

No. 30577

**REPUBLIC OF KOREA
and
UNITED STATES OF AMERICA**

Agreement for the safeguarding of secrecy of inventions relating to defense and for which applications for patents have been made. Signed at Seoul on 6 January 1992

Authentic texts: Korean and English.

Registered by the Republic of Korea on 3 December 1993.

**RÉPUBLIQUE DE CORÉE
et
ÉTATS-UNIS D'AMÉRIQUE**

Accord concernant la sauvegarde du secret des inventions relatives à la défense et pour lesquelles des demandes de brevets ont été soumises. Signé à Séoul le 6 janvier 1992

Textes authentiques : coréen et anglais.

Enregistré par la République de Corée le 3 décembre 1993.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC
OF KOREA AND THE GOVERNMENT OF THE UNITED STATES
OF AMERICA FOR THE SAFEGUARDING OF SECRECY OF
INVENTIONS RELATING TO DEFENSE AND FOR WHICH AP-
PLICATIONS FOR PATENTS HAVE BEEN MADE

The Government of the Republic of Korea and the Government of the
United States of America,

Parties to the Agreement on Mutual Defense Assistance signed at
Seoul on January 26, 1950;²

Desirous of encouraging economic collaboration and technology
sharing between the two Governments;

Considering that mutual defense assistance makes desirable
reciprocal communications of inventions relating to defense, and that
the mutual safeguarding of secrecy of certain inventions will
facilitate reciprocal communication and the use of such inventions;

Acknowledging that the imposition of secrecy on an invention
relating to defense in one country has generally as its corollary,
when a patent has been applied for or granted, a prohibition to apply
for a patent for the same invention in the other country;

Considering that this prohibition may impose obstacles to
reciprocal communications of inventions relating to defense, may
cause prejudice to the applicants for patents and consequently may
adversely affect technology sharing between the countries;

Considering that arrangements have been made between the
Governments for the mutual protection and safeguarding of the
security information they may interchange;

Have agreed as follows:

¹ Came into force on 29 July 1993, i.e., the thirtieth day following the date on which the Parties had notified each other of the completion of the legal requirements, in accordance with article 9 (1).

² United Nations, *Treaty Series*, vol. 80, p. 205.

Article 1

Under agreed procedures, each Government shall safeguard and cause to be safeguarded the secrecy of inventions for which applications for patents have been received whenever the secrecy has been imposed on such inventions in the interests of national defense by the other Government (hereinafter referred to as the "Originating Government") which was the first to receive an application for a patent covering these inventions; provided that this provision shall not prejudice the right of the Originating Government to prohibit the filing of an application for a patent for the invention with the other Government (hereinafter referred to as the "Receiving Government").

Article 2

The Receiving Government shall treat the patent technical information as disclosed in confidence and shall use its best endeavors to ensure that the inventions and patent technical information are not dealt with in any manner likely to prejudice the rights of the owner thereof to obtain patent or other like statutory protection thereof.

Article 3

The provisions of Article I shall be applied at the request either of the Originating Government or of the applicant for the patent, provided that the latter produces evidence that secrecy has been imposed by the Originating Government and that the applicant has received authorization from that Government to file an application under secrecy for a patent in the country in question.

Article 4

1. Inventions and patent technical information for which applications for patents have been received under this Agreement shall be used only for purposes of defense and may not be transferred by the Receiving Government to any person not an officer or agent of the Government without prior written consent of the Originating Government, subject to the provisions of this Article.

2. The Receiving Government shall be entitled to receive and utilize for information purposes only, without cost, inventions and patent technical information for which applications for patents have been received under this Agreement.

3. Subject to the provisions of paragraph 4 below, insofar as the Originating Government or entity or agency controlled by such Government owns or has the right to authorize the use of an invention or patent technical information transferred under this Agreement, the Receiving Government may be entitled to use the invention or patent technical information for conducting research and development and manufacturing for defense purposes without cost, except to the extent that there may be liability to a private owner with established interests in such invention or patent technical information. The two Governments shall cooperate to ensure that, prior to such use, the using Government is informed of any such established interests in the invention or patent technical information.

4. Inventions and patent technical information received under this Agreement may be transferred outside the Receiving Government only pursuant to a separate memorandum between the defense agencies of both Governments. When inventions or patent technical information are to be used by the Receiving Government for conducting research and development or manufacturing for purposes of defense, any such use shall be subject to a prior separate memorandum between the