

AGREEMENT BETWEEN THE
GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE REPUBLIC OF POLAND
FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

The Government of the United States of America and the Government of the Republic of Poland (hereinafter referred to as "the Parties");

Convinced that international cooperation in science and technology will strengthen the bonds of friendship and understanding between their peoples and will advance the state of science and technology to the benefit of both countries;

Recognizing the successful scientific and technological cooperation which developed between the two countries under the Agreement between the Government of the United States of America and the Government of the Republic of Poland on Cooperation in Science and Technology signed on September 4, 1992 in Warsaw; and

Convinced of the need for further developing mutually beneficial scientific and technological cooperation;

Have agreed as follows:

ARTICLE 1

1. The Parties shall develop, support and facilitate scientific and technological cooperation between their two countries on the basis of the principles of equality, reciprocity, and mutual benefit according to the provisions of this Agreement. Such cooperation shall cover basic research, applied research, development works and innovation activities.

2. Cooperative activities under this Agreement may be carried out in the form of coordinated programs and joint research projects; joint scientific workshops, conferences and symposia; exchange of scientific and technological information and documentation in the context of cooperative activities; exchange of scientists, specialists, and researchers; exchange or sharing of equipment or materials; and other forms of scientific and technological cooperation as may be agreed.

ARTICLE 2

Scientific and technological cooperation pursuant to this Agreement shall be subject to the applicable national laws and regulations of the Parties and to the availability of personnel and appropriated financial resources.

ARTICLE 3

Scientific and technological cooperation described in Article 1 shall be carried out on the basis of implementing arrangements concluded directly between ministers and heads of central offices in Poland and governmental agencies in the United States. Implementing arrangements pursuant to this Agreement may cover the subjects of cooperation, procedures to be followed, funding, allocation of costs, and other relevant matters.

ARTICLE 4

With respect to cooperative activities under this Agreement, each Party shall, in accordance with its laws and regulations, make its best efforts to facilitate:

1. prompt and efficient entry into and exit from its territory as well as domestic travel and work of persons participating in the implementation of this Agreement, including the provisions of access to relevant geographic areas, data, materials, institutions, and persons participating in the implementing of this Agreement; and
2. prompt and efficient entry into and exit from its territory of appropriate equipment, instrumentation, materials, supplies, samples, research data and other information pertaining to cooperative activities under this Agreement.

ARTICLE 5

Provisions for the protection and distribution of intellectual property created or furnished in the course of cooperative activities under this Agreement are set forth in Annex A. Provisions for security of information and transfer of technology are set forth in Annex B. Annexes A and B constitute integral parts of this Agreement.

ARTICLE 6

Scientific and technological information of a nonproprietary nature derived from the cooperative activities under this Agreement shall be made available, unless otherwise agreed in writing in implementing arrangements pursuant to Article 3, to the world scientific community through customary channels and in accordance with Article 5 and the normal practices and regulations of the ministers and heads of central offices in Poland and governmental agencies in the United States.

ARTICLE 7

Scientists, technical experts and institutions of third countries or international organizations may be invited.

upon consent of both Parties, to participate in activities being carried out under this Agreement. The cost of such participation shall be borne by the invited party unless both Parties agree otherwise in writing.

ARTICLE 8

The Parties do not foresee the provision of foreign assistance under this Agreement. If they decide otherwise with respect to a particular activity, the relevant implementing arrangement would need to be consistent with the requirements of laws of the United States and Poland that regulate activities related to foreign assistance.

ARTICLE 9

The provisions of this Agreement shall not prejudice other arrangements for scientific and technological cooperation between ministers and heads of central offices in Poland and governmental agencies in the United States.

ARTICLE 10

1. 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 in science and technology.
2. Each Party shall designate an Executive Secretary to facilitate planning and coordination, and to prepare periodic reports concerning the activities undertaken pursuant to this Agreement.
3. The Executive Agents responsible for the implementation of the provisions of this Agreement shall be the Department of State of the United States of America and the Minister of Education and Science of the Republic of Poland.

ARTICLE 11

In the event that differences arise between the Parties with regard to the interpretation or application of the provisions of this Agreement, the Parties shall resolve them by means of negotiations and consultations.

ARTICLE 12

1. This Agreement shall enter into force when the Parties notify each other, through diplomatic channels, of the completion of their respective internal requirements necessary for the entry into force of this Agreement. The date of last notification will be deemed to be the date of entry into force of this Agreement.

2. This Agreement shall remain in force for ten (10) years and it may be amended or extended for further ten-year periods by written agreement of the Parties. This Agreement may be terminated by either Party upon at least ninety (90) days' prior written notice to the other Party. Unless otherwise agreed by the Parties, the termination of this Agreement shall not affect the completion of any cooperative activity undertaken under this Agreement and not yet completed at the time of the termination of this Agreement.

Done at Washington, D.C, in duplicate, this tenth day of February 2006, in the English and Polish languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

Randa Adwiny

FOR THE GOVERNMENT THE
REPUBLIC OF POLAND

Janusz Kulesz

ANNEX A

Intellectual Property Rights

I. General Obligations

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant implementing 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 with its own participants or other legal means, 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, 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 arisen during the validity of this Agreement 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.

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.

(2) (a) Any intellectual property created by persons employed 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 the 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 in an implementing or other arrangement, each Party shall have within its territory all rights to exploit or license intellectual property created in the course of the cooperative activities.

(c) The rights of a Party outside its territory shall be determined by mutual agreement considering the relative contributions of the Parties and their 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.

(d) Notwithstanding paragraphs III.B(2) (a) and (b) above, if a particular project has led to the creation of intellectual property protected by the laws of one Party but not the other, the Party whose laws provide for this type of protection shall be entitled to all rights to exploit or license intellectual property worldwide although creators of intellectual property shall nonetheless be entitled to awards, bonuses

and royalties as provided in paragraph III.3(2)(a).

(e) 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. Unless otherwise agreed in writing, the delay shall not exceed a period of six months from the date of disclosure by the inventing Party to the other Party.

IV. 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, 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.

ANNEX B

SECURITY OBLIGATIONS

I. PROTECTION OF INFORMATION

Both Parties agree that no information or equipment requiring protection in the interests of national defense or foreign relations of either Party and classified in accordance with applicable national laws and regulations shall be provided under this Agreement. In the event that information or equipment that is known or believed to require such protection is identified in the course of cooperative activities undertaken pursuant to this Agreement, it shall 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 and equipment between the Parties under this Agreement shall be in accordance with the relevant laws and regulations of each Party to prevent the unauthorized transfer or retransfer of such information and 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 shall be incorporated into the contracts or implementing arrangements under this Agreement.