



France No. 1 (2008)

Agreement

between the Government of the United Kingdom of Great Britain and
Northern Ireland and the Government of the French Republic concerning
the Mutual Protection of Classified Information

London, 27 March 2008

[The Agreement is not in force]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
June 2008*

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE FRENCH REPUBLIC CONCERNING THE
MUTUAL PROTECTION OF CLASSIFIED INFORMATION**

The Government of the United Kingdom of Great Britain and Northern Ireland, and The Government of the French Republic (hereinafter referred to as the “Parties”),

Wishing to ensure the protection of classified information falling under the responsibility of the respective competent Security Authorities that is exchanged between the two countries or sent to commercial and industrial organisations in either of the two countries, through approved channels, have, in the interests of national security, agreed the following provisions which are set out in this Agreement.

This Agreement incorporates the security requirements of Part 4 of the Framework Agreement between the French Republic, the Federal Republic of Germany, the Italian Republic, the Kingdom of Spain, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland concerning measures to facilitate the restructuring and operation of the European Defence Industry, signed on 27 July 2000¹ referred to as the “Framework Agreement”.

ARTICLE 1

Definitions

- (1) For the purposes of this Agreement:
1. “classified information” means any information (namely, knowledge that can be communicated in any form) or material determined to require protection against unauthorised disclosure which has been so designated by security classification.
 2. “contractor” means an individual or legal entity entering into or bound by a contract;
 3. “contract” or “sub-contract” means a legally enforceable agreement under the terms of which the parties to it enter into mutual obligations;
 4. “classified contract” means a contract which contains classified information or which involves the generation, use or transmission of classified information;

¹ Treaty Series No. 33 (2001) Cm 5185

5. “document” means any letter, note, minute, report, memorandum, signal/message, sketch, photograph, film, map, chart, diagram, plan, notebook, carbon paper, typewriter ribbon or any other form of recorded information (for example tape recording, magnetic recording, punched card, tape);
6. “originating Party” means the Government or competent Security Authority of the country in which the classified information originates;
7. “receiving Party” means the Government or competent Security Authority of the country to which classified information is transmitted.
8. “NSA” means the National Security Authorities, which are the authorities responsible for the overall control and implementation of this Agreement.
9. “competent Security Authority”, means a Designated Security Authority or competent body authorised according to the national laws and/or regulations of the Parties and which is responsible for the implementation of this Agreement.

(2) The Parties determine that the following security classifications shall be comparable and covered by this Agreement:

United Kingdom of Great Britain
and Northern Ireland

UK TOP SECRET
UK SECRET
UK CONFIDENTIAL
UK RESTRICTED

French Republic

TRES SECRET DEFENSE
SECRET DEFENSE
CONFIDENTIEL DEFENSE
(see sub-paragraphs 1 and 2
below)

1. The French Republic shall treat and protect the UK classified information bearing the marking “UK RESTRICTED” according to its national laws and regulations in force, relative to protected but not defence classified information such as “DIFFUSION RESTREINTE”.
2. The United Kingdom of Great Britain and Northern Ireland shall treat and protect the non defence classified but protected information, bearing a marking such as “DIFFUSION RESTREINTE” or other protective markings previously notified, transmitted by the French Republic, according to its national laws and regulations in force relative to the protection of information “UK RESTRICTED”.
3. So as to maintain comparable security standards and at the request of either Party, each Party shall supply all the required information relating to the national security laws, regulations and policies applied to ensure the security

of classified information and material. Each Party agrees to facilitate contacts between their respective competent Security Authorities.

ARTICLE 2

Responsible Authorities

The National Security Authority in each country is:

For the United Kingdom of Great Britain and Northern Ireland:

Cabinet Office
Security Policy Division
26 Whitehall
London SW1A 2WH

For the French Republic:

Secrétariat général de la défense nationale (*S.G.D.N.*)
51, boulevard de La Tour-Maubourg
75700 PARIS 07 SP

For the purpose of implementing this Agreement, the Parties shall inform each other of their respective competent Security Authorities.

ARTICLE 3

Security Measures

(1) Within the scope of their national laws, the Parties shall take all appropriate measures to ensure the security protection of classified information transmitted between them or transmitted to, held by, or generated by a contractor or an establishment in connection with a classified contract placed by one Party within the territory or jurisdiction of the other Party.

(2) Classified information shall be afforded a level of protection that is at least equal to that required for the receiving Party's own classified/protected information of the comparable level of security classification/protection as provided under paragraph (2) of Article 1 of this Agreement.

(3) The receiving Party shall restrict access to classified/protected information transmitted by the other Party to those persons having a need-to-know and - except in the case of classified information at the UK RESTRICTED and French equivalent level defined in Article 1 (2) 1. and 2. - having been security-cleared and authorised to have access to classified information of the comparable level of security classification in accordance with the national security regulations.

(4) Personal Security Clearances for nationals of one Party who are legally resident in the country of the other Party shall be undertaken by the competent Security Authority of that country, conducting overseas checks as appropriate.

(5) A Personal Security Clearance issued by the NSA or a competent Security Authority of one Party shall be accepted by the other Party where access to classified information is required.

(6) Subject to the provisions of paragraph (7) of this Article unless express written consent is given to the contrary, the receiving Party shall not disclose or use, or permit the disclosure or use of, any classified information communicated by the other Party except for the purposes and within any limitations stated by or on behalf of the originating Party.

(7) In accordance with its national laws and regulations, the receiving Party shall not transmit to any third country, or international organisation, any classified information provided under the provisions of this GSA, nor publicly disclose any classified information without the prior written agreement of the originating Party.

(8) Subject to the provisions of paragraphs (3) and (7) of this Article, the receiving Party shall not pass any classified information transmitted under the provisions of this Agreement to any third party Government, individual, contractor, or to any international organisation, without the prior written consent of the originating Party.

(9) Access to classified information at the UK TOP SECRET/TRES SECRET DEFENSE level by a person holding the sole nationality of a Party shall be granted without prior authorisation of the originating Party.

(10) Access to classified information at the UK CONFIDENTIAL/CONFIDENTIEL DEFENSE and UK SECRET/SECRET DEFENSE levels by a person holding the sole nationality of a Party to the Framework Agreement shall be granted without prior authorisation of the originating Party.

(11) Access to classified information at the UK CONFIDENTIAL/CONFIDENTIEL DEFENSE level or at the UK SECRET/SECRET DEFENSE level by a person holding the dual nationality of both a Party and a European Union country shall be granted without prior authorisation of the originating Party. Any other access not covered by the paragraphs of this Article shall follow the consultation process as described in paragraph (12) numbers (1) to (5).

(12) Access to classified information at the UK CONFIDENTIAL/CONFIDENTIEL DEFENSE level or higher by a person not holding the nationality/nationalities described in paragraphs (9)-(11) above shall be subject to prior consultation with the originating Party. The consultation process concerning such persons shall be as described in numbers (1) to (5) below.

1. The Parties shall notify and consult each other when there is a need to grant access to classified information related to a specific project or programme.
2. This process shall be initiated before the start or, as appropriate, in the course of a project/programme.
3. The information shall be limited to the nationality of the persons concerned.
4. A consulted Party shall examine whether access to classified information by non-Framework Agreement Party nationals is acceptable or not.
5. Such consultations shall be given urgent consideration with the objective of reaching consensus. If a consensus cannot be reached, the originator's decision shall be accepted. In any case, any refusal shall be accepted.

(13) However, in order to simplify access to classified information, the Parties shall endeavour to agree in Programme Security Instructions (PSI) or any other appropriate documentation approved by the competent Security Authorities concerned that the access limitations specified in paragraph (12) numbers 1 to 5 of this Article may be less stringent or not required.

(14) Where the originating Party, for reasons of national security, requires access to classified information at the UK CONFIDENTIAL/CONFIDENTIEL DEFENSE level or higher to be limited to only those persons holding the sole nationality of one or of both Parties, such information shall be marked with the corresponding security classification and an additional "For UK/French Eyes Only" or "SPECIAL France / Royaume Uni" caveat.

(15) The Parties shall, each within its territory, ensure that the necessary security inspections are carried out and that the national security regulations are complied with.

ARTICLE 4

Classified Contracts

(1) A Party intending to place, or authorising a contractor in its country to place, a classified contract with a contractor in the country of the other Party shall obtain an assurance from the appropriate competent Security Authority of the other Party that the proposed contractor is security-cleared to the appropriate level and also has taken appropriate security precautions to provide adequate protection for classified information. This assurance affirms that the contractor will comply with the national laws and regulations. Such an assurance is not required where the classified contract exclusively contains classified information at the UK RESTRICTED and French equivalent level defined in Article 1 (2) 1. and 2. The competent Security Authority of the Party of the contractor shall be held responsible for the security procedures of the cleared contractor.

(2) A contractor of a Party placing a contract with a contractor of the other Party shall be responsible for providing that contractor with the security clauses to protect classified information at the UK RESTRICTED and French equivalent level defined in Article 1(2) 1. and 2.

ARTICLE 5

Performance of Classified Contracts

Contracts placed following receipt of the assurance provided for in Article 4 of this Agreement that involve classified information at the UK CONFIDENTIAL/ CONFIDENTIEL DEFENSE level or higher shall contain a security requirement clause incorporating at least the following provisions:

1. the definition of the term “classified information” and of the comparable levels of security classifications of the two Parties in accordance with the provisions of this Agreement;
2. the names of the competent authority of each of the two Parties empowered to authorise the release and to co-ordinate the safeguarding of classified information related to the contract;
3. the channels to be used for the transfer of the classified information between the competent authorities and contractors involved;
4. the procedures and mechanisms for communicating changes that may arise in respect of classified information either because of changes in its classification or because protection is no longer necessary;
5. the procedures for the approval of visits, or access, by personnel of the contractors;
6. the procedures for transmitting classified information to contractors where such information is to be used or kept;
7. the requirement that the contractor shall disclose the classified information only to a person who has a need-to-know and has been charged with, or contributes to, the performance of the contract and - except in the case of classified information at the UK RESTRICTED and French equivalent level defined in Article 1 (2) 1.and 2. has been security-cleared to the appropriate level in advance;
8. the requirement that, subject to the provisions specified in number 7 of this Article, the contractor shall not disclose, or permit the disclosure of, the classified information to a person without the express authorisation of the originating Party;

9. the requirement that the contractor shall immediately notify its competent Security Authority of any actual or suspected loss, leak or unauthorised disclosure of the classified information covered by the contract.

ARTICLE 6

Marking of Classified Information

- (1) The originating Party shall ensure that the receiving Party is informed of:
 1. the classification or protection assigned to information, ensuring it is properly marked, and of the conditions for disclosure and any applicable restrictions, and
 2. any subsequent changes to the assigned classifications or protection.
- (2) The receiving Party shall ensure that:
 1. classified/protected information is marked with the corresponding national security classifications/protection in accordance with the provisions of paragraph (2) of Article 1 of this Agreement;
 2. the assigned classifications/protection shall not be altered unless written permission to this effect has been given by, or on behalf of, the originating Party.
- (3) In order to achieve and maintain comparable security standards, each Party shall provide the other Party upon the latter's request with information on its security standards and on the procedures and practices for ensuring the protection of classified information.

ARTICLE 7

Reproduction and Destruction

- (1) Any reproduction or translation of classified information shall be kept to the minimum required and shall be in accordance with the national laws and regulations of the receiving Party.
- (2) Classified information at the UK SECRET/SECRET DEFENSE and UK CONFIDENTIAL/ CONFIDENTIEL DEFENSE level shall be destroyed so as to prevent reconstruction in whole or in part when no longer required to be held or upon the expiry of their validity. As required by national laws and regulations of the Parties written proof of the destruction must be kept and provided to the originating Party on request.

(3) Classified information at the UK TOP SECRET/TRES SECRET DEFENSE level shall not be destroyed. When no longer required by the receiving Party or upon the expiry of their validity, it shall be returned to the originating Party in accordance with Article 8(1) of this Agreement.

ARTICLE 8

Transmission of Classified Information

(1) Classified information at the UK TOP SECRET/TRES SECRET DEFENSE level shall normally only be transmitted between the Parties through diplomatic bag channels. In exceptional circumstances other means of transmission may be arranged if mutually approved in writing by the NSA or appropriate competent Security Authority of each Party.

(2) Classified information at the UK CONFIDENTIAL/CONFIDENTIEL DEFENSE and UK SECRET/SECRET DEFENSE levels shall normally be transmitted between the Parties through diplomatic bag channels or through channels approved by the NSAs or appropriate competent Security Authorities of the Parties. Such classified information shall bear the level of security classification and denote the country of origin.

(3) In cases of urgency, i.e. only when the use of diplomatic bag channels cannot meet the requirements, classified information at the UK CONFIDENTIAL/CONFIDENTIEL DEFENSE level may be transmitted via private courier companies, provided that the following criteria are met:

1. The courier company is located within the territory of the Parties and has established a protective security programme for handling valuable items with a signature service, including a record of continuous accountability on custody through either a signature and tally record, or an electronic tracking/tracing system.
2. The courier company must obtain and provide to the sender proof of delivery on the signature and tally record, or it must obtain receipts against package numbers.
3. The courier company must guarantee that the consignment will be delivered to the recipient by a specific time and date within a 24-hour period.
4. The courier company may charge a commissioner or sub-contractor. However, the responsibility for fulfilling the above requirements must remain with the courier company.

(4) Classified information at the UK RESTRICTED and French equivalent level defined in Article 1 (2) 1. and 2. shall be transmitted between the Parties in

accordance with the national regulations of the sender which may include the use of Commercial Couriers.

(5) Classified information at the UK CONFIDENTIAL/CONFIDENTIEL DEFENSE level or higher must not be transmitted electronically in clear text. Only cryptographic systems approved by the competent Security Authorities of the Parties shall be used for the encryption of classified information at the UK CONFIDENTIAL/CONFIDENTIEL DEFENSE level or higher, irrespective of the method of transmission. Classified information at the UK RESTRICTED and French equivalent level defined in Article 1 (2) 1. and 2. shall be transmitted or accessed electronically (e.g. by means of point-to-point computer links) via a public network like the Internet, only using Government or commercial encryption devices mutually accepted by the competent national authorities. However, telephone conversations, video conferencing or facsimile transmissions containing classified information at the UK RESTRICTED and French equivalent defined in Article 1 (2) 1. and 2. level may be in clear text, if an approved encryption system is not available.

(6) Where large volumes of classified information are to be transmitted, the means of transport, the route and the escort (if any) shall be jointly determined on a case-by-case basis by the competent Security Authorities of the Parties.

ARTICLE 9

Visits

(1) Each Party shall permit visits involving access to classified information to its Government establishments, agencies and laboratories and contractor industrial facilities, by civilian or military representatives of the other Party or by their contractor employees, provided that the visitor has an appropriate Personal Security Clearance and a need-to-know.

(2) All visiting personnel shall comply with security regulations of the host Party. Any classified information disclosed or made available to visitors shall be treated as if supplied to the Party sponsoring the visiting personnel, and shall be protected accordingly.

(3) For visits in the context of classified information to Government establishments of the other Party or to facilities of a contractor where access to classified information at the UK TOP SECRET/TRES SECRET DEFENSE level is required, or access to UK CONFIDENTIAL/CONFIDENTIEL DEFENSE or UK SECRET/SECRET DEFENSE that is not specified in a security protocol, formal visit requests through Government-to-Government channels shall be submitted.

(4) For visits in the context of classified information to Government establishments of the other Party or to facilities of a contractor where access to classified information at the UK CONFIDENTIAL/CONFIDENTIEL DEFENSE

or UK SECRET/SECRET DEFENSE levels is required, the following procedure shall apply:

1. Subject to the following provisions, such visits shall be prepared directly between the sending facility and the facility to be visited.
 2. For these visits the following prerequisites must also be met:
 - a) The visit shall be for an official purpose.
 - b) Any facility of a contractor to be visited shall have the appropriate Facility Security Clearance.
 - c) Prior to arrival, confirmation of the visitor's Personal Security Clearance must be provided directly to the facility to be visited, by the security official of the sending facility. To confirm identity the visitor must be in possession of an ID card or passport for presentation to the security authorities at the facility to be visited.
 - d) It is the responsibility of:
 - i) the security officials of the sending facility to ensure with their competent Security Authority that any company facility to be visited is in possession of an appropriate Facility Security Clearance;
 - ii) the security officials of both the sending facility and the facility to be visited to agree that there is a need for the visit.
 - e) The security official of a company facility to be visited or, where appropriate, a Government establishment must ensure that records are kept of all visitors, including their name, the organisation they represent, the date of expiry of their Personal Security Clearance, the date(s) of the visit(s) and the name(s) of the person(s) visited. Such records are to be retained for a period of no less than two years.
 - f) The competent Security Authority of the host Party has the right to require prior notification from their facilities to be visited for visits of more than 21 days' duration. This competent Security Authority may then grant approval, but should a security problem arise it shall consult with the NSA or competent Security Authority of the visitor.
- (5) Visits relating to classified/protected information at the UK RESTRICTED and French equivalent level defined in Article 1 (2) 1. and 2. shall also be arranged directly between the sending facility and the facility to be visited.

ARTICLE 10

Violations of Provisions on the Protection of Classified Information

(1) Violations of the provisions on the protection of classified information described in this Agreement, in respect of which unauthorised disclosure, destruction, misappropriation, loss or unauthorised access by any unauthorised person of such information has occurred or is suspected, shall be immediately notified to the originating Party by the competent Security Authority of the receiving Party.

(2) In such a case, the competent Security Authorities shall carry out investigations and, where appropriate, institute disciplinary and/or legal proceedings in accordance with the applicable national laws and regulations. The other Party should, if so requested, support such investigations and shall be informed of the outcome.

(3) In the event of a Party discovering that such violations have occurred to classified information that has been provided to the other Party, it shall immediately notify the receiving Party of the circumstances of the violation and the outcomes of any investigation carried out.

ARTICLE 11

Costs

(1) The implementation of the provisions of this Agreement will not normally bear any specific cost.

(2) Any eventual cost incurred by a Party in meeting the provisions of this Agreement shall be borne by that Party.

ARTICLE 12

Relationship with other Agreements, Memoranda of Understanding and Arrangements

This Agreement repeals and replaces the Security Arrangement, entered into force by means of exchange of letters between the French Defence Minister and the British Secretary of State, signed in Paris on 25 May 1994 and in London on 16 September 1994 respectively, on the matter of Protection of classified defence, except atomic information.

ARTICLE 13

Consultations

Each Party shall allow security experts of the other Party to visit its territory from time to time, as mutually agreed, in order to discuss with its NSA or competent Security Authorities its procedures and facilities for the protection of classified information made available to it by the other Party.

ARTICLE 14

Final Provisions

(1) Each of the Parties shall notify the other once the internal procedures required in order to bring this Agreement into force have been completed, and the Agreement shall come into effect on the first day of the second month following the day of receipt of the second notification.

(2) This Agreement may be amended at any time by written consent between the Parties. Amendments shall enter into force under the conditions laid down in Article 14 (1) of this Agreement.

(3) Any dispute relating to the interpretation or the application of this Agreement shall be settled exclusively by consultation between the Parties.

(4) Either Party may at any time, through diplomatic channels, terminate this Agreement by giving six months' written notice. In the event of termination of this Agreement, all items of classified information transmitted or generated on the basis of this Agreement shall continue to be treated in accordance with the provisions of this Agreement.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

Done at London on 27 March 2008 in duplicate in the English and French languages, both texts being equally authentic.

For the Government of the
United Kingdom of Great
Britain and Northern Ireland:

For the Government of the
French Republic:

JIM MURPHY

J-P JOUYET



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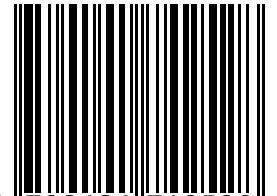
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