

Agreement

between

the Government of the United States of America

and

the Government of the Federal Republic of Germany

on

Science and Technology Cooperation

The Government of the United States of America

and

the Government of the Federal Republic of Germany

(hereinafter referred to as the "Parties"),

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

AFFIRMING a common interest in enhancing the longstanding collaborative efforts of the Parties' respective agencies, private sector and governmental organizations, and academic institutions in fostering innovation and generating scientific and technical knowledge in a number of areas of common interest, on a basis of reciprocity and in order to provide mutual benefits;

DESIRING to establish a formal basis for fostering 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; and

WISHING to establish dynamic and effective international cooperation between organizations and individual scientists in both countries;

Have agreed as follows:

Article 1

Purpose

The Parties shall encourage, develop and facilitate cooperative activities in fields of common interest where they are pursuing research and development activities for peaceful purposes in science and technology.

Article 2
Definitions

For the purposes of this Agreement:

1. "Cooperative activity" means any activity that the Parties undertake or support pursuant to this Agreement;
2. "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;
3. "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;
4. "Participant" means any entity that participates in a cooperative activity under this Agreement; and
5. "Science" shall include all fields of research.

Article 3
Principles of Cooperation

Cooperative activities under this Agreement 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;
- (d) Timely exchange of information that may affect cooperative activities; and
- (e) Third parties may be included in cooperative activities by mutual agreement.

Article 4
Areas of Cooperative Activities

Priority will be given to collaboration that can advance common goals in science and technological research.

Article 5
Forms of Cooperative Activities

1. In accordance with applicable national laws and regulations in both countries, 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.
2. Cooperative activities may take the following forms:
 - (a) coordinated research projects;
 - (b) joint task forces;
 - (c) joint studies;
 - (d) joint organization of scientific seminars, conferences, symposia and workshops;
 - (e) training of scientists and technical experts;
 - (f) exchanges or sharing of equipment and materials;
 - (g) visits and exchanges of scientists, engineers or other appropriate personnel; and
 - (h) 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

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.
2. The Parties shall establish a Joint Committee to coordinate, facilitate, and review cooperative activities under this Agreement, composed of representatives designated by the Parties.
3. 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 Federal Ministry of Education and Research of the Government of the Federal Republic of Germany.
4. The Joint Committee will meet periodically as agreed by the Parties, either by person or through electronic means, to discuss and identify common goals and priority areas, and to review the implementation of the Agreement. In-person meetings of the Joint Committee shall alternate between the United States and Germany, or as agreed to by the Parties.
5. 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. For the United States the Department of State's Bureau of Oceans, International Environmental and Scientific Affairs, Office of Science and Technology Cooperation, will serve as the Agreement Coordinator. For the Federal Republic of Germany, the Department for European and International Cooperation of the Federal Ministry of Education and Research will serve as the Agreement Coordinator.
6. Moreover, each Party shall designate a point of contact to facilitate access to waters under national jurisdiction for the purpose of conducting marine scientific research, and will treat those requests with diligence, in accordance with Part XIII of the United Nations Convention on the Law of the Sea of December 10, 1982, taking into account the importance of such activities to the advancement of scientific knowledge.

7. 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.

8. 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.

9. Notwithstanding Article 10, in case of any inconsistent or ambiguous provisions in an implementing agreement or arrangement under this Agreement, the provisions of this Agreement shall prevail, unless the Parties agree otherwise in writing.

Article 7

Funding and Legal Considerations

1. Cooperative activities shall be subject to the availability of appropriated funds, resources, and personnel. Additionally, cooperative activities shall be conducted in accordance with the applicable laws and regulations of the Parties. This Agreement shall not constitute an obligation of funds by either Party.

2. Unless otherwise provided for in an implementing arrangement or agreement, each participant shall bear the cost of its participation and that of its personnel in cooperative activities under this Agreement.

Article 8

Entry of Personnel and Equipment

1. Each Party shall take all reasonable steps and use its best efforts, as appropriate and in accordance with its laws and regulations, 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.

2. 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.

3. Each Party shall, in accordance with its national laws and regulations, work toward obtaining duty free entry for materials and equipment provided pursuant to cooperative activities under this Agreement.

Article 9

Treatment of Information and Intellectual Property

1. 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 and regulations of the Parties and normal procedures of the relevant governmental agencies.

2. The treatment of intellectual property created or furnished in the course of cooperative activities under this Agreement is provided for in Annex I, which shall form an integral part of this Agreement.

3. Security obligations for sensitive or export controlled information, material, or equipment transferred under the Agreement are provided for in Annex II, which shall form an integral part of this Agreement and apply to all activities conducted under this Agreement unless agreed to otherwise by the Parties in writing.

Article 10

Relationship with Other International Agreements

This Agreement shall not affect the rights and obligations under other international agreements between the Parties and any international agreement between either of the Parties and any third parties.

Article 11

Entry into Force, Termination, Consultations, and Amendment

1. This Agreement shall enter into force on the date of signature by both Parties.

2. This Agreement may be terminated at any time by either Party upon six months' written notice to the other Party. Unless otherwise agreed in writing by the Parties, termination of this Agreement shall not affect the implementation of any cooperative activities carried out under this Agreement and not completed upon termination of this Agreement. Notwithstanding the termination of this Agreement, the obligations set forth in Annexes I and II shall continue to apply to activities under this Agreement commenced prior to termination, unless otherwise agreed in writing by the Parties.

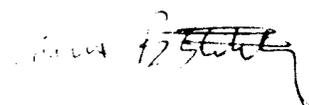
3. This Agreement may be amended by written agreement of the Parties.

4. In the event that differences arise between the Parties with regard to the interpretation or implementation of this Agreement, the Parties shall resolve them by means of negotiations and consultations. Annex I(II)(D) reflects the agreed-upon procedure for any disputes concerning intellectual property arising under this Agreement.

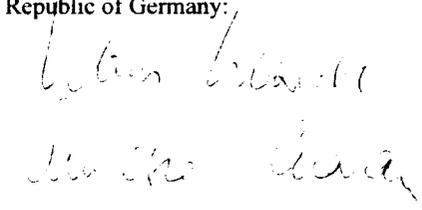
IN WITNESS WHEREOF the undersigned, being duly authorized by their respective governments, have signed this Agreement.

DONE at Washington, in duplicate, this 18th day of February 2010, in the English and German languages, both texts being equally authentic.

For the Government of the United States
of America:



For the Government of the Federal
Republic of Germany:



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 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. 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 of rights to intellectual property as between a Party and its participants, which shall be determined by that Party's laws and practices.
- C. 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 UNCITRAL shall govern.
- D. Termination or expiration of this Agreement shall not affect rights or obligations under this Annex.

III. Allocation of Rights

- A. Subject to applicable laws 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. Such review shall be conducted within a reasonable period of time and shall not unduly delay or preclude publication of the work.
- 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, and subject to applicable laws.
 - (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 Participant, subject to applicable laws. Intellectual property created by persons employed or sponsored by both Parties shall be jointly owned by the Parties, subject to applicable laws. In addition, each creator of intellectual property shall be entitled to awards, bonuses, compensation, 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 a right to exploit or license intellectual property created in the course of the cooperative activities and obtained in accordance with applicable laws
 - (c) The rights of a Party to exploit or license intellectual property created in the course of the cooperative activities 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 either Party believes 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 Parties shall immediately hold discussions to determine the allocation of rights to the intellectual property. If an agreement cannot be reached within three months of the date of the initiation of the discussions, cooperation on the project in question shall be terminated at the request of either Party. Creators and owners of intellectual property shall nonetheless be entitled to awards, bonuses, compensation, and royalties as provided in paragraph III.B(2)(a).
- (e) For each invention made under any cooperative activity, the Party or its participant employing or sponsoring the inventor(s) shall require that the inventor(s) disclose promptly to the other Party and/or participant together with any documentation and information necessary to establish any rights to which it may be entitled. Either Party and/or participant may ask the other Party and/or participant in writing to delay publication or public disclosure of such documentation or information to the extent necessary to protect the rights in the invention. Normally the delay shall not exceed a period of six months from the date of disclosure by the inventing Party and/or Participant to the other Party and/or Participant.

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 support the protection of such information in accordance with applicable laws, regulations, administrative practices and, where appropriate, non-disclosure agreements. 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 II

Security Obligations

I. Protection of Information

Unless otherwise agreed in relevant implementing agreements or arrangements, no information, material, 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 and regulations 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 and regulations 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 implementing agreements or arrangements.