

No. 32819

**SPAIN
and
UNITED STATES OF AMERICA**

**Agreement on scientific and technological cooperation (with
annex). Signed at Madrid on 10 June 1994**

Authentic texts: Spanish and English.

Registered by Spain on 23 April 1996.

**ESPAGNE
et
ÉTATS-UNIS D'AMÉRIQUE**

**Accord relatif à la coopération scientifique et technologique
(avec annexe). Signé à Madrid le 10 juin 1994**

Textes authentiques : espagnol et anglais.

Enregistré par l'Espagne le 23 avril 1996.

AGREEMENT¹ ON SCIENTIFIC AND TECHNOLOGICAL COOPERATION BETWEEN THE KINGDOM OF SPAIN AND THE UNITED STATES OF AMERICA

The Kingdom of Spain and the United States of America, hereinafter referred to as "the Parties";

Aware of the importance of scientific and technological cooperation for the strengthening of the traditional friendship and understanding between their peoples;

Desiring to continue and encourage the fruitful cooperation between agencies, institutions and organizations of the two countries; and

Affirming their principal objectives to strengthen the scientific and technological capabilities of the two countries and to broaden and expand relations between their scientific and technological communities;

Hereby agree as follows:

ARTICLE I

Scientific and technological cooperation under this Agreement shall be undertaken in such scientific and technological areas as may be mutually agreed.

ARTICLE II

Scientific and technological cooperation shall be based on the following principles:

- (a) the mutuality of interest and the benefits to each country of the cooperative activities;
- (b) the encouragement of lasting cooperation between agencies, institutions and organizations of the two countries; and
- (c) the provision of comparable opportunities for scientists and engineers from the other country to engage in research and study in their respective facilities and government-sponsored or government-supported research programs in basic and applied research areas.

ARTICLE III

Pursuant to the objectives of this Agreement, the Parties shall encourage and facilitate, as appropriate, direct contacts and cooperation between government agencies, universities, research

¹ Came into force provisionally on 10 June 1994 by signature, and definitively on 18 January 1996, the date on which the Parties notified each other (on 10 July 1995 and 18 January 1996) of the completion of their internal procedures, in accordance with article XII (1).

centers, institutions, firms and other entities of the two countries, and the conclusion of implementing arrangements between them for the conduct of cooperative activities under this Agreement.

ARTICLE IV

Scientific and technological cooperation under this Agreement may include exchanges of scientific and technological information, exchanges of scientists and technical personnel, the conduct of joint or coordinated research projects, the convening of seminars and meetings, and such other forms of cooperation as may be agreed.

ARTICLE V

1. The Parties shall establish a Spain-United States Joint Commission for Scientific and Technological Cooperation (hereinafter referred to as "The Joint Commission for S&T") for the oversight of scientific and technological cooperation under this Agreement. Designated officials of the Ministry of Foreign Affairs of Spain and the Department of State of the United States shall co-chair the Joint Commission for S&T. The Joint Commission for S&T shall be composed of an equal number of members appointed by each Party.

2. The Joint Commission for S&T shall review and coordinate, as necessary, cooperative activities under this Agreement and shall make recommendations to the Parties on ways to improve cooperation and on other matters as it deems appropriate.

3. The Joint Commission for S&T shall meet alternately in Spain and the United States.

ARTICLE VI

Scientific and technical information of a nonproprietary nature derived from cooperative activities under this Agreement shall be made available to the world scientific community through customary channels and in accordance with the normal procedures of the Parties and the procedures of the Annex, unless otherwise agreed.

ARTICLE VII

1. Arrangements for funding scientific and technological cooperation under this Agreement may include:

(a) activities jointly financed as agreed by the Parties;

(b) activities in which each participating agency, institution, or organization generally bears the costs relating to its participation; and

(c) activities financed, as appropriate, by private institutions or foundations of one or both countries.

2. Funds for scientific and technological research which remain from Complementary Agreement Seven of the Agreement on Friendship, Defense and Cooperation between the Kingdom of Spain and the United

States of America shall be used to support joint projects under this Agreement as deemed appropriate by the Joint Commission for Science and Technology.

ARTICLE VIII

Protection of intellectual property and rights thereto shall be as set forth in the Annex, which constitutes an integral part of this Agreement.

ARTICLE IX

Each Party shall, in accordance with its laws and regulations, facilitate the prompt entry into and exit from its territory of equipment and material to be utilized in connection with cooperation under this Agreement, as well as the personal effects of scholars participating in cooperation under this Agreement.

ARTICLE X

Institutions, organizations, or agencies of third countries may participate in the cooperative programs or activities with the approval of the Parties.

ARTICLE XI

Cooperation in these fields under this Agreement shall be subject to the laws and regulations of the Parties and to the availability of appropriated funds.

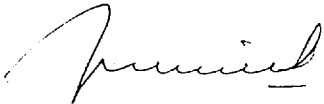
ARTICLE XII

1. This Agreement shall enter into force upon an exchange of notes in which the Parties have notified each other that they have completed their internal processes necessary to bring this Agreement into force. Upon signature, the Parties shall provisionally apply the Agreement. It shall remain in force for five years and shall be automatically renewed for five-year periods.
2. Either Party may terminate the Agreement upon six months' written notice to the other Party.
3. The Agreement may be amended by written agreement of the Parties.
4. The termination or expiration of this Agreement shall not affect the carrying out of any cooperative activity undertaken under this Agreement and not fully executed at the time of the expiration of this Agreement.

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

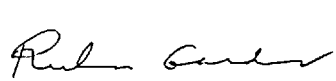
DONE at Madrid, in duplicate, this 10th day of June, 1994, in the Spanish and English Languages, each text been equally authentic.

For the Kingdom
of Spain:



¹

For the United States
of America:



²

¹ José Luis Dicenta Ballester.

² Richard Gardner.

ANNEX

INTELLECTUAL PROPERTY

Pursuant to Article VIII 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 this 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, 1967.¹

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 or 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

¹United Nations, *Treaty Series*, vol. 828, p. 3.

named. Each Party or participating entity shall have the right to review translations before their public distribution, as provided for in implementing arrangements.

B. Rights to all forms of intellectual property, other than those rights described in section II, 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 as applicable to nationals of the country to which the institution belongs. In addition, each visiting researcher named as an inventor or author shall be entitled to national treatment in regard to any royalties earned by the host institution from the licensing of such intellectual property. Furthermore, each visiting researcher named as an inventor or author shall enjoy national treatment from the host country with regard to prizes, profits, bonuses or other awards, in accordance with the practice of the host institution.

2. (a.) For intellectual property created during joint research, i.e., cooperative research supported by both Parties and whose scope is agreed in advance by them, the Parties or their designees shall jointly develop a technology management plan. The technology management plan shall consider the relative contributions of the Parties and their participants, the benefits of exclusive licensing by territory or for fields of use, requirements imposed by the parties' domestic laws, the allocation of rights and the eventual distribution of benefits, and other factors deemed appropriate. The initial research cooperation arrangement may include the technology management plan for that specific cooperation.

(b.) If the Parties or their designees cannot reach agreement on a joint technology 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 rights in any country of the world including the United States and Spain. Each Party shall notify the other two months prior to making a designation under this paragraph. When both Parties[or their licensees] exploit the intellectual property in a country, they shall share equally the reasonable cost of intellectual property protection in that country.

(c.) A specific program or research shall be regarded as joint research for purposes of allocating rights to intellectual property only when it is designated as such in the relevant implementing arrangement, otherwise the allocation of rights to intellectual property shall be in accordance with Paragraph II.B.1.

(d.) Notwithstanding Paragraph II.B.2.(a) And (b), if a type of intellectual property is protected by the laws of one Party but not the other Party, the Party whose laws provide this type of protection shall be entitled to all rights and interests worldwide, unless the Parties agree otherwise. Persons named as inventors, or authors of the intellectual property, shall be entitled, nonetheless, to national treatment regarding the royalties earned by either institution from the licensing of such intellectual property.

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.
