

AGREEMENT
ON SCIENCE AND TECHNOLOGY COOPERATION BETWEEN
THE
GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE
GOVERNMENT OF THE FRENCH REPUBLIC

THE GOVERNMENT OF THE UNITED STATES OF AMERICA and
THE GOVERNMENT OF THE FRENCH REPUBLIC, (hereinafter
referred to as "the Parties"),

CONSIDERING the importance of science and technology for their
economic and social development;

RECOGNIZING that the Parties are pursuing research and technological
activities in a number of areas of common interest, and that participation
in each other's research and development activities on a basis of
reciprocity will provide mutual benefits;

DESIRING to establish a formal basis for cooperation in scientific and
technological research that will extend and strengthen the conduct of
cooperative activities in areas of common interest and encourage the
application of the results of such cooperation to their economic and social
benefit;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Purpose

The Parties shall encourage, develop and facilitate cooperative activities in fields of common interest in which they are pursuing research and development activities in science and technology, except those concerning defence and national security.

ARTICLE 2

Definitions

For the purposes of this Agreement:

- (a) "Cooperative activity" means any activity which the Parties undertake or support pursuant to this Agreement;
- (b) "Information" means scientific or technical data, results or methods of research and development that stem from cooperative activities, and any other data relating to cooperative activities;
- (c) "Intellectual Property" shall include the subject matter listed in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm on July 14, 1967, and may include other subject matter as agreed by the Parties;
- (d) "Participants" means a Party, its governmental agencies, and, in coordination with such government agencies, any other interested federal or non-federal entity, private sector entity, or academic institution that participates in a cooperative activity; and
- (e) "Science" shall include all fields of research.

ARTICLE 3

Principles

Cooperative activities shall be conducted on the basis of the following principles:

- (a) Mutual benefit, based on an overall balance of advantages;
- (b) Reciprocal opportunities to engage in cooperative activities;
- (c) Equitable and fair treatment for the participants; and
- (d) Timely exchange of information that may affect cooperative activities.

ARTICLE 4

Areas of Cooperative Activities

- (a) Priority will be given to collaboration that can advance common goals in science and technological research.
- (b) The Parties may jointly pursue cooperative activities with third parties.

ARTICLE 5

Forms of Cooperative Activities

- (a) In accordance with applicable national laws, the Parties shall foster, to the fullest extent practicable, the involvement of participants in cooperative activities under this Agreement with a view to providing comparable opportunities for participation in their scientific and technological research and development activities.
- (b) Cooperative activities may take the following forms:
 1. coordinated research projects;
 2. joint task forces;
 3. joint studies;
 4. joint organization of scientific seminars, conferences, symposia and workshops;
 5. training of scientists and technical experts;
 6. exchanges or sharing of equipment and materials;

7. visits and exchanges of scientists, engineers or other appropriate personnel; and

8. exchanges of scientific and technological information as well as information on practices, laws, and programs relevant to cooperation under this Agreement.

ARTICLE 6

Coordination, Facilitation and Implementation of Cooperative Activities

(a) The Department of State's Bureau of Oceans, International Environmental and Scientific Affairs, Office of Science and Technology Cooperation shall coordinate and facilitate cooperative activities under this Agreement on behalf of the United States. The Ministry of Foreign and European Affairs Direction générale de la coopération internationale et du développement shall coordinate and facilitate cooperative activities under this Agreement on behalf of France. The Parties agree to consult periodically and at the request of either Party concerning the implementation of the Agreement and the development of their cooperation.

(b) Each Party shall also designate an Agreement Coordinator to conduct administrative affairs and, as appropriate, to provide oversight and coordination of activities under this Agreement.

(c) Moreover, each Party shall designate a point of contact for the notification and approval of requests for authorization for access to the waters under national jurisdiction for the purpose of scientific research, and will treat those requests with diligence, taking into account the significance of these activities to the advancement of scientific knowledge.

(d) Government agencies of the Parties may conclude under this Agreement implementing agreements or arrangements, as appropriate, in specific areas of science, technology, and engineering. These implementing agreements or arrangements shall cover, as appropriate, topics of cooperation, procedures for personnel exchanges or program participants, procedures for transfer and use of materials, equipment and funds, and other relevant issues.

(e) The Parties shall encourage and facilitate, where appropriate, the development of direct contacts and cooperation between government

agencies, universities, research centers, institutes and private sector companies and other entities of both countries. The Parties may designate other entities, including universities, research centers, institutions, and private sector companies to carry out activities under this Agreement.

ARTICLE 7

Joint Committee

(a) In carrying out the responsibilities under 6(a), the Parties shall establish a Joint Committee to coordinate, facilitate, and review cooperative activities under this Agreement, composed of representatives designated by the Parties. The Joint Committee shall be co-chaired by a designated official of the Department of State of the Government of the United States and a designated official of the Ministry for Foreign and European Affairs of the Government of the Republic of the French Republic. The Joint Committee may hold consultations on general science and technology issues, exchange information, establish task forces and working group in as appropriate; consult experts as appropriate and needed, and otherwise work to increase mutual understanding of the Parties activities and programs related to science and technology. The Joint Committee will meet periodically to discuss common goals and implementation of the Agreement. In-person meetings of the Joint Committee shall alternate between France and the United States, or as agreed to by the Parties.

(b) The functions of the Joint Committee shall include:

1. Identifying areas of common interest
2. Overseeing and recommending activities under the Agreement;
3. Advising the Parties on ways to enhance cooperation consistent with the principles set out in this Agreement
4. Reviewing the efficient and effective functioning of the Agreement
5. Providing periodically an overview of the cooperative activities under the Agreement.

ARTICLE 8

Funding and Legal Considerations

(a) Cooperative activities shall be subject to the availability of appropriated budgetary funds, resources, and personnel and in accordance with applicable national laws of the Parties.

(b) As a general rule, each Party, government agency or participant shall bear the cost of its own personnel or participants in cooperative activities under the Agreement. Nevertheless, one Party, government agency, or participant may agree to pay for the cost of the other side's participants for a specific activity.

ARTICLE 9

Entry of Personnel and Equipment

(a) Each Party shall take all reasonable steps and use its best efforts, within applicable laws, to facilitate entry to and exit from its territory of persons, material, scientific and technical information and equipment involved in or used in cooperative activities under this Agreement.

(b) Each Party shall endeavor to ensure that all participants involved in agreed cooperative activities under this Agreement have access to facilities and personnel within its country as needed to carry out those activities.

(c) Each Party shall, consistent with its national laws, work toward obtaining duty free entry for materials and equipment provided pursuant to science and technology cooperation under this Agreement.

ARTICLE 10

Treatment of Information and Intellectual Property

(a) Scientific and technological information of a non-proprietary nature resulting from cooperation under this Agreement shall be made available, unless otherwise agreed by the Parties, to the world scientific community through customary channels and in accordance with applicable laws of the Parties and normal procedures of the relevant governmental agencies.

(b) The treatment of intellectual property created or furnished in the course of cooperative activities under this Agreement is provided for in this Article and Annex I, which shall apply to all activities conducted under this Agreement unless agreed otherwise by the Parties in writing.

(c) In the event that proprietary information identified in a timely fashion as business-confidential is furnished or created under this Agreement, each Party and its concerned participants shall protect such information in accordance with applicable national laws and administrative practice. Information may be designated as “business-confidential” if a person having the information may derive an economic benefit from it or may obtain a competitive advantage over those who do not have it, and the information is not generally known or publicly available from other sources, and the owner has not previously made the information available without imposing in a timely manner an obligation to keep it confidential.

(d) Information designated as business-confidential by a Party or participant that has been forwarded as such to the other Party or one of its Participants shall be used solely for the purpose of carrying out cooperative activities under this Agreement, unless otherwise agreed by the participant(s) who furnished or created the confidential information. Notwithstanding such conditions on use, an employee of a Party may report on the results of cooperative research to his/her superiors for the purpose of employee performance evaluations and a participant may disclose business-confidential information to a dissertation committee for the purpose of defending a Ph.D. thesis as long as such disclosure is limited to the members of the committee and other officials involved in the decision making process and those committee members and officials are obligated not to disclose the business-confidential information.

(e) Security obligations for sensitive or export controlled information or equipment transferred under the Agreement are provided for in Annex II.

ARTICLE 11

Other Agreements and Transitional Provisions

(a) This Agreement is without prejudice to rights and obligations under other agreements between the Parties and any agreement or arrangement between either of the Parties and any third parties.

(b) Annexes I and II are part of the present Agreement.

ARTICLE 12

Entry into Force, Termination and Dispute Settlement

- (a) This Agreement shall enter into force on the date on which the last Party notifies the other in writing that their respective internal procedures necessary for its entry into force have been completed.
- (b) This Agreement may be terminated at any time by either Party upon six months' written notice to the other Party. The expiration or termination of this Agreement shall not affect the validity or duration of any arrangements made under it, or any specific rights and obligations that have accrued in compliance with Article 10 and Annexes I and II.
- (c) This Agreement may be amended by written agreement of the Parties.
- (d) All questions or disputes related to the interpretation or implementation of this Agreement shall be settled by mutual assent of the Parties.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Paris, in duplicate, this 22nd day of October, 2008 in the English and French languages, each text being equally authentic.

FOR THE GOVERNMENT
OF THE
UNITED STATES OF AMERICA:

Dr. Arden BEMENT

Director
National Science Foundation

FOR THE GOVERNMENT
OF THE
FRENCH REPUBLIC:

Mme Valérie PECRESSE

Ministre de l'Enseignement
supérieur et de la Recherche

ANNEX I

Intellectual Property Rights

I. General Obligation

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant implementing agreements or arrangements. Rights to such intellectual property shall be allocated as provided in this Annex.

II. Scope

- A. This Annex is applicable to all cooperative activities undertaken pursuant to this Agreement, except as otherwise specifically agreed by the Parties or their designees.
- B. For purposes of this Agreement, “intellectual property” shall mean the subject matter listed in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm July 14, 1967, and may include other subject matter as agreed by the Parties.
- C. Each Party shall ensure, through contracts or other legal means with its own participants, if necessary, that the other Party can obtain the rights to intellectual property allocated in accordance with this Annex. This Annex does not otherwise alter or prejudice the allocation between a Party and its nationals, which shall be determined by that Party's laws and practices.
- D. Except as otherwise provided in this Agreement, disputes concerning intellectual property arising under this Agreement shall be resolved through discussions between the concerned participating institutions, or, if necessary, the Parties or their designees. Upon mutual agreement of the Parties, participants may submit their disputes to an arbitral tribunal for binding arbitration in accordance with the applicable rules of international law. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of United Nations

Commission on International Trade Law (UNCITRAL) shall govern.

- E. Termination or expiration of this Agreement shall not affect rights or obligations under this Annex.

III. Allocation of Rights

- A. Each Party shall be entitled to a non-exclusive, irrevocable, royalty-free license in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, reports, and books directly arising from cooperation under this Agreement. All publicly distributed copies of a copyrighted work prepared under this provision shall indicate the names of the authors of the work unless an author explicitly declines to be named. Each Party or its participants shall have the right to review a translation prior to public distribution.

- B. Rights to all forms of intellectual property, other than those rights described in paragraph III.A above, shall be allocated as follows:

- (1) Visiting researchers shall receive rights, awards, bonuses, and royalties in accordance with the policies of the host institution. In addition, each visiting researcher named as creator shall be entitled to national treatment with regards to such rights, awards, bonuses, and royalties, in accordance with the policies of the host institution.

- (2) (a) Any intellectual property created by persons employed at or sponsored by one Party under cooperative activities other than those covered by paragraph III.B.(1) shall be owned by that Party. Intellectual property created by persons employed or sponsored by both Parties shall be jointly owned by both Parties. In addition, each creator shall be entitled to awards, bonuses, and royalties in accordance with the policies of the institution employing or sponsoring that person.

- (b) Unless otherwise agreed by the Parties, each Party shall have within its territory a right to exploit or license

intellectual property created in the course of the cooperative activities.

(c) For intellectual property created during joint research, the Parties or their concerned participants shall jointly develop a technology management plan, prior to the start of their cooperation in research areas likely to lead rapidly to industrial applications, or within a reasonable time from the time a Party becomes aware of the creation of intellectual property.

(i) “Joint research” means research that is implemented with financial support from one or both Parties and that involves collaboration by participants from both the United States of America and France and is designated joint research in writing by the Parties or their scientific and technological organizations and agencies, or in the cases where there is funding by one Party, by that Party and the participants in that project. If the research is not designated as joint research, the allocation of rights to intellectual property will be in accordance with Paragraph III.B.1 for visiting researchers, or Paragraph III.B.(2)(a) for all other research..

(ii) The technology management plan shall consider the relative contributions of the Parties and their concerned participants, the benefits of exclusive and non exclusive licensing by territory or fields of use, requirements imposed by the Parties’ domestic laws, and other factors deemed appropriate. If needed, the technology management plan shall be jointly modified subject to the approval of both Parties or their concerned participants.

(iii) If the Parties or their concerned participants cannot reach an agreement on a joint technology management plan within a reasonable time not to exceed six months from the time a Party becomes aware of the creation of the intellectual property in question, each Party may designate one co-exclusive licensee to have world-wide rights to said intellectual property. Each Party shall notify

the other two months prior to making a designation under this paragraph.

- (3) The rights of a Party outside its territory shall be determined by mutual agreement considering the relative contributions of the Parties and their concerned participants to the cooperative activities, the degree of commitment in obtaining legal protection and licensing of the intellectual property and such other factors deemed appropriate.
- (4) If either Party or their concerned participants believe that a particular project is likely to lead to or has led to the creation of intellectual property not protected by the laws of the other Party, the concerned participating institutions, or if necessary, the Parties or their designees, shall immediately hold discussions to determine the allocation of rights to the intellectual property. Pending the resolution of the matter, the intellectual property shall not be commercially exploited except by mutual agreement. Disputes regarding rights to any intellectual property not protected by laws of a Party that has been created shall be resolved in accordance with the provision of Article II-D. Creators of intellectual property shall nonetheless be entitled to awards, bonuses and royalties as provided in paragraph III.B.(2)(a).
- (5) For each invention made under any cooperative activity, the Party employing or sponsoring the inventor(s) shall disclose the invention promptly to the other Party together with any documentation and information necessary to enable the other Party to establish any rights to which it may be entitled. Either Party may ask the other Party in writing to delay publication or public disclosure of such documentation or information for the purpose of protecting its rights in the invention. The delay shall not exceed a reasonable amount of time necessary to protect the rights to the invention.

ANNEX II

Security Obligations

I. PROTECTION OF INFORMATION

Unless otherwise agreed in relevant implementing agreements or arrangements, no information or equipment requiring protection in the interests of national defense or foreign relations of either Party and classified in accordance with the applicable national laws shall be provided under this Agreement. In the event that information or equipment which is known or believed to require such protection is identified in the course of cooperative activities undertaken pursuant to this Agreement, it will be brought immediately to the attention of the appropriate officials and the Parties shall consult concerning the need for and level of appropriate protection to be accorded such information or equipment.

II. TECHNOLOGY TRANSFER

The transfer of unclassified export-controlled information or equipment between the two countries shall be in accordance with the relevant laws of each Party to prevent the unauthorized transfer or retransfer of such information or equipment provided or produced under this Agreement. If either Party deems necessary, detailed provisions for the prevention of unauthorized transfer or retransfer of such information or equipment, and any information or equipment derived from such information or equipment, shall be incorporated into the contracts or implementing agreements or arrangements. Parties shall identify export-controlled information and equipment as well as any restrictions on further use or transfer of such information or equipment