

1947  
NEW ZEALAND

---

# Agreement

FOR THE PRESERVATION OR RESTORATION OF  
RIGHTS OF INDUSTRIAL PROPERTY AFFECTED BY  
THE SECOND WORLD WAR WITH FINAL PROTOCOL  
AND ADDITIONAL FINAL PROTOCOL

MADE BETWEEN THE GOVERNMENT OF NEW  
ZEALAND AND VARIOUS OTHER GOVERNMENTS  
SIGNED AT NEUCHATEL, SWITZERLAND, ON  
8 FEBRUARY, 1947

---

*Presented to both Houses of the General Assembly by Leave*

---

The representatives of certain of the Governments of the countries belonging to the International Union for the Protection of Industrial Property, having considered that an agreement should be entered into concerning the preservation or restoration of rights of industrial property affected by the Second World War, concluded at Neuchatel, Switzerland, an Agreement together with a Final Protocol and an Additional Final Protocol.

# AGREEMENT FOR THE PRESERVATION OR RESTORATION OF INDUSTRIAL PROPERTY RIGHTS AFFECTED BY THE SECOND WORLD WAR

The undersigned Plenipotentiaries of the Governments of the countries members of the International Union for the Protection of Industrial Property, being desirous of providing remedies for the prejudice to industrial property rights arising from the Second World War, after having communicated their respective full powers, found in good and due form, have agreed upon the following provisions :—

## ARTICLE I

The periods of priority, provided by Article 4 of the Convention of the Union of Paris for the protection of industrial property, for the deposit or registration of applications for patents for inventions, for utility models, for trade marks, and for industrial designs and models, which had not expired on 3 September 1939, and those which have arisen since that date but before 1 January 1947, shall be extended by each of the contracting countries in favour of the proprietors of such rights recognized by the said Convention, or their legal representatives or assignees until 31 December 1947.

## ARTICLE 2

A period expiring on 30 June 1948, shall be granted, without supplementary fee or penalty of any kind, to the proprietors of rights recognized by the said Convention, or their legal representatives or assignees, to accomplish any act, fulfil any formality, pay any fee and generally to satisfy any obligation prescribed by the laws and regulations of each country, in order to preserve industrial property rights already acquired on 3 September 1939 or after that date, or to obtain those which, if the war had not taken place, might have been acquired since that date in consequence of an application made before 30 June 1947.

## ARTICLE 3

The renewal of registration of trade marks which have reached the end of their normal term of protection after 3 September 1939, but before 30 June 1947, shall have retroactive effect to the date of expiration of such normal term provided the renewal is effected before 30 June 1948.

## ARTICLE 4

Countries which participate at the same time in the present Agreement and in the Madrid Agreement concerning the International Registration of Trade Marks further agree as follows: the renewal of registration of trade marks entered on the International Register and of which one of the contracting countries is the country of origin in the sense of Article 1 of the Madrid Agreement shall have retroactive effect to the date of expiration of their normal term provided the renewal is effected before 30 June 1948.

## ARTICLE 5

(1) The period between 3 September 1939 and 30 June 1947, shall not be taken into account in calculating the periods provided for the exploitation of a patent, for the use of a trade mark, for the exploitation of an industrial design or model, and the period of three years provided by paragraph (2) of Article 6 *bis* of the Convention of the Union.

(2) Further, it is agreed that no patent, industrial design or model, or trade mark, still in force on 3 September 1939 may be subjected to any of the penalties provided by Article 5 of the Convention of the Union before 30 June 1949.

## ARTICLE 6

(1) Third parties who, after 3 September 1939, and until 31 December 1946, have undertaken in good faith the exploitation of an invention, of a utility model, or of an industrial design or model may continue such exploitation subject to the conditions prescribed by the domestic legislations.

(2) An inventor who establishes proof of his inventorship and who has filed an application for patent between 3 September 1939, and 1 January 1946 or his legal representative or assignee, may in respect of an application for patent claiming the benefit of Article 1 be treated as an exploiter in good faith, even if he has not effectively exploited his invention, provided he can establish that the exploitation was prevented by the war.

## ARTICLE 7

The provisions of the present Agreement comprise only a minimum of protection; they do not prevent a claim, in favour of the proprietors of industrial property rights, for the application of any more extended prescriptions which may be fixed by the domestic legislation of a contracting country; they equally permit the continuance in force of more favourable and non-conflicting agreements which the Governments of the contracting countries have concluded or may conclude between themselves.

## ARTICLE 8

The provisions of the present Agreement shall not prejudice the application of the provisions of Agreements or Treaties of Peace concluded or to be concluded between countries which have been at war with one another.

## ARTICLE 9

(1) The present Agreement, open to countries members of the Union for the Protection of Industrial Property, shall be ratified as soon as possible. The ratifications shall be deposited with the Government of the Swiss Confederation, and notified by that Government to all the others. The present Agreement shall enter into force without delay between the countries which have ratified it.

(2) Countries which have not signed the present Agreement may accede to it upon request. Such accessions shall be notified to the Government of the Swiss Confederation, and by that Government to all the others. Accessions shall entail, as a matter of right, and without delay, accession to all the clauses and admission to all the advantages stipulated by the present Agreement.

## ARTICLE 10

Any contracting country may extend the present Agreement, by simple notification made to the Government of the Swiss Confederation, to all or part of its colonies, protectorates, territories under mandate or under trusteeship, or all other territories under its authority, or all territories under suzerainty. The Government of the Swiss Confederation will transmit this notification to the other Governments.

## ARTICLE 11

The present Agreement shall be signed in a single copy, which shall be deposited in the archives of the Government of the Swiss Confederation. A certified copy shall be transmitted by that Government to each of the signatory and acceding Governments.

Done at Neuchatel, 8 February 1947.

For Belgium	..	..	HAMELS.
For Brazil	..	..	FRANCISCO ANTONIO COELHO.
For Czechoslovakia	..	..	J. ANDRIAL.
For Denmark	..	..	N. J. EHRENREICH HANSEN.
For Eire	..	..	EDWARD A. CLEARY.
For Finland	..	..	PAAVO ANT-WUORINEN.
For France	..	..	MARCEL PLAISANT.
For Great Britain and Northern Ireland	..	..	HAROLD L. SAUNDERS. B. G. CREWE.

For Greece	..	..	D. A. NAOUM.
For Hungary	..	..	KÖRÖS LASZLO. KARCZAG.
For Italy	..	..	ANTONIO PENNETTA.
For Lebanon	..	..	MIKAOUL.
For Liechtenstein	..	..	HOOP.
For Luxembourg	..	..	A. DE MUYSER.
For Morocco (French Zone)	..	..	MARCEL PLAISANT.
For Netherlands	..	..	J. WOODSTRA.
For New Zealand	..	..	HAROLD L. SAUNDERS.
For Norway	..	..	R. I. B. SKYLSTAD.
For Poland	..	..	DR. JAKUB SAWICKI. DR. WACLAW OLSZEWSKI.
For Portugal	..	..	MANUEL JOAQUIM DOS SANTOS SILVA MACHADO. ANTONIO JOSÉ DE ALMEIDA LIMA. JORGE VAN-ZELLER GARIN.
For Roumania	..	..	DR. C. AKERMAN.
For Sweden	..	..	STAFFAN SÖDERBLOM ( <i>subject to ratification</i> ).
For Switzerland	..	..	MORF. PLINIO BOLLA.
For Syria	..	..	S. OMARI.
For Tunisia	..	..	MARCEL PLAISANT.
For Turkey	..	..	Y. K. KARAOSMANOGLU. SAIT RAUF SARPER.

## FINAL PROTOCOL

The undersigned Plenipotentiaries, met this day for the purpose of proceeding to the signature of the Agreement concerning the preservation or restoration of industrial property rights affected by the Second World War, have agreed as follows:—

### I

Where, during the period between 3 September 1939 and 30 June 1947, goods bearing a trade mark fraudulently reproducing or resembling a trade mark registered in a contracting country have been imported into that country on Government account for the purposes of the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community, or for the relief of suffering and distress resulting from the war, such use of the trade mark shall not be considered as a prejudice to the rights of its proprietor.

## II

The provisions of Article I apply equally to applications for patents deposited by Czechoslovak nationals at the German Patent Office at Berlin in the period between 1 August 1940, and 4 May 1945, inclusive, provided that the invention was not made in Germany.

In witness whereof the undersigned Plenipotentiaries have adopted the present Protocol.

Done at Neuchatel, 8 February 1947.

For Belgium	..	..	HAMELS.
For Brazil	..	..	FRANCISCO ANTONIO COELHO.
For Czechoslovakia	..	..	J. ANDRIAL.
For Denmark	..	..	HANS JACOB HANSEN.
For Finland	..	..	PAAVO ANT-WUORINEN.
For France	..	..	MARCEL PLAISANT.
For Great Britain and Northern Ireland	..	..	HAROLD L. SAUNDERS. B. G. CREWE.
For Greece	..	..	D. A. NAOUM.
For Hungary	..	..	KÖRÖS LASZLO. KARCZAG.
For Italy	..	..	ANTONIO PENNETTA.
For Lebanon	..	..	MIKAOUI.
For Liechtenstein	..	..	HOOP.
For Luxembourg	..	..	A. DE MUYSER.
For Morocco (French Zone)	..	..	MARCEL PLAISANT.
For New Zealand	..	..	HAROLD L. SAUNDERS.
For Norway	..	..	R. I. B. SKYLSTAD.
For Poland	..	..	DR. JAKUB SAWICKI. DR. WACLAW OLSZEWSKI.
For Roumania	..	..	DR. C. AKERMAN.
For Sweden	..	..	STAFFAN SÖDERBLOM ( <i>subject to ratification</i> ).
For Switzerland	..	..	MORF. PLINIO BOLLA.
For Syria	..	..	S. OMARI.
For Tunisia	..	..	MARCEL PLAISANT.
For Turkey	..	..	Y. K. KARAOSMANOGLU. SAIT RAUF SARPER.

## ADDITIONAL FINAL PROTOCOL

The undersigned Plenipotentiaries, met this day for the purpose of proceeding to the signature of the Agreement concerning the preservation or restoration of industrial property rights affected by the Second World War, have agreed as follows :—

The principles set out in paragraph I of the Final Protocol shall be likewise applicable as regards patents in so far as the importation has taken place in the territory of the Allied and Associated Nations or of their enemies during the course of the war.

In witness whereof the undersigned Plenipotentiaries have adopted the present Protocol.

Done at Neuchatel, 8 February 1947.

For Belgium	..	..	HAMELS.
For Brazil	..	..	FRANCISCO ANTONIO COELHO.
For Czechoslovakia	..	..	J. ANDRIAL.
For Finland	..	..	PAAVO ANT-WUORINEN.
For Great Britain and Northern Ireland	..	..	HAROLD L. SAUNDERS. B. G. CREWE.
For Greece	..	..	D. A. NAOUM.
For Hungary	..	..	KÖRÖS LASZLO. KARCZAG.
For Italy ..	..	..	ANTONIO PENNETTA.
For Lebanon	..	..	MIKAOU.
For Liechtenstein	..	..	HOOP.
For New Zealand	..	..	HAROLD L. SAUNDERS.
For Poland	..	..	DR. JAKUB SAWICKI. DR. WACLAW OLSZEWSKI.
For Roumania	..	..	DR. C. AKERMAN.
For Switzerland	..	..	MORF. PLINIO BOLLA.
For Syria ..	..	..	S. OMARI.
For Turkey	..	..	Y. K. KARAOSMANOGLU. SAIT RAUF SARPER.