

NETHERLANDS



Treaty Series No. 7 (1964)

Exchange of Notes

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Kingdom of the Netherlands
concerning the Safeguarding of Secrecy of Inventions
relating to Defence and for which Applications
for Patents have been made

London, October 30, 1963

*Presented to Parliament by the Secretary of State for Foreign Affairs
by Command of Her Majesty
January 1964*

LONDON

HER MAJESTY'S STATIONERY OFFICE

FIVEPENCE NET

Cmnd. 2252

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS CONCERNING THE SAFEGUARDING OF SECRECY OF INVENTIONS RELATING TO DEFENCE AND FOR WHICH APPLICATIONS FOR PATENTS HAVE BEEN MADE

No. 1

The Netherlands Chargé d'Affaires to Her Majesty's Principal Secretary of State for Foreign Affairs

London,

Sir,

30th October, 1963.

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 between our two Governments of the "Agreement for the Mutual Safeguarding of Secrecy of Inventions relating to Defence and for which Applications for Patents have been made", which was signed in Paris on the 21st of September, 1960,⁽¹⁾ between parties to the North Atlantic Treaty,⁽²⁾ provisionally to observe the regulations of the Agreement and of the "Agreed Procedures" pertaining thereto which were accepted by the North Atlantic Council on the 7th of March, 1962.⁽³⁾

However, whereas the present Patent Act of the Kingdom of the Netherlands provides for the safeguarding of the secrecy of inventions for which applications for patents have been filed only if the applicants transfer the rights resulting from their patent applications to the Kingdom of the Netherlands; and whereas, whilst secrecy is maintained, such patent applications if accepted will, under the Act, result in the grant to the Kingdom of the Netherlands of actual patents; the provisional application of the above mentioned Agreement and Procedures shall be conditional on the following:

- (a) The competent authority in the United Kingdom shall ensure that applications originating in the United Kingdom for patents relating to defence, and on which secrecy is to be imposed in the Netherlands, are accompanied by a statement from the applicant in which the latter declares himself willing to assign his rights in trust to the Kingdom of the Netherlands on the general conditions prescribed by it.
- (b) The Kingdom of the Netherlands shall not be obliged to take legal action to defend, in respect of infringements, patents which may have been granted in the Netherlands on the basis of applications originating in the United Kingdom.

(1) "Treaty Series No. 9 (1962)", Cmnd. 1595.

(2) "Treaty Series No. 56 (1949)", Cmd. 7789.

(3) "Miscellaneous No. 17 (1963)", Cmnd. 2167.

(c) Each Government shall ensure that applications to be filed in the other country are accompanied by a statement from the applicant constituting a "waiver of claim" as provided for in Article III of the North Atlantic Treaty Organisation Agreement.

If the Government of the United Kingdom are prepared to accept the foregoing conditions, I have the honour to suggest that the present Note and your reply to that effect be regarded as constituting an Agreement between our two Governments which shall, as regards the Kingdom of the Netherlands, apply to the Kingdom as a whole, and which shall enter into force immediately and shall be valid for a period of one year. Thereafter it shall continue in force from year to year unless it is denounced by notice in writing given by either Government to the other two months before the expiry of any such yearly period. The Agreement shall, however, cease to have effect on the date of entry into force between the two Governments of the North Atlantic Treaty Organisation Agreement referred to in the first paragraph of the present Note.

I have, etc.

C. W. VAN BOETZELAER.

No. 2

*Her Majesty's Principal Secretary of State for Foreign Affairs to the
Netherlands Chargé d'Affaires*

Foreign Office, S.W. 1,

October 30, 1963.

Sir,

I have the honour to acknowledge receipt of your Note of the 30th of October, 1963, which reads as follows:

[As in No. 1]

I confirm that the conditions set out in your Note are acceptable to the Government of the United Kingdom, who are likewise prepared, pending the entry into force between our two Governments of the "Agreement for the Mutual Safeguarding of Secrecy of Inventions relating to Defence and for which Applications for Patents have been made", which was signed in Paris on the 21st of September, 1960, between parties to the North Atlantic Treaty, provisionally to observe the regulations of the Agreement and of the "Agreed Procedures" pertaining thereto which were accepted by the North Atlantic Council on the 7th of March, 1962. I accordingly agree that your Note, together with the present reply, shall be regarded as constituting an Agreement between the two Governments in this matter, which shall, as regards the Kingdom of the Netherlands, apply to the Kingdom as a whole,

and which shall enter into force immediately and shall be valid for a period of one year. Thereafter it shall continue in force from year to year unless it is denounced by notice in writing given by either Government to the other two months before the expiry of any such yearly period. The Agreement shall, however, cease to have effect on the date of entry into force between the two Governments of the North Atlantic Treaty Organisation Agreement referred to in the first paragraph of the present Note.

I have, etc.

(For the Secretary of State)

E. J. W. BARNES.

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