

AGREEMENT BETWEEN THE
GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE
GOVERNMENT OF UKRAINE
ON SCIENCE AND TECHNOLOGY COOPERATION

The Government of the United States of America and the
Government of Ukraine (hereinafter referred to as the
"Parties"),

Realizing 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, as
well as all mankind;

Affirming that in sharing responsibilities for contributing
to the world's future prosperity and well-being, they should
make further efforts to strengthen their respective national
research and development policies;

Considering science and technology cooperation as important
for the development of national economies; and

Wishing to establish dynamic and effective international
cooperation between the full array of scientific organizations
and individual scientists in the two countries;

Have agreed as follows:

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ARTICLE I

1. The purposes of this Agreement are to strengthen the scientific and technological capabilities of the Parties, to intensify and broaden relations between scientific and technological communities in both countries, and to promote scientific and technological cooperation in areas of mutual interest and benefit for peaceful purposes.

2. The principal objectives of this cooperation are to provide opportunities to exchange ideas, information, skills, and techniques and to collaborate on scientific and technological endeavors of mutual interest.

ARTICLE II

1. The Parties shall encourage cooperation through exchanges of scientific and technical information; exchanges of scientists and technical experts; the convening of joint seminars and meetings; training of scientists and technical experts; the conduct of joint research projects; and other forms of scientific and technological cooperation as may be mutually agreed upon.

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2. Cooperation under this Agreement shall be based on shared responsibilities and equitable contributions and benefits, commensurate with the Parties' respective scientific and technological strengths and resources.

ARTICLE III

1. The Parties shall encourage and facilitate, where appropriate, the development of direct contacts and cooperation between government agencies, universities, research centers, institutions, private sector firms and other entities of the two countries.

2. Government agencies and other designated entities of the two Parties, such as those mentioned in paragraph 1 of this Article, may conclude under this Agreement implementing memoranda of cooperation, and other arrangements, as appropriate, in specific areas of science and technology. These implementing arrangements shall cover, as appropriate, topics of cooperation, procedures for transfer and use of equipment and funds, and other relevant issues.

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3. This Agreement is without prejudice to existing science and technology agreements in force between the United States and Ukraine. The Parties or their appropriate agencies may amend such agreements, as may be agreed, to make those agreements subject to the provisions of this Agreement.

ARTICLE IV

Cooperative activities under this Agreement shall be conducted in accordance with the applicable laws, regulations, and procedures in each country and shall be subject to the availability of funds and personnel.

ARTICLE V

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

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ARTICLE VI

Each Party shall designate a coordinating agency and an Executive Secretary to conduct administrative affairs and, as appropriate, to provide oversight and coordination of activities under this Agreement.

ARTICLE VII

1. Scientific and technological information of a non-proprietary nature resulting from cooperation under this Agreement, other than information which is not disclosed for commercial or industrial reasons, shall be made available, unless otherwise agreed upon in writing, to the world scientific community through customary channels and in accordance with normal procedures of the agencies and entities participating under this Agreement.

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, and shall apply to all

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activities conducted under the auspices of this Agreement unless agreed otherwise by the Parties, their government agencies, or their designees in writing.

ARTICLE VIII

1. Each Party shall facilitate entry into and exit from its territory of appropriate personnel and equipment of the other Party, engaged in or used in projects and programs under this Agreement.

2. Each Party shall facilitate prompt and efficient access of persons of the other Party, participating in cooperative activities under this Agreement, to its relevant geographic areas, institutions, data, materials, and individual scientists, specialists and researchers as needed to carry out those activities.

3. Each Party shall use its best efforts to obtain duty free entry for materials and equipment provided for purposes of science and technology cooperation provided for under this Agreement.

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ARTICLE IX

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 X

1. This Agreement shall enter into force upon signature by both Parties and shall remain in force for five years. It may be amended or extended for further five-year periods by written agreement of the Parties.

2. This Agreement may be terminated at any time by either Party upon six months written notice to the other Party.

3. Termination of this Agreement shall not affect the implementation of any cooperative activity carried out under this Agreement and not completed upon termination of this Agreement.

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

DONE at Washington, this fourth day of March, 1994, in duplicate in the English and Ukrainian languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF
UKRAINE:



ANNEX I

INTELLECTUAL PROPERTY

Pursuant to Article VII 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 to by the Parties or their designees in writing.

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.

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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 the UNCITRAL shall govern.

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

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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:

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. In addition, each visiting researcher named as an inventor shall be entitled to share in a portion of any royalties earned by the host institution from the licensing of such intellectual property.

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2. (a) For intellectual property created during joint research (including joint research projects pursuant to the implementation arrangements carried out by means of visits of participating personnel), for example, when the Parties, participating institutions, or participating personnel have agreed in advance on the scope of work, each Party shall be entitled to obtain all rights and interests in its own territory. Rights and interests in third countries will be determined in implementing arrangements. If research is not designated as "joint research" in the relevant implementing arrangement, rights to intellectual property arising from the research will be allocated in accordance with paragraph II (B)(1). In addition, each person named as an inventor shall be entitled to share in a portion of any royalties earned by either institution from the licensing of the property.

(b) Notwithstanding paragraph II (B)(2)(a), if a type of intellectual property is available under the laws of one Party but not the other Party, the Party whose laws provide for this type of protection shall be entitled to all rights and interests worldwide. Persons named as inventors of the property shall nonetheless be entitled to royalties as provided in paragraph IIB2(a).

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III. BUSINESS CONFIDENTIAL INFORMATION

In the event that information identified by the Parties or their designees 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.