

**AGREEMENT BETWEEN THE
SWISS FEDERAL COUNCIL
FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION AND THE
GOVERNMENT OF THE UNITED STATES OF AMERICA**

The Swiss Federal Council and the Government of the United States of America (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 both countries;

Recognizing the successful scientific and technological cooperation which has developed over many years between the two countries; and

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

Have agreed as follows:

ARTICLE I

- (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. Such cooperation shall include basic research, applied research, engineering, and higher education, as well as other science and technology areas as may be agreed by the two Parties.
- (2) Cooperative activities under this Agreement may include coordinated programs and joint research projects, studies, and investigations; joint scientific courses, workshops, conferences, and symposia; and exchange of scientific and technological information and documentation in the context of cooperative activities.

ARTICLE II

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 III

Scientific and technological cooperation described in Article I shall be carried out on the basis of implementing arrangements concluded between the Parties in accordance with the laws and regulations of each Party. 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 IV

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 cooperative activities under this Agreement; and
- (2) prompt and efficient entry into and exit from its territory of appropriate equipment, instrumentation, materials, supplies, samples, and project information directly related to cooperative activities under this Agreement.

ARTICLE V

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 I. Provisions for security of information and transfer of technology are set forth in Annex II. Annexes I and II constitute integral parts of this Agreement.

ARTICLE VI

Scientific and technological information of a non-proprietary nature derived from the cooperative activities under this Agreement shall be made available, unless otherwise agreed in writing in implementing arrangements described in Article III, to the world scientific community through customary channels and in accordance with Article V and Annex II of this Agreement, as well as normal practices and regulations of the cooperating agencies.

ARTICLE VII

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 normally be borne by the invited party unless both Parties agree otherwise in writing.

ARTICLE VIII

The provisions of this Agreement shall not prejudice other arrangements for scientific and technological cooperation between cooperating agencies of the two countries. The Parties foresee utilizing the bodies provided for the structured cooperation between Switzerland and the United States for periodic review of activities and proposed activities under this Agreement, as well as practical matters relating to implementation, which may arise.

ARTICLE IX

- (1) Each Party shall designate an Executive Agent. The Executive Agent shall be the Department of State for the United States of America and the State Secretariat for Education and Research of the Federal Department of Home Affairs for Switzerland.
- (2) The Executive Agents shall collaborate closely to promote proper implementation of all activities and programs. The Executive Agent of each Party shall be responsible for coordinating the implementation by its side of such activities and programs.

ARTICLE X

Each Party has the right to inform the media about the conclusion of this Agreement and may publish any public relations documentation in this context. Each Party should undertake to specify the role and the contribution of the other Party in any press release and public relations documentation.

ARTICLE XI

- (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.
- (2) This Agreement shall remain in force for five years, and it will be automatically extended for consecutive periods of five (5) years unless terminated with at least ninety (90) days' prior written notice to the other Party.
- (3) Either Party may terminate this Agreement at any time upon ninety (90) days' 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.
- (4) This Agreement may be amended by written agreement of the Parties.

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

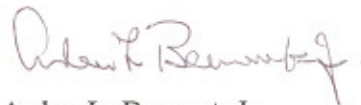
DONE in duplicate at Washington on the 1st day of April in the year Two Thousand and Nine, in the German and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE SWISS
FEDERAL COUNCIL:



Mauro Dell'Ambrogio

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERIKA:



Arden L. Bement, Jr.

ANNEX I

INTELLECTUAL PROPERTY RIGHTS

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 all intellectual property created and results of scientific and technical work obtained under this Agreement and to seek protection for such intellectual property in a timely fashion. Rights to such intellectual property shall be allocated in keeping with the provisions of this Annex.

I. DEFINITIONS

- (A) The term "intellectual property" shall have the meaning found in Article 2 of the Convention Establishing the World Intellectual Property Organization, which was signed in Stockholm on July 14, 1967. The term may include other subject matter only upon agreement between the Parties.
- (B) The term "participants" shall mean natural persons or legal entities participating in cooperative activities within the framework of implementation of this Agreement.
- (C) The term "background intellectual property" shall mean intellectual property created outside this Agreement and belonging to the participants, the use of which is necessary for the implementation of activities under the Agreement.

II. SCOPE

- (A) This Annex is applicable to all cooperative activities undertaken pursuant to this Agreement, except as otherwise agreed by the Parties or their Executive Agents.
- (B) Each Party shall ensure that the other Party can obtain the rights to intellectual property allocated in accordance with this Annex. If necessary, each Party shall obtain those rights from its own participants through contracts, license agreements or other legal documents. This Annex does not in any other way alter or prejudice the allocation of rights between a Party and its participants.
- (C) Disputes concerning intellectual property arising under this Agreement shall be resolved through discussions between the participants, or, if necessary, the Parties or their Executive Agents. 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 agree otherwise in writing, the arbitration rules of UNCITRAL shall govern.

III. ALLOCATION OF RIGHTS

- (A) Each Party shall be entitled to a nonexclusive, irrevocable, royalty-free license for non-commercial purposes in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, papers, reports, and books directly resulting 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 expresses the desire to remain anonymous.

(B) Rights to all forms of intellectual property created under this Agreement, other than those rights described in Section 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 a right 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), (b), and (c) 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 in a manner consistent with national and international law. 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 of intellectual property shall nonetheless be entitled to awards, bonuses and royalties as provided in paragraph III. (B)(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.

(C) Rights to background intellectual property may be transferred by the Parties and their participants through license agreements between individuals and/or legal entities. Such license agreements may reflect the following:

(1) definitions,

(2) identification of intellectual property being licensed and the scope of the license,

(3) royalty rates and other compensation,

- (4) requirements for protection of business-confidential information, consistent with Section IV,
- (5) requirement to comply with the relevant intellectual property and export control laws of the Swiss Confederation and the United States of America,
- (6) procedures for record keeping and reporting,
- (7) procedures for dispute resolution and termination of each agreement, and
- (8) other appropriate terms and conditions.

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, if the information is not generally known or publicly available from other sources, and if the owner has not previously made the information available without imposing in a timely manner an obligation to keep it confidential. With regard to business-confidential information furnished or created under this Agreement, neither Party nor its participants shall publish or transfer to third parties such information without the prior written consent of the other Party or its participants.

ANNEX II

CONTINUED SECURITY OBLIGATIONS UNDER EACH PARTY'S OWN NATIONAL LAWS

I. INTRODUCTION

It is the intention of both Parties to foster a collaborative research environment supportive of the free exchange of ideas. However, activities envisioned or provided for under this Agreement shall be consistent with the application of laws and regulations of the Parties. National laws or regulations in the interest of national defense or foreign relations may, in some circumstances, limit the availability of certain information or technology requiring protection, restricted access (classification), or export controls. In cases where either Party identifies information or equipment relevant to cooperative activities under this Agreement that is subject to such protection, it shall enter into consultations with the other Party upon request to determine if the situation can be resolved to both Parties' mutual satisfaction.

II. PROTECTION OF NEW INFORMATION

If in the course of cooperative activities undertaken pursuant to the Agreement, information or technology that is known or believed to require special protections or restrictions under either Party's laws and regulations has been identified, it shall be brought immediately to the attention of the appropriate officials.

III. EXPORTS AND TRANSFER OF NEW INFORMATION OR TECHNOLOGY

With respect to the possible need for export controls which may be foreseen regarding new information or technology developed under this Agreement, including that which might arise under Section II of this Annex, if either Party deems necessary, detailed provisions for the prevention of illegal transfer or retransfer of such information or technology shall be incorporated into the contracts or implementing arrangements under this Agreement. The Parties anticipate that information and technology developed under this Agreement will normally be exportable from the territory of either Party to the territory of the other Party subject to any legal controls or provisions, including any implemented under the terms of this Annex.