

No. 51120

**United States of America
and
India**

Agreement between the Government of the United States of America and the Government of the Republic of India concerning security measures for the protection of classified military information. Washington, 17 January 2002

Entry into force: *17 January 2002 by signature, in accordance with article 23*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *United States of America, 15 July 2013*

**États-Unis d'Amérique
et
Inde**

Accord entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de la République de l'Inde concernant les mesures de sécurité pour la protection des informations militaires classifiées. Washington, 17 janvier 2002

Entrée en vigueur : *17 janvier 2002 par signature, conformément à l'article 23*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *États-Unis d'Amérique, 15 juillet 2013*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF INDIA
CONCERNING SECURITY MEASURES
FOR THE PROTECTION OF
CLASSIFIED MILITARY INFORMATION**

PREAMBLE

The Government of the United States of America and the Government of the Republic of India, hereinafter referred to as “the Parties,” and separately as “a Party;”

In furtherance of mutual cooperation to ensure the protection of classified military information;

Have agreed as follows:

ARTICLE 1

Classified military information provided directly or indirectly by one Party to the other Party, or to an officer or other representative of the other Party, shall be protected according to the terms set forth herein and in accordance with the laws and regulations of the country of the recipient Party.

ARTICLE 2

Each Party shall notify the other of any changes to its laws and regulations that would affect the protection of classified military information under this Agreement. In such case, the Parties shall consult, as provided for in Article 22, to consider possible amendments to this Agreement. In the interim, classified military information shall continue to be protected as described in this Agreement, unless otherwise agreed in writing by the releasing Party.

ARTICLE 3

For the purpose of this Agreement, classified military information is information that is generated by or for the Department of Defense of the United States of America or the Ministry of Defense of the Republic of India, or that is under their jurisdiction or control, and which requires protection in the interests of national security of the Party by or for whom the information was generated. For the Government of the United States of America, classified military information is marked CONFIDENTIAL, SECRET, or TOP SECRET. For the Government of the Republic of India, it is marked RESTRICTED, CONFIDENTIAL, SECRET, or TOP SECRET. The information may be in oral, visual, electronic, magnetic or documentary form, or in the form of equipment or technology, including technical specifications and models. Equivalent classifications are as follows:

United States of America

TOP SECRET

SECRET

CONFIDENTIAL

CONFIDENTIAL (MODIFIED

HANDLING AUTHORIZED)

India

TOP SECRET

SECRET

CONFIDENTIAL

RESTRICTED

ARTICLE 4

Supplemental annexes under this Agreement may be concluded by the designated implementing agencies. For the Government of the United States of America, the implementing agency shall be the Department of Defense. For the Government of the Republic of India, the implementing agency shall be the Ministry of Defense.

ARTICLE 5

No individual shall be entitled to access to classified military information solely by virtue of rank, appointment, or security clearance. Access to the information shall be granted only to those individuals whose official duties require such access and who have been granted a personnel security clearance in accordance with the prescribed standards of the recipient Party. The Parties shall ensure that:

A. The recipient Party shall not release the information to a government, person, firm, institution, organization or other entity of a third country without the prior written approval of the releasing Party;

B. The recipient Party shall afford the information a degree of protection equivalent to that afforded by the releasing Party;

C. The recipient Party shall not use the information for any other purpose than that for which it was provided without the prior written approval of the releasing Party;

D. The recipient Party shall respect private rights, such as patents, copyrights, or trade secrets, which are involved in the information; and

E. Each facility or establishment that handles classified military information shall maintain a registry of the security clearance of individuals at

the facility or establishment who are authorized to have access to such information.

ARTICLE 6

The determination on the granting of a personnel security clearance to an individual shall be consistent with the interests of national security and shall be based upon all available information indicating that the individual is of unquestioned loyalty, integrity, trustworthiness, and excellent character, and of such habits and associates as to cast no doubt upon his or her discretion or good judgment in the handling of classified military information.

ARTICLE 7

An appropriate investigation, in sufficient detail to provide assurance that the above criteria have been met, shall be conducted by the Parties with respect to any individual to be granted access to classified military information covered by this Agreement.

ARTICLE 8

Before a representative of a Party releases classified military information to an officer or representative of the other Party, the receiving Party shall provide to the releasing Party an assurance that the officer or representative possesses the necessary level of security clearance and requires access for official purposes, and that the information will be protected by the receiving Party in an equivalent manner as required by the releasing Party.

ARTICLE 9

Authorizations for visits by representatives of one Party to facilities and establishments of the other Party, where access to classified military information is required, shall be limited to those necessary for furtherance of official cooperative defense activities between the Parties. Authorization to visit a facility or establishment shall be granted only by the Party in whose territory the facility or establishment is located or by government officials designated by that Party. The visited Party shall be responsible for advising the facility or establishment of the proposed visit, the topic, scope and highest level of classified military information that may be furnished to the visitor. Requests for visits by representatives of the Parties shall be submitted through the United States Defense Attaché Office in New Delhi, in the case of United