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MULTILATERAL

NATO Agreement on the communication of technical information for defence purposes. Done at Brussels on 19 October 1970

Authentic texts: French and English.

Registered by the United States of America on 9 November 1971.

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Accord OTAN sur la communication, à des fins de défense, d'informations techniques. Fait à Bruxelles le 19 octobre 1970

Textes authentiques : français et anglais.

Enregistré par les États-Unis d'Amérique le 9 novembre 1971.

NATO AGREEMENT¹ ON THE COMMUNICATION OF TECHNICAL INFORMATION FOR DEFENCE PURPOSES

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;²

Considering that Article III of the North Atlantic Treaty provides that the Parties will maintain and develop their individual and collective capacity to resist armed attack by means of self-help and mutual assistance;

Considering that such capacity could be developed inter alia by the communication among Governments Parties and NATO Organizations of proprietary technical information to assist in defence research, development and production of military equipment and material;

Considering that rights of owners of proprietary technical information thus communicated should be recognized and protected;

¹ Came into force on 7 February 1971, i.e. 30 days after the deposit by the two following signatory States of their instruments of ratification or approval (A) with the Government of the United States of America, in accordance with article VIII (A):

<i>State</i>	<i>Date of deposit</i>	<i>State</i>	<i>Date of deposit</i>
Canada	20 October 1970	United States of America	8 January 1971 A

Subsequently, the Agreement came into force for the following States 30 days after the deposit of their instrument of ratification, in accordance with article VIII (A):

<i>State</i>	<i>Date of deposit</i>	<i>State</i>	<i>Date of deposit</i>
Netherlands (For the Kingdom in Europe, Surinam and the Netherlands Antilles.)	19 August 1971 (With effect from 18 September 1971.)	United Kingdom of Great Britain and Northern Ireland.	28 October 1971 (To take effect on 27 November 1971.)

² United Nations, *Treaty Series*, vol. 34, p. 243; vol. 126, p. 350, and vol. 243, p. 308.

Have agreed on the following provisions:

Article I

For the purpose of this Agreement:

(a) the term “for defence purposes” means for strengthening the individual or collective defence capabilities of the Parties to the North Atlantic Treaty either under national, bilateral or multilateral programmes, or in the implementation of NATO research, development, production or logistics projects;

(b) the term “proprietary technical information” means information which is technical in character, sufficiently explicit for use and has utility in industry, and which is known only to the owner and persons in privity with him and therefore not available to the public. Proprietary technical information may include, for example, inventions, drawings, know-how and data;

(c) the term “NATO Organization” means the North Atlantic Council and any subsidiary civilian or military body, including International Military Headquarters, to which apply the provisions of either the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff signed in Ottawa on the 20th of September, 1951,¹ or the Protocol on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty, signed in Paris on the 28th of August, 1952;²

(d) the term “Government or Organization of Origin” means the Government Party to this Agreement or NATO Organization first communicating technical information as being proprietary;

(e) the term “Recipient” means any Government Party to this Agreement or any NATO Organization receiving technical information communicated as proprietary either directly by the Government or Organization of Origin or through another Recipient;

¹ United Nations, *Treaty Series*, vol. 200, p. 3.

² *Ibid.*, vol. 200, p. 340.

(f) the term “disclosure in confidence” means disclosure of technical information to a limited number of persons who undertake not to disclose the information further except under the conditions specified by the Government or Organization of Origin;

(g) the term “unauthorised disclosure” refers to any communication of proprietary technical information which is not in accordance with the conditions under which it was communicated to the Recipient;

(h) the term “unauthorised use” refers to any use of proprietary technical information made without prior authorisation or not in accordance with the conditions under which it was communicated to a Recipient.

Article II

A. When for defence purposes, technical information is communicated by a Government or Organization of Origin, to one or more Recipients as proprietary technical information, each Recipient shall, subject to the provisions of paragraph B of this Article, be responsible for safeguarding this information as proprietary technical information which has been disclosed in confidence. The Recipient shall treat this technical information in accordance with any conditions imposed and take appropriate steps compatible with these conditions to prevent this information from being communicated to anyone, published or used without authorisation or treated in any other manner likely to cause damage to the owner. If a Recipient should desire to have the imposed conditions modified, this Recipient shall, unless otherwise agreed, address any request to this effect to the Government or Organization of Origin from which the proprietary technical information was received.

B. If a Recipient ascertains that any part of the technical information communicated to it as proprietary technical information was, at the time of the communication, already in its possession or available to it, or was then or at any time becomes available to the public, the Recipient shall, so far as security requirements permit, notify the Government or Organization of Origin of that fact as soon as possible and if necessary make any appropriate arrangements with the latter for continuation of confidence, for maintenance of defence security and for return of documents.

C. Nothing in this Agreement shall be considered as limiting any defence available to a Recipient in any disagreement resulting from any communication of technical information.

Article III

A. If the owner of proprietary technical information which has been communicated for defence purposes suffers damage through unauthorised disclosure or use of the information by a Recipient or anyone to whom this Recipient has disclosed the information, this Recipient shall compensate the owner:

when it is a government, in conformity with the national law of this Recipient;

when it is a NATO Organization, unless otherwise agreed by the parties concerned, in conformity with the law of the country in which the Headquarters of this organization is located.

Such compensation shall be made either directly to the owner or to the Government or Organization of Origin if the latter itself compensates the owner. In the latter case, the amount to be paid by the Recipient will not be affected by the amount of compensation paid by the Government or Organization of Origin, unless otherwise agreed.

B. Recipients and the Government or Organization of Origin, so far as their security requirements permit, shall furnish each other with any evidence and information available and accord other appropriate assistance to determine damage and compensation.

C. At the request of a Government Party to this Agreement or a NATO Organization concerned, an Advisory Committee composed solely of representatives of the Governments and NATO Organizations involved in the transaction may be created to investigate and examine evidence and report to the parties concerned on the origin, nature and scope of any damage. This Committee may request the Secretary General of the North Atlantic Treaty Organization to designate a member of the International Staff to be a member of the Committee as an observer or as a representative of the Secretary General.

D. Nothing in this Article shall impair any rights that the injured owner may have against any Government or NATO Organization.

Article IV

The Governments Parties to this Agreement shall develop within the North Atlantic Council procedures for the implementation of this Agreement. In particular these Procedures shall contain provisions governing:

- (a) the communication, receipt and use of proprietary technical information under this Agreement;
- (b) the participation of NATO Organizations in the communication, receipt and use of proprietary technical information;
- (c) the creation and operation of the Advisory Committee provided for in Article III, C, above;
- (d) requests for changes of conditions imposed on proprietary technical information, as envisaged by Article II, A, above.

Article V

1. Nothing in this Agreement shall be interpreted as affecting security commitments between or amongst Governments Parties to this Agreement.

2. Each Recipient shall accord to all proprietary technical information made available to it under the terms of this Agreement at least the same degree of security as that technical information has been accorded by the Government or Organization of Origin.

Article VI

1. Nothing in this Agreement shall prevent the Governments Parties from continuing existing agreements or entering into new agreements among themselves for this same purpose.

2. Nothing in this Agreement shall be interpreted as affecting the provisions 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 the 21st of September, 1960.¹

¹ United Nations, *Treaty Series*, vol. 394, p. 3.

Article VII

Nothing in this Agreement shall apply to the communication or use of technical information relating to atomic energy.

Article VIII

A. 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 and the NATO Secretary General 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 instruments of ratification or approval.

B. The North Atlantic Council will fix the date on which the present Agreement will begin or will cease to apply to NATO Organizations.

Article IX

Any Party may cease to be a party to this Agreement one year after its notice of denunciation has been given to the Government of the United States of America, which will inform the other signatory Governments and the Secretary General of the North Atlantic Treaty Organization of the deposit of each notice of denunciation. Denunciation shall not, however, effect obligations already contracted and the rights or prerogatives previously acquired by Parties under the provisions of this Agreement.

IN WITNESS WHEREOF the undersigned representatives duly authorised thereto, have signed this Agreement.

DONE in Brussels this 19th day of October 1970 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 other signatory Governments and to the Secretary General of the North Atlantic Treaty Organization.

Pour le Royaume de Belgique :
For the Kingdom of Belgium:

A. DE STAERCKE

Pour le Canada :
For Canada:

[ROSS CAMPBELL]¹

Pour le Royaume de Danemark :
For the Kingdom of Denmark:

[H. HJORTH-NIELSEN]

Pour la France :
For France:

L'adhésion de la France au présent accord ne saurait en rien modifier la position prise par elle vis-à-vis de l'organisation militaire intégrée de l'Alliance Atlantique, position exposée dans l'Aide-Mémoire des 8 et 10 mars 1966 adressé par le Gouvernement français aux quatorze autres membres de l'Alliance².

F. DE ROSE

Pour la République Fédérale d'Allemagne :
For the Federal Republic of Germany:

[WILHELM G. GREWE]

¹ Les noms des signataires donnés entre crochets étaient illisibles et ont été fournis par le Gouvernement des États-Unis d'Amérique — Names of signatories appearing between brackets were not legible and have been supplied by the Government of the United States of America.

² [Traduction fournie par le Gouvernement des États-Unis d'Amérique — Translation supplied by the Government of the United States of America] The adherence of France to this agreement should not be regarded in any way as modifying the position taken by this country vis-à-vis integrated Military Organization of the Atlantic Alliance, as set out in the aide-mémoire of the French Government of March 8 and 10, 1966, addressed to the fourteen other members of the Alliance.

Pour le Royaume de Grèce :
For the Kingdom of Greece:

[PH. ANNINO CAVALIERATO]

Pour l'Italie :
For Italy:

[CARLO DE FERRARIIS SALZANO]

Pour le Grand-Duché de Luxembourg :
For the Grand Duchy of Luxembourg:

[LAMBERT SCHAUS]

Pour le Royaume des Pays-Bas :
For the Kingdom of the Netherlands:

H. N. BOON

Pour le Royaume de Norvège :
For the Kingdom of Norway:

[H. W. FREIHOW]

Pour le Portugal :
For Portugal:

[ALBANO NOGUEIRA]

Pour la Turquie :
For Turkey:

[NURI BIRGI]

Pour le Royaume-Uni de Grande-Bretagne
et d'Irlande du Nord :
For the United Kingdom of Great Britain
and Northern Ireland:

B. A. B. BURROWS

Pour les États-Unis d'Amérique :
For the United States of America:

[ROBERT ELLSWORTH]