

AGREEMENT RELATING TO
SCIENTIFIC AND TECHNICAL COOPERATION
BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE REPUBLIC OF KOREA

The Government of the United States of America and the Government of the Republic of Korea, hereinafter referred to as the "Parties,"

Recognizing that scientific and technical cooperation will advance the state of science and technology and strengthen the bonds of friendship between the two countries,

Have agreed as follows:

Article I

1. The two Parties shall promote cooperation between the two countries in science and technology for peaceful purposes.
2. The principal object of this cooperation is to provide additional opportunities to exchange ideas, information, skills and techniques and to collaborate on problems of mutual interest.
3. Pursuant to the aims of this Agreement, the two Parties shall encourage and facilitate, where appropriate, the development of joint contacts and cooperation between governmental agencies, universities, research centers, and other institutions and firms of the two countries.

Article II

The cooperation contemplated in this Agreement may include exchanges of scientific and technical information, exchanges of scientists and technical experts, the convening of joint seminars and meetings, and conduct of joint research projects in the fields of basic and applied science, and other forms of scientific and technical cooperation as may be mutually agreed.

Article III

With regard to the cooperative activities under this Agreement, the Parties or their designees, as appropriate, may allow the participation of researchers and organizations from all sectors of the research establishment, including universities, national laboratories, and the private sectors. Implementing arrangements for the cooperative activities under this Agreement may be concluded between the Parties or their appropriate agencies to determine the specific terms of cooperation, in accordance with this Agreement.

Article IV

Scientists, technical experts, governmental agencies and institutions of third countries or international organizations may be, in appropriate cases, invited by the two Parties to participate, at their own expense unless otherwise agreed, in projects and programs being carried out under this Agreement.

Article V

Unless otherwise provided for in an implementing Arrangement, each Party or participating agency, organization or enterprise shall bear the cost of its participation and that of its personnel engaged in cooperative activities under this Agreement.

Article VI

Cooperative activities shall be undertaken in accordance with applicable laws in both countries and subject to the availability of funds.

Article VII

1. The two Parties shall establish a joint committee for coordinating and facilitating cooperative activities under this Agreement, composed of representatives designated by the Parties. The Committee shall conduct a joint review of activities under this Agreement every two years. These reviews shall take place alternately in the United States of America and the Republic of Korea.
2. In the intervals between the sessions of the Committee, representatives of the two Parties shall meet, if necessary, to discuss and further the implementation of this Agreement and to exchange information on the progress of programs, projects and activities of common interest.

Article VIII

Each Party shall use its best efforts to facilitate entry to and exit from its territory of personnel and equipment of the other country, engaged or used in projects and programs under this Agreement.

Article IX

1. Scientific and technical information of a non-proprietary nature derived from the cooperative activities conducted under this Agreement shall be made available, unless it is agreed otherwise under specific circumstances, to the world scientific community through customary channels and in accordance with the normal procedures of the participating agencies.
2. The treatment of intellectual property created or furnished in the course of the cooperative activities under this Agreement shall be as set forth in Annex I, which forms an integral part of this Agreement.
3. Reciprocal security obligations related to the cooperative activities under this Agreement shall be observed in accordance with the provisions of Annex II, which forms an integral part of this Agreement.

Article X

Nothing in this Agreement shall be construed to prejudice other arrangements for scientific and technical cooperation between the Parties.

Article XI

1. This Agreement shall enter into force upon an exchange of diplomatic notes confirming that all requirements for its entry into force have been fulfilled, and shall be effective from April 29, 1999.
2. This Agreement shall remain in force for five years and may be amended or extended by mutual agreement of the Parties.
3. The termination of this Agreement shall not affect the validity or duration of any arrangements made under it.

Done at Washington, this 2nd day of July, 1999, in duplicate, in the English and Korean languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

Melinda A. Givile

FOR THE GOVERNMENT OF THE
REPUBLIC OF KOREA:

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ANNEX I

INTELLECTUAL PROPERTY

Pursuant to Article IX of this Agreement :

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

I. 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, interests, and royalties between the Parties. Each Party shall ensure that the other Party can obtain the rights to intellectual property allocated in accordance with the 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 and their designees agree otherwise in writing, the arbitration rules of UNCITRAL shall govern.

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

II. 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 section II. A. above, shall be allocated as follows :

B.1. Visiting researchers shall receive intellectual property rights under the policy of the host institution. Each Party shall accord to the visiting researchers no less favorable

treatment than that it accords to its own nationals with regard to the grant of intellectual property rights. In addition, each visiting researcher named as an inventor shall be entitled to treatment as a national of the host country with regard to awards, bonuses, benefits, or any other rewards, in accordance with the policy of the host institution and national law.

B.2. Joint Research

(a) Intellectual property created in the course of joint research will be owned by the inventing Party or Parties. Jointly created intellectual property will be jointly owned. If research is not designated "joint research" in advance, ownership of the intellectual property will be determined in accordance with paragraph II.B.1., above.

(b) Unless otherwise agreed by the Parties at any time, including in implementing arrangements, each Party has all rights to exploit intellectual property created in the course of joint research in its own territory, without regard to ownership of the intellectual property. Implementing arrangements may define the worldwide rights of each Party, which may include ownership, joint ownership, and exploitation rights.

(c) All rights outside the territories of both Parties will be determined by considering the relative contributions of the Parties and their participants to the joint research, the degree of commitment to the patenting and licensing of any resulting invention and such other factors deemed appropriate.

(d) In addition, each person named as an inventor shall be entitled to share in a portion of any royalties earned by either Party or its participating institutions from the licensing of the intellectual property, in accordance with the national laws of the respective countries.

C. Notwithstanding paragraphs II. B.2.(a) and (b), in the event that either Party believes that a particular joint research project under this Agreement has led or will lead to the creation or furnishing of a type of intellectual property not protected by the laws of one of the Parties, the Parties shall immediately hold discussions to determine the allocation of the rights to said intellectual property. If no agreement can be reached within a three-month period from the date of the request for discussions, cooperation on the project in question may be terminated at the request of either Party. Alternatively, the Parties may, at their discretion, establish a joint working group to discuss such allocation. Persons named as inventors shall nonetheless be entitled to royalties as provided in paragraph II.B.2. (d).

D. The inventing Party 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. The inventing 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 related to the invention. Unless otherwise specifically agreed in writing, such restriction shall not exceed a period of six months from the date of such communication. Communication shall be made through the competent government agencies or as otherwise designated in the relevant implementing arrangements.

III. BUSINESS-CONFIDENTIAL INFORMATION

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

ANNEX II

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 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 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 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 shall be incorporated into the contracts or Implementing Arrangements.