

Report

04-495

**AGREEMENT
BETWEEN**

THE DEPARTMENT OF ENERGY OF THE UNITED STATES OF AMERICA

AND

**THE MINISTRY OF INDUSTRY, COMMERCE, ENERGY AND MINES
OF THE KINGDOM OF MOROCCO**

**CONCERNING COOPERATION IN ENERGY EFFICIENCY AND
RENEWABLE ENERGY**

The Department of Energy of the United States of America (DOE) and the Ministry of Industry, Commerce, Energy and Mines of the Kingdom of Morocco (MEM), hereinafter referred to as the Parties:

Having a mutual interest in exchanging information, experience and points of view regarding the development and analysis of energy information and energy planning, and in developing strategies to establish and promote market-based systems in renewable energy and energy efficiency technologies;

Recognizing the contribution of renewable energy and energy efficiency to increasing energy diversity, addressing environmental concerns, and enhancing energy security; and

Noting the Parties' interest in identifying and implementing cooperative energy projects that are of mutual interest;

HEREBY AGREE AS FOLLOWS:

**ARTICLE I
Purpose**

The objective of this Agreement is to establish a framework for collaboration between the Parties in energy efficiency and renewable energy. The Parties shall conduct such collaboration on the basis of mutual benefit, equality and reciprocity.

**ARTICLE II
Areas of Cooperation**

The areas of cooperation under this Agreement may include, but are not limited to, the following:

1. Renewable energy;

2. Energy efficiency; and
3. Other energy areas as the Parties may agree to in writing.

ARTICLE III Forms of Cooperation

The forms of cooperation under this Agreement may include, but are not limited to, the following:

1. Exchange of scientific and technical information, and results and methods of research and development, and other cooperative projects in a manner agreed to by the Coordinators designated under Article IV;
2. Organization of seminars and other meetings on agreed energy topics in the areas enumerated in Article II in a manner agreed to by the Coordinators;
3. Survey visits by specialists to the energy facilities or projects of the other Party at the invitation of the host institution;
4. Exchange of materials, instruments, components and equipment for testing;
5. Exchange of personnel for participation in agreed research, development, demonstration, analysis, design, experimental, and training activities;
6. Joint projects in the form of experiments, tests, design analysis, or other technical collaborative activity;
7. Joint funding of specific projects which may be undertaken either by the Parties, or in connection with other persons in a manner agreed to by the Parties through the Coordinators; and
8. Other forms of cooperation as the Parties may agree to in writing.

ARTICLE IV Management

1. Each Party shall designate a Coordinator to supervise the implementation of this Agreement. As mutually agreed, the Coordinators shall meet periodically to evaluate all aspects of the cooperation under this Agreement. These meetings shall be held alternately in the United States and Morocco, unless otherwise agreed.
2. The Coordinators shall approve and monitor all cooperative activities to be carried out under this Agreement.

3. The Coordinators may establish separate subcommittees in any of the areas of cooperation to facilitate implementation of projects which may be undertaken under this Agreement.
4. The Coordinators shall review and evaluate any proposed activities and the status of cooperation under this Agreement. The Coordinators shall give appropriate guidance and directions to the subcommittees and the project managers responsible for activities undertaken under this Agreement. If requested, the Coordinators shall advise the Parties regarding the progress and future of cooperative activities under this Agreement.

ARTICLE V **Project Annexes**

1. Each Party, or the designated representative of each Party, may propose activities to be conducted under this Agreement by submitting a proposal to the Coordinators. Projects may be approved by agreement of the Parties through the Coordinators.
2. Cooperative activities under this Agreement may be undertaken by the Parties or, as appropriate, laboratories or contractors of the Parties. Each cooperative activity that may involve the sharing of costs or that may give rise to intellectual property shall be described in writing in a Project Annex to this Agreement. Such Project Annexes shall contain detailed procedures for the implementation of the cooperative activity, including but not limited to technical scope, exchange of appropriate proprietary information, management, total costs, cost-sharing and schedule, as appropriate. Each Project Annex shall be subject to and shall refer to this Agreement.

ARTICLE VI **Transfer of Information and Equipment**

All information or equipment transmitted by one Party to the other Party under this Agreement and any related Project Annex shall be appropriate, accurate, and of the highest standards to the best knowledge and belief of the transmitting Party, but the transmitting Party does not warrant the suitability of the information or equipment transmitted for any particular use or application by the receiving Party or any third party. Information or equipment developed jointly by the Parties shall be appropriate and accurate to the best knowledge and belief of both Parties. Neither Party warrants the accuracy of the jointly-developed information or the appropriateness of equipment nor its suitability for any particular use or application by either Party or by any third party.

ARTICLE VII**Intellectual Property; Business-Confidential Information**

1. Scientific and technological information (other than business-confidential information) resulting from cooperation under this Agreement shall be made available to the world scientific community, unless otherwise agreed by the Parties.
2. The protection and allocation of intellectual property, and the treatment of business-confidential information, shall be governed by Annex I to this Agreement, which constitutes an integral part of this Agreement.

ARTICLE VIII**Exchanges of Equipment**

The following provisions shall apply concerning exchanges of equipment under this Agreement.

1. By mutual agreement, a Party may provide equipment to be utilized in a joint activity. In such case, the sending Party shall supply, as soon as possible, a detailed list of the equipment to be provided together with the relevant specifications and appropriate technical documentation related to the use, maintenance, and repair of the equipment.
2. Title to the equipment and necessary spare parts supplied for use in joint activities shall remain with the sending Party, and the property shall be returned to the sending Party upon completion of the joint activity, unless otherwise agreed.
3. Equipment provided under this Agreement shall be brought into operation at the host establishment only by agreement of the Parties.
4. The host establishment shall provide the necessary premises for the equipment, shall provide for utilities such as electric power, water, and gas, and normally shall provide materials to be tested, in accordance with agreed technical requirements.
5. DOE shall be responsible, and shall pay all expenses, for the transport of equipment and materials from the United States by plane or ship to an authorized port of entry in Morocco convenient to the ultimate destination. DOE shall be responsible for safekeeping and insurance en route for such equipment and materials.
6. MEM shall be responsible, and shall pay all expenses, for the transport of equipment and materials from Morocco by plane or ship to an authorized port of entry in the United States convenient to the ultimate destination. MEM shall be responsible for safekeeping and insurance en route for such equipment and materials.

7. Equipment provided under this Agreement for use in joint activities shall be considered to be scientific, not having a commercial character.

ARTICLE IX **Exchanges of Personnel**

The following provisions shall apply concerning exchanges of personnel under this Agreement:

1. Whenever an exchange of personnel is contemplated, each Party shall ensure the selection of personnel with the skills and competence necessary to conduct the activities planned under this Agreement. Each such exchange of personnel shall be agreed in advance by an exchange of letters between the Parties, referencing this Agreement and its pertinent intellectual property provisions.
2. Each Party shall be responsible for the salaries, insurance, and allowances to be paid to its staff or contractors.
3. Each Party shall pay for the travel and living expenses of its staff or contractors staying at the establishment of the host Party, unless otherwise agreed.
4. Each Party shall help locate adequate accommodations for the other Party's staff or contractor (and their families) on a mutually agreeable, reciprocal basis.
5. Each Party shall provide all necessary assistance to the staff or contractors of the other Party as regards administrative formalities (e.g., assistance in making travel arrangements).
6. The staff and contractors of each Party shall conform to the general rules of work and safety regulations in force at the host establishment.

ARTICLE X **General Provisions**

1. Unless otherwise agreed, all costs resulting from cooperation carried out under this Agreement shall be the responsibility of the Party that incurs them.
2. Each Party shall conduct the activities provided for in this Agreement in accordance with its applicable laws and regulations, and subject to the availability of appropriated funds and personnel.
3. Each Party shall use its best efforts to obtain all required permits and licenses as necessary for the implementation of this Agreement.

- 4. Any dispute concerning the interpretation or application of this Agreement shall be settled by consultations between the Parties.

ARTICLE XI

Duration, Amendment and Termination

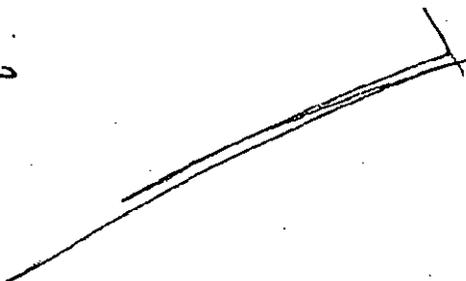
- 1. This Agreement shall enter into force upon signature by both Parties and shall remain in force for five (5) years. This Agreement may be renewed for additional 5-year periods by written agreement of the Parties following joint review at the end of each 5-year period.
- 2. This Agreement may be amended by written agreement of the Parties.
- 3. This Agreement may be terminated upon three months' advance notification in writing by either Party.
- 4. All joint efforts and experiments not completed at the expiration or termination of this Agreement may be continued until their completion under the terms of this Agreement.

DONE at this 16 day of October, 2000, in duplicate, in the English and Arabic languages, each text being equally authentic.

**FOR THE DEPARTMENT OF ENERGY
OF THE UNITED STATES OF AMERICA:**



**FOR THE MINISTRY OF INDUSTRY,
COMMERCE, ENERGY AND MINES
OF THE KINGDOM OF MOROCCO:**



ANNEX I INTELLECTUAL PROPERTY

Pursuant to Article VII of this Agreement:

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant Project Annexes. The Parties agree to notify one another in a timely fashion of any inventions or copyrighted works arising under this Agreement, and seek protection for such intellectual property in a timely fashion. Rights to such intellectual property shall be allocated as provided in this Annex.

1. 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 have the meaning found in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967.

C. This Annex addresses the allocation of rights and interests between the Parties. Each Party shall ensure that the other Party can obtain the rights to intellectual property allocated in accordance with this Annex, by obtaining those rights from its own participants through contracts or other legal means, if necessary. 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. Disputes concerning intellectual property arising under this Agreement should be resolved through discussions between the concerned participating institutions or, if necessary, the Parties or their designees. Upon mutual agreement of the Parties, a dispute shall be submitted 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 the 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.

2. 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.

B. Rights to all forms of intellectual property, other than those rights described in Paragraph 2.A. above, shall be allocated as follows:

1. Visiting researchers, for example, scientists visiting primarily in furtherance of their education, shall receive intellectual property rights under the policies of the host institution. In addition, each visiting researcher named as an inventor or author shall be entitled to national treatment with regard to awards, bonuses, benefits, or any other rewards, in accordance with the policies of the host institution.

2. (a) For intellectual property created during joint research, for example, when the Parties, participating institutions, or participating personnel have agreed in advance on the scope of work, each Party shall be entitled to obtain all rights and interests in its own country. Rights and interests in third countries will be negotiated in Project Annexes on a case-by-case basis. If research is not designated as "joint research" in the relevant Project Annex, rights to intellectual property arising from the research will be allocated in accordance with paragraph 2.B.1. above. In addition, each person named as inventor or author shall be entitled to national treatment with regard to awards, bonuses, benefits, or any other rewards in accordance with the policies of the participating institutions.

(b) Notwithstanding paragraph 2.B.2. (a) above, if a type of intellectual property is available under the laws of one Party but not the other Party, the Party whose laws provide for this type of protection shall be entitled to all rights and interests worldwide. Persons named as inventors or authors of the intellectual property shall nonetheless be entitled to national treatment with regard to awards, bonuses, benefits, or any other rewards in accordance with the policies of the participating institution of the Party obtaining rights.

3. BUSINESS-CONFIDENTIAL INFORMATION

In the event that information identified in a timely fashion as business-confidential is furnished or created under this Agreement, each Party and its participants shall protect such information in accordance with applicable laws, regulations, and administrative practices. Information may be identified 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, 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.

PROJECT ANNEX 1

**TO THE AGREEMENT BETWEEN
THE DEPARTMENT OF ENERGY OF THE UNITED STATES OF AMERICA
AND
THE MINISTRY OF INDUSTRY, COMMERCE, ENERGY AND MINES
OF THE KINGDOM OF MOROCCO
CONCERNING COOPERATION IN ENERGY EFFICIENCY
AND RENEWABLE ENERGY**

The Department of Energy of the United States of America ("DOE") and the Ministry of Industry, Commerce, Energy and Mines of the Kingdom of Morocco ("MEM"), hereinafter referred to as the "Parties":

Noting the Agreement between the Department of Energy of the United States of America and the Ministry of Industry, Commerce, Energy and Mines of the Kingdom of Morocco Concerning Cooperation in Energy Efficiency and Renewable Energy, signed October __, 2000 (the "Umbrella Agreement");

Noting further that Article V of the Umbrella Agreement contemplates the execution of Project Annexes to undertake cooperative activities within the framework of the Umbrella Agreement; and

Believing that effective collaboration by the Parties in the fields of energy efficiency and renewable energy will contribute to sustainable development, promote global environmental protection, and stimulate the market in the Kingdom of Morocco for energy efficiency and renewable energy technologies;

Have agreed as follows:

ARTICLE I
Objective

- A. The objective of this Project Annex is to undertake cooperation in, but not limited to, the following areas:
1. Computer software and training on building energy analysis, hybrid power system optimization and simulation, and isolated mini-grid optimization software;

2. Development of a national plan for the Kingdom of Morocco for renewable energy and/or energy efficiency, with an emphasis on clean technology and rural development;
 3. Exchanges of scientists to further develop the Kingdom of Morocco's capacity in the areas of energy efficiency and renewable energy; and
 4. Reorganization of the Ministry of Industry, Commerce, Energy and Mines of the Kingdom of Morocco.
 5. Technical assistance in the development of a training program in the areas of energy efficiency and renewable energy; for implementation at two schools (Rabat, Marrakech) under MEM's direction. This program will benefit from the assistance of state government agencies specializing in energy. The training program shall be offered both to Moroccan nationals and to nationals of other African countries eligible under the laws of both Parties' countries to receive such training.
- B. This Project Annex is subject to the Umbrella Agreement. In the event of any conflict between the terms of the Umbrella Agreement and this Project Annex, the Umbrella Agreement shall govern.

ARTICLE II Participating Organizations

Each Party may invite other government agencies and private organizations in its respective country to participate in cooperative activities under this Project Annex, at their own expense and on such terms and conditions as the Parties may specify. For the MEM, such agencies and organizations may include the National Center for the Development of Renewable Energy (CDER) in Marrakech. For the DOE, such participating organizations may include the United States Agency for International Development, the National Renewable Energy Laboratory (NREL), Lawrence Berkeley National Laboratory, and the Export-Import Bank.

ARTICLE III Management

Each Party shall designate a Coordinator to provide technical management of and oversee activities under this Project Annex. Each task undertaken under this Project Annex shall be described in a work plan that is approved by both Coordinators, each of whom shall designate a Co-Project Officer for that specific task.

**ARTICLE IV
General Provisions**

- A. This Project Annex shall enter into force upon signature and shall remain in force for five (5) years or until termination of the Umbrella Agreement, whichever occurs first. This Project Annex may be amended or extended by written agreement of the Parties, so long as the Umbrella Agreement remains in force.

- B. At the discretion of either Party, this Project Annex may be terminated upon six (6) months' advance written notice to the other Party.

SIGNED at _____, this 16 day of October, 2000, in duplicate, in the English and Arabic languages, each text being equally authentic.

**FOR THE DEPARTMENT OF ENERGY
OF THE UNITED STATES OF AMERICA:**

**FOR THE MINISTRY OF INDUSTRY,
COMMERCE, ENERGY AND MINES
OF THE KINGDOM OF MOROCCO:**

