

**No. 23069**

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**FRANCE  
and  
SWEDEN**

**Agreement concerning the reciprocal protection of the secrecy of defence-related inventions for which patents are pending (with annex). Signed at Stockholm on 15 March 1984**

*Authentic texts: French and Swedish.*

*Registered by France on 4 September 1984.*

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**FRANCE  
et  
SUÈDE**

**Accord pour la sauvegarde mutuelle du secret des inventions intéressant la défense et ayant fait l'objet de demandes de brevets (avec annexe). Signé à Stockholm le 15 mars 1984**

*Textes authentiques : français et suédois.*

*Enregistré par la France le 4 septembre 1984.*

[TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE KINGDOM OF SWEDEN CONCERNING THE RECIPROCAL PROTECTION OF THE SECRECY OF DEFENCE-RELATED INVENTIONS FOR WHICH PATENTS ARE PENDING

The Government of the French Republic and  
The Government of the Kingdom of Sweden,

Having regard to the Security Agreement concerning certain exchanges of secret information, signed on 22 October 1973<sup>2</sup> by the two Governments, and, in particular, to the fifth and the sixth paragraphs of article 1,

Considering that the classification as secret of an invention for which a patent has been applied for in one of the two countries means that a patent for the same invention may not be applied for in the other country,

Considering that such a restriction could be detrimental to patent applicants and could in certain cases prevent the reciprocal communication of defence-related inventions,

Have agreed as follows:

*Article I.* The Government of the French Republic and the Government of the Kingdom of Sweden shall, within the framework of their national legislation, ensure the protection of the secrecy of any invention for which a patent is pending in one of the two countries and which in the interests of defence has been classified as secret by the Government of that country, hereinafter referred to as the Government of the country of origin, and for which a patent is subsequently applied for in the other country in accordance with the procedures agreed upon by the two Governments.

This provision shall not, however, affect the right of the Government of the country of origin to prohibit the submission of patent applications in the other country; nor shall it affect the legislative provisions or regulations in force in the two countries concerning permission to apply for patents abroad.

*Article II.* The provision contained in the first paragraph of article I shall be applicable at the request of either the Government of the country of origin or the patent applicant, provided that the latter provides proof of classification by the Government of the country of origin and of receipt of authorization from that Government to apply, under conditions of secrecy, for a patent in the other country.

*Article III.* A Government called upon to protect the secrecy of an invention in accordance with the first paragraph of article I shall, as a prerequisite for such protection, require the person making the patent application to give a written undertaking that he will refrain from filing any suit for damages against that Government solely on the ground that the invention has been classified as secret.

*Article IV.* Classification measures taken in application of article I of this Agreement may be revoked only at the request of the Government of the country of origin, which shall give the other Government six weeks' notice of its intention to revoke the aforesaid measures.

<sup>1</sup> Came into force on 15 March 1984 by signature, in accordance with article VII.

<sup>2</sup> United Nations, *Treaty Series*, vol. 1019, p. 65.

The Government of the country of origin shall, as far as possible, take account of any representations made by the other Government during the aforesaid period. Official declassification by the latter Government shall take place in accordance with its national legislation after receipt of a copy of the document attesting to revocation of the declassification measure taken by the Government of the country of origin.

*Article V.* The implementation of this Agreement shall be governed by the rules of application which are annexed to the Agreement and constitute an integral part thereof.

*Article VI.* Either Government may at any time request a review of this Agreement and shall undertake to keep the other Government informed of any changes in its domestic legal rules that could affect the application of this Agreement and the rules of application annexed thereto.

*Article VII.* This Agreement shall enter into force on the date of its signature. It may be denounced at any time by either Government and shall cease to have effect six months after the date on which notice of denunciation is given.

The denunciation shall not, however, affect any obligations contracted or rights acquired earlier by the two Governments by virtue of the provisions of this Agreement.

*Article VIII.* Termination of the Security Agreement referred to in the preamble shall also entail termination of this Agreement.

DONE at Stockholm on 15 March 1984, in duplicate in the French and Swedish languages, both texts being equally authentic.

For the Government  
of the French Republic:

[PIERRE-LOUIS BLANC]

For the Government  
of the Kingdom of Sweden:

[M. L. BODSTROEM]

**RULES OF APPLICATION DRAWN IN ACCORDANCE WITH ARTICLE V OF  
THE AGREEMENT BETWEEN THE GOVERNMENT OF THE FRENCH  
REPUBLIC AND THE GOVERNMENT OF THE KINGDOM OF SWEDEN  
CONCERNING THE RECIPROCAL PROTECTION OF THE SECRECY OF  
DEFENCE-RELATED INVENTIONS FOR WHICH PATENTS ARE PENDING**

**GENERAL CONDITIONS AND RULES**

*Article I.* A security classification level corresponding to that applied by the Government of the country of origin shall be applied by the Government of the receiving country to inventions for which patent applications have been made.

The classification levels applied in the two countries shall be as follows:

<i>France</i>	<i>Sweden</i>
Secret Défense	Hemlig
Confidentiel Défense	

In Sweden, inventions of French origin shall be classified as "HEMLIG". In France, inventions of Swedish origin shall be classified as "SECRET DÉFENSE".

*Article II.* Requests for the classification of a patent application as secret shall be made either by the competent authorities of the Government of the country of origin, in France, the Office of Patents and Inventions of the Ministry of Defence, and in Sweden, the Civil Administration of the Armed Forces, or by a patent applicant with authorization from the aforesaid Government authority.

*Article III.* The competent authority of the Government of the country of origin shall issue a certificate attesting that the invention for which a patent is pending has been classified as secret in the interests of defence and indicating the classification level applied by that country to that invention.

#### SUBMISSION OF PATENT APPLICATIONS

*Article IV.* All documents pertaining to the patent application shall be transmitted to the Patent Office of the Government of the receiving country solely by sufficiently safe and officially approved means:

(a) The competent authority in the country of origin shall ensure that such documents are transmitted by diplomatic bag to its embassy in the receiving country.

(b) The applicant shall be represented by a patent agent or other representative. The embassy shall enquire of the competent authority of the receiving country, referred to in article II, whether such patent agent or other representative is duly approved, i.e.:  
—Is authorized to have access to classified information; and  
—Is recognized as being duly able to ensure the physical safety of the classified information.

A new enquiry shall be made in the case of each request for classification, even if the patent agent or other representative has been designated previously.

(c) If the competent authority indicates that the patent agent or other representative has been duly approved, the embassy shall transmit the documents to the aforesaid agent or representative and shall provide the aforesaid authority with a copy of the certificate referred to in article III and information on the name of the designated representative.

(d) The patent agent or other designated representative may then submit the patent application to the Patents' Office of the Government of the receiving country in accordance with its security regulations and practices.

*Article V.* For the purpose of evaluating the importance of an invention to defence, a copy of its description and the accompanying drawings, of the summary and the claims in the patent application, and information concerning the date and the registration number of the patent application assigned by the Patent Office of the Government of the country of origin, shall be transmitted by the representative, in accordance with the security regulations and practices of the receiving Government, to the authority referred to in article II. Such copy shall be provided for information only and without prejudice to any rights of the applicant.

*Article VI.* The applicant shall attach to the application documents a written waiver, in duplicate, of all rights to compensation for loss or injury incurred solely as a result of the classification of his invention as secret by the receiving Government.

The applicant shall, however, retain the right to file suit for damages under the laws of the receiving Government in cases of unauthorized use or disclosure of an invention for which a patent is pending.

## CORRESPONDENCE CONCERNING A CLASSIFIED PATENT APPLICATION

*Article VII.* Any correspondence concerning a classified patent application shall be transmitted exclusively by such means as are specified in the case of the patent application itself, except for correspondence pertaining solely to the payment of charges and fees or any other documents not classified as secret.

## DECLASSIFICATION

*Article VIII.* Communications by the country of origin concerning the declassification measures provided for in article IV of the Agreement shall be addressed to the competent authority of the receiving country referred to in article II.

The same shall apply to formal notice of declassification after a decision to declassify has been taken.

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