shall continue to be borne by the patentee.

(2) The Government of the Italian Republic shall ensure that patent applications to be filed in the Netherlands are accompanied by a statement from the applicant constituting a waiver of any claim to compensation for loss or damage, as provided for in article III of the NATO Agreement.

If the Government of the Italian Republic is prepared to accept the foregoing conditions, I have the honour to suggest that the present letter and your reply be regarded as constituting an Agreement between our two Governments which shall enter into force immediately and shall be valid for a period of one year. Unless denounced by one of the two Governments at least two months before the expiry of the initial period, the Agreement shall be regarded as tacitly renewed from year to year, each Government reserving, in this event, the right to denounce it by giving notice two months before the end of the current period, until the entry into force of the NATO Agreement with respect to both Governments.

If the Agreement is denounced before the entry into force of the NATO Agreement, such denunciation shall not affect obligations already contracted and the rights previously acquired by the signatory Parties under the provisions of this Agreement.

As regards the Kingdom of the Netherlands this Agreement shall apply to the Kingdom in Europe, Surinam and the Netherlands Antilles, unless the Government of the Kingdom should inform the Government of the Italian Republic within three months of the coming into force of the Agreement that the Government of Surinam or the Government of the Netherlands Antilles does not wish the Agreement to be applicable to its country.

Accept, Sir, the assurances of my highest consideration.

VAN VREDENBURCH

His Excellency

Mr. Giuseppe Talamo Atenolfi Brancaccio di Castelnuovo  
Ambassador of Italy  
Ministry of Foreign Affairs  
Rome

## II

Rome, 29 May 1964

Sir,

I have the honour to acknowledge receipt of your note of today's date reading as follows :

[See note I]

On behalf of the Government of the Italian Republic I have the honour to declare myself in agreement with the conclusions of the said note concerning the treatment of applications for patents and patents originating in Italy which, being already classified as secret in Italy, will also be classified as secret in the Netherlands, and to recognize that the system applied in that respect in the Netherlands meets the conditions of reciprocity required by article 40 *bis* of Italian Decree No. 1127 of 29 June 1939 established by article 5 of the Italian Act of 1 July 1959, and by article 43 of the said Decree.

As regards the treatment of Netherlands inventions on which secrecy is imposed in the Netherlands for reasons of military defence and for which an application for a patent is submitted to the competent Italian authority, I accordingly have the honour to inform you that the Government of the Italian Republic undertakes on the above-mentioned conditions to observe with respect to the Government of the Netherlands the regulations of the Agreement and of the Rules of Procedure established in application of the Agreement which were adopted by the Atlantic Council on 7 March 1962.

The Agreement resulting from this note and your note shall enter into force on the date of this note for a period of one year, and shall continue in force without other formalities from year to year, unless notice of denunciation is given more than two months before the end of the current period, until the entry into force of the NATO Agreement on this subject in our two countries.

It is understood that denunciation may in no case prejudice the obligations and rights previously established under this Agreement.

Accept, Sir, the assurances of my highest consideration.

TALAMO

His Excellency Jonkheer H. F. L. K. Van Vredenburg  
Ambassador of Her Majesty the Queen of the Netherlands  
Rome