

## SWEDEN

### Patents: Interchange of Patent Rights and Technical Information for Defense Purposes

*Agreement effected by exchange of notes  
Signed at Washington October 4, 1962;  
Entered into force October 4, 1962.*

*The Swedish Ambassador to the Secretary of State*

ROYAL  
SWEDISH EMBASSY

No. 273

WASHINGTON, D.C., October 4, 1962.

EXCELLENCY,

In an exchange of notes between the Swedish Minister of Foreign Affairs and the United States Ambassador to Sweden, dated June 30, and July 1, 1952,<sup>[1]</sup> respectively, the terms were agreed upon under which the Government of Sweden desires to procure for defense purposes military equipment, materials, or services on a reimbursable basis from the Government of the United States of America. By an exchange of notes dated January 30, 1961, <sup>[2]</sup> the scope of this agreement was enlarged, insofar as it regards security measures, to cover any information, equipment, materials or services relating to defense, given a security classification by either Government and communicated directly or indirectly between our two Governments.

Recent discussions between representatives of our two Governments have dealt with the protection of privately owned technical property disclosed by or connected with the transfer between our two Governments of information, equipment, materials or services relating to defense, whether or not classified. In furtherance of the principle that the rights of private owners of patents and other technical property should be fully recognized and protected in accordance with the law applicable to such privately owned patents and technical property relating to defense, these discussions have resulted in the following agreement:

1. When privately owned technical property is disclosed for defense purposes by transferring information, equipment, materials or serv-

<sup>1</sup> TIAS 2480; 3 UST (pt. 2) 2068.

<sup>2</sup> TIAS 4680; 12 UST 98.

ices relating to defense either directly between our two Governments or from a national of one Contracting Government to the other Government at the latter's request, the recipient Government will:

(a) use its best efforts to ensure that such disclosure is treated as being made in confidence if the transfer is for information purposes only;

(b) use its best endeavors to ensure that the rights of the private owners to obtain patent or other like statutory protection therefor are not prejudiced;

(c) when such disclosure includes an invention which is the subject of a patent or patent application held in secrecy in the country of origin, accord, to the fullest extent possible under its laws, treatment similar to that accorded in the country of origin to a corresponding patent application filed in the recipient country in accordance with implementing procedures to be agreed upon.

2. When privately owned technical property included in a direct Government-to-Government transfer for defense purposes is used or disclosed by the recipient Government without the consent of the owner and as a result thereof compensation is paid to the owner by the originating Government, such payment shall be without prejudice to any arrangements which may be made between the two Governments regarding the assumption of the ultimate liability.

3. When privately owned technical property, included in a transfer for defense purposes from a national of one Contracting Government to the other Government at the latter's request, is used or disclosed by the recipient Government for any purpose, the recipient Government will take such steps as its laws permit for the prompt, just and effective compensation for such use or disclosure, when requested to do so by the owner.

4. Upon the request of either Government and as far as practicable, each Contracting Government will supply to the other Government all necessary information and assistance (a) to afford the private owner of technical property an opportunity to protect and preserve his rights therein and (b) to assess payments and awards arising out of its use.

5. Each Contracting Government shall designate a representative to meet with the representative of the other Contracting Government to constitute a Technical Property Committee, which shall consider and make recommendations on such matters relating to the subject matter of this agreement as may be brought before it by either Government, including:

(a) the establishment of procedures to facilitate the reciprocal filing of classified patent applications as contemplated in paragraph 1(c) above; and

(b) the entering into arrangements referred to in paragraph 2 above.

6. (a) The terms of this agreement may be reviewed at any time at the request of either Contracting Government.

(b) This agreement will terminate six months after written notice of termination has been given by either Contracting Government to the other, but without prejudice to obligations and liabilities which have then accrued pursuant to the terms of this agreement.

If the foregoing is agreeable to your Government, I propose that this note and your reply to that effect shall constitute an agreement on this matter which shall enter into force on the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration.

GUNNAR JARRING

Gunnar Jarring

His Excellency  
DEAN RUSK,  
*Secretary of State,  
Washington, D.C*

*The Secretary of State to the Swedish Ambassador*

DEPARTMENT OF STATE  
WASHINGTON  
October 4, 1962

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's note of October 4, 1962, the text of which is as follows:

"In an exchange of notes between the Swedish Minister of Foreign Affairs and the United States Ambassador to Sweden, dated June 30, and July 1, 1952, respectively, the terms were agreed upon under which the Government of Sweden desires to procure for defense purposes military equipment, materials, or services on a reimbursable basis from the Government of the United States of America. By an exchange of notes dated January 30, 1961, the scope of this agreement was enlarged, insofar as it regards security measures, to cover any information, equipment, materials or services relating to defense, given a security classification by either Government and communicated directly or indirectly between our two Governments.

"Recent discussions between representatives of our two Governments have dealt with the protection of privately owned technical property disclosed by or connected with the transfer between our two Governments of information, equipment, materials or services relating to

defense, whether or not classified. In furtherance of the principle that the rights of private owners of patents and other technical property should be fully recognized and protected in accordance with the law applicable to such privately owned patents and technical property relating to defense, these discussions have resulted in the following agreement:

1. When privately owned technical property is disclosed for defense purposes by transferring information, equipment, materials or services relating to defense either directly between our two Governments or from a national of one Contracting Government to the other Government at the latter's request, the recipient Government will:

(a) use its best efforts to ensure that such disclosure is treated as being made in confidence if the transfer is for information purposes only;

(b) use its best endeavors to ensure that the rights of the private owners to obtain patent or other like statutory protection therefor are not prejudiced;

(c) when such disclosure includes an invention which is the subject of a patent or patent application held in secrecy in the country of origin, accord, to the fullest extent possible under its laws, treatment similar to that accorded in the country of origin to a corresponding patent application filed in the recipient country in accordance with implementing procedures to be agreed upon.

2. When privately owned technical property included in a direct Government-to-Government transfer for defense purposes is used or disclosed by the recipient Government without the consent of the owner and as a result thereof compensation is paid to the owner by the originating Government, such payment shall be without prejudice to any arrangements which may be made between the two Governments regarding the assumption of the ultimate liability.

3. When privately owned technical property, included in a transfer for defense purposes from a national of one Contracting Government to the other Government at the latter's request, is used or disclosed by the recipient Government for any purpose, the recipient Government will take such steps as its laws permit for the prompt, just and effective compensation for such use or disclosure, when requested to do so by the owner.

4. Upon the request of either Government and as far as practicable, each Contracting Government will supply to the other Government all necessary information and assistance (a) to afford the private owner of technical property an opportunity to protect and preserve his rights therein and (b) to assess payments and awards arising out of its use.

5. Each Contracting Government shall designate a representative to meet with the representative of the other Contracting Government

to constitute a Technical Property Committee, which shall consider and make recommendations on such matters relating to the subject matter of this agreement as may be brought before it by either Government, including:

(a) the establishment of procedures to facilitate the reciprocal filing of classified patent applications as contemplated in paragraph 1(c) above; and

(b) the entering into arrangements referred to in paragraph 2 above.

6. (a) The terms of this agreement may be reviewed at any time at the request of either Contracting Government.

(b) This agreement will terminate six months after written notice of termination has been given by either Contracting Government to the other, but without prejudice to obligations and liabilities which have then accrued pursuant to the terms of this agreement.

“If the foregoing is agreeable to your Government, I propose that this note and your reply to that effect shall constitute an agreement on this matter which shall enter into force on the date of your reply.”

I accept the proposals in Your Excellency's note and concur that Your Excellency's note and this acceptance shall constitute an agreement on this subject to enter into force on today's date.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

WILLIAM C. BURDETT

His Excellency

GUNNAR JARRING,

*Ambassador of Sweden.*

## SWEDEN

### Interchange of Patent Rights and Technical Information for Defense Purposes: Filing Classified Patent Applications

*Agreement effected by exchange of notes  
Signed at Washington October 20 and November 17, 1964;  
Entered into force November 17, 1964.*

*The Secretary of State to the Swedish Ambassador*

DEPARTMENT OF STATE  
WASHINGTON  
*October 20, 1964.*

#### EXCELLENCY:

I have the honor to refer to the Agreement between the Government of the United States of America and the Government of Sweden, effected by notes exchanged in Washington on October 4, 1962, relating to the Protection of Rights in Patents and Technical Information when there are transfers between our two Governments information, equipment, materials, or services relating to defense.

Paragraph 1(c) of that Agreement provides for implementing procedures to be agreed upon so that certain inventions held under patent secrecy in one country can be made the subject of a patent application to be held in secrecy in the other country. Discussions between representatives of our two Governments, constituting a Technical Protection Committee as provided for in paragraph 5(a) of the aforesaid Agreement, resulted in an agreed draft of such implementing procedures. Further discussions between our two Governments, based on a memorandum from the Government of the United States dated May 19, 1964, brought about a slight revision of the agreed draft. A copy of the agreed procedures as revised is enclosed herewith.

It gives me pleasure to confirm that the procedures set forth in the enclosed statement are acceptable to the Government of the United States of America. Upon receipt of confirmation that they are acceptable to your Government, agreement to adopt and apply the procedures shall be considered to enter into force on the date of your reply.

<sup>1</sup> TIAS 5178; 13 UST 2161.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

ROBERT C CREEL

Enclosure:  
Procedures.

His Excellency  
HUBERT DEBESCHE,  
*Ambassador of Sweden.*

**PROCEDURES FOR RECIPROCAL FILING OF CLASSIFIED PATENT APPLICATIONS IN THE UNITED STATES OF AMERICA AND SWEDEN**

**1. General**

The following procedures are in implementation of paragraph 1(c) of the Agreement between the Government of the United States of America and the Government of Sweden for Protection of Rights in Patents and Technical Information which was signed and entered into force on October 4, 1962. The said paragraph refers to the protection of privately owned technical property disclosed for defense purposes by transferring information, equipment, materials or services relating to defense either directly between our two Governments or from a national of one Contracting Government to the other Government at the latter's request and stipulates that the recipient Government will, when such disclosure includes an invention which is the subject of a patent or patent application held in secrecy in the country of origin, accord, to the fullest extent possible under its laws, treatment similar to that accorded in the country of origin to a corresponding patent application filed in the recipient country.

The purpose of these procedures is to facilitate the filing of patent applications involving classified subject matter of defense interest, by inventors of one country in the other country, and to guarantee adequate security in such other country for the inventions disclosed by such applications. These procedures are based upon the following understandings:

(a) Each Government has authority within its jurisdiction to impose secrecy on an invention of defense interest which it considers to involve classified subject matter.

(b) The authority of each Government, when acting as the originating Government, to impose, modify or remove secrecy orders shall remain discretionary with each Government.

(c) Secrecy orders shall apply to the subject matter of the inventions concerned, and prohibit unauthorized disclosure of the same to all persons having access thereto.

(d) Adequate physical security arrangements shall be provided in all Government departments, including Patent Offices, handling inventions of defense interest and all persons in these departments : offices required to handle such inventions shall have been security cleared.

(e) Where patent applications covered by a secrecy order are handled by patent attorneys or agents in private practice, arrangements shall be made for the security clearance of these attorney agents and such of their employees who may be involved prior to their handling such applications or information relating thereto as well as for adequate physical security measures in their offices.

(f) Each Government shall take all possible steps to prevent unauthorized foreign filing of patent applications which may involve classified subject matter of defense interest.

(g) Permission for foreign filing of a patent application involving classified subject matter of defense interest shall remain discretionary with each Government or appropriate Government agency. Permission is, however, conditional upon the applicant agreeing to:

(1) Make the invention involved, and such information relating thereto as may be necessary for its proper evaluation, available to the recipient Government for purposes of defense;

(2) Designate a patent attorney or agent in the recipient country who is security cleared in accordance with the provisions of paragraph 1(e), supra, for completion of the necessary processing of the documents and filing of the application and otherwise representing the patentee there;

(3) Submit as soon as possible to the appropriate Government agency in the country of origin the serial number and filing date of the application in the recipient country;

(4) Waive any right to compensation for damage, which may arise under the laws of the recipient country by virtue of the imposition of secrecy on his invention in the recipient country, reserving any right of action for compensation provided by the laws of the recipient country for use by the Government of that country of the invention disclosed by the application or for unauthorized disclosure of the invention in the recipient country.

(h) The recipient Government shall assign to the invention involved a classification corresponding to that given in the country of origin and shall take effective measures to provide security protection appropriate to such classification.

(i) When secrecy has been imposed on an invention in one country and the inventor has been given permission to apply for a patent in the other country, the patent applications and all communications



regarding the classified aspects of the invention shall pass through diplomatic or other secure channels in conformity with the security laws of the country within whose territory the application or communication is passing. Unclassified formal notifications such as statements of fees, extensions of time limits, etc., may be sent by the patent offices directly to the applicant or his authorized representative without any special security arrangements.

## 2. Applications Originating in the United States

The following provisions shall apply when, for defense purposes, a United States patent application involving classified subject matter of defense interest has been placed in secrecy and the applicant wishes to file a corresponding application in Sweden:

(a) When permission to file in Sweden has been obtained, two copies of the documents for the Swedish application shall be forwarded to the defense agency which initiated the secrecy order.

(b) The defense agency shall transmit the copies simultaneously as follows:

(1) One copy to the Swedish Embassy in the United States for use by the Swedish Government for defense purposes; and

(2) One copy to the United States Embassy in Sweden with a letter indicating the security classification given to the application in the United States and stating that the invention involved and such information relating thereto as was necessary for its proper evaluation for defense purposes has been made available to the Swedish Government for purposes of defense and that the applicant has authorization to file a corresponding application in Sweden.

(c) The United States Embassy shall inquire of the Civil Administration of the Armed Forces (Forsvarets civilforvaltning) as to whether the designated patent attorney or agent is security cleared in accordance with subparagraph 1(e), supra.

(d) When a security cleared patent attorney or agent has been designated, the United States Embassy shall transmit the documents for the application and the letter mentioned in subparagraph 2(b), supra, to him in a manner consistent with Swedish security regulations. Upon filing in the Swedish Patent Office, the patent attorney or agent shall forward to the Civil Administration of the Armed Forces a copy of the application as filed, and a copy of the document issued by the United States Government to the applicant permitting him to file in Sweden.

(e) As the application involves classified subject matter of defense interest, the Government of Sweden shall then place the application in secrecy.

## 3. Applications Originating in Sweden

The following provisions shall apply when, for defense purposes, a Swedish patent application involving classified subject matter of

defense interest has been placed in secrecy and the applicant wishes to file a corresponding application in the United States:

(a) When permission to file in the United States has been obtained, two copies of the documents for the United States application shall be forwarded to the Civil Administration of the Armed Forces.

(b) The Civil Administration of the Armed Forces shall transmit the copies simultaneously as follows:

(1) One copy to the United States Embassy in Sweden for use by the United States Government for defense purposes; and

(2) One copy to the Swedish Embassy in the United States with a letter indicating the security classification given to the application in Sweden and stating that the invention involved and such information relating thereto as was necessary for its proper evaluation for defense purposes has been made available to the United States Government for purposes of defense and that the applicant has authorization to file a corresponding application in the United States.

(c) The Swedish Embassy shall inquire of the Secretary of the Armed Services Patent Advisory Board, Patents Division, Office of the Judge Advocate General, Department of the Army, as to whether the American patent attorney or agent is security cleared in accordance with subparagraph 1(e), *supra*.

(d) When a security cleared patent attorney or agent has been designated, the Swedish Embassy shall transmit the documents for the application and the letter mentioned in subparagraph 3(b), *supra*, to him in a manner consistent with United States security regulations. Upon filing in the United States Patent Office, the patent attorney or agent shall forward to the Secretary of the Armed Services Patent Advisory Board a copy of the application as filed, and a copy of the document issued by the Swedish Government to the applicant permitting him to file in the United States.

(e) As the application involves classified subject matter of defense interest, the Government of the United States shall then place the application in secrecy.

#### 4. Removal of Secrecy

Before the Government of origin removes a secrecy order on an invention, covered by a patent application filed in the Patent Office of the recipient Government in accordance with these procedures, it shall give the recipient Government at least six weeks notice of its intention to do so and shall take into account, as far as possible, any representations made by the other Government during this period. When the recipient Government desires the removal of the secrecy order on such an invention it shall consult with the Government of origin and the two Governments jointly shall agree upon the date when the removal of secrecy is to be effected.

5. Notification of Changes in Laws and Regulations

Each Government shall give the other Government prompt notice through the Technical Property Committee of any changes in its laws or regulations affecting these procedures.

*The Swedish Ambassador to the Secretary of State*

ROYAL  
SWEDISH EMBASSY

NOVEMBER 17, 1964

SIR,

I have the honor to refer to the Agreement between the Government of Sweden and the Government of the United States, effected by notes exchanged in Washington on October 4, 1962, relating to the Protection of Rights in Patents and Technical Information when there are transfers between our two Governments of information, equipment, materials, or services relating to defense.

I also have the honor to acknowledge receipt of your Note, dated October 20, 1964, forwarding a copy of the proposed implementing procedures as provided for in the above mentioned agreement, "Procedures for Reciprocal Filing of Classified Patent Applications in Sweden and the United States of America", as slightly revised after a suggestion made by the Swedish Government.

I now have the pleasure to confirm that the said procedures are acceptable to the Government of Sweden. It is further understood that these procedures will enter into force on this very day.

Accept, Sir, the renewed assurances of my highest consideration.

HUBERT DE BESCHE

Hubert de Besche

The Honorable  
DEAN RUSK  
*Secretary of State*