

Originally Processed With FOIA(s):
2005-0336-F

FOIA Number:
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Series: O'Neil, John F., Files
Subseries: Russia Subject Files

OA/ID Number: 62093
Folder ID Number: 62093-005

Folder Title:
National Institute of Standards and Technology - Memo of Understanding

Stack:

Row:

Section:

Shelf:

Position:

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NIST MEMO

Started pre-coop
new Part of Business Dev Gp. of Sec Franklin
Strategy for Coop. in STLS to mutual benefit.
Keep viz a viz EC

George sees value in mtg to share info on
"Coop w/ Russia" on a more than annual basis

JTR - non-threatening environment
to share info on coop.

Continue dialogue in a way non-threatening
& w/ policy coordination

Ken (bad) 1) start ad bring in later
2) share text w/ Russia

Ken: ^{ATL} being doing work there

Sum: Keep informed of ways to do Research in ^{Rossmg/}scale

Talk w/ NIST on how best to do

This agreement is not impeding progress/coop

will provide on Contingency

1) expand Busi. Sci
2) Umbrella

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20506

May 28, 1992

MEMORANDUM FOR CATHLEEN CAMPBELL

FROM: JOHN F. O'NEIL *JFO*
SUBJECT: CIRCULAR 175 ON NIST MOU

The Office of Science and Technology Policy is fundamentally opposed to additional freestanding MOU's and prefers that MOU's be associated with an appropriate agreement. Over the past three years in our S&T relations with the former Soviet Union, and now Russia, we have worked to prevent a proliferation of freestanding instruments of cooperation.

In this particular instance, OSTP believes the Memorandum of Understanding on Scientific and Technical Cooperation in the Fields of Standards and Metrology between the National Institute of Standards and Technology of the United States and the Committee for Standardization and Metrology of the Russian Federation, does not fit under any existing agreement with Russia, including the Basic Sciences Agreement. It rightfully belongs under an Umbrella S&T Agreement. Until such time as there is interagency agreement on an Umbrella S&T Agreement, OSTP can not clear this request.

*7/20
Cleared on contingency that
we find appropriate agreement.*



United States Department of State

NIST
MOY

Bureau of Oceans and International
Environmental and Scientific Affairs

Washington, D.C. 20520

DATE: 5/26

NUMBER OF PAGES: 11
(Excluding Cover Sheet)

TO: John O'Neil

AGENCY/ROOM NO.: OSTP

OFFICE PHONE: _____

FAX NO.: _____

FROM: Anthony Campbell

AGENCY/ROOM NO.: _____

OES/SCT

Room 4330

OFFICE PHONE: _____

FAX NO.: 647-0773

MESSAGE:

ProLiferation the
We are fundamentally opposed to
free additional standing moves and prefer that that be
associated w/ some agreement. In this specific
instance, OSTP clear based on its expectation
of negotiating ^{adjoining} that of an Umbrella^{SE} Agreement w/ Russia.

Unless it can come under ex. 10 Agreement + it under way
OSTP can't concern ^{showing this move does not} ~~this move goes beyond~~ B/S
and should come an Umbrella. Until such time
as there is integrity agreement on an T OESF
cannot concern.



United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*

Washington, D.C. 20520
May 13, 1992

MEMORANDUM

TO: Distribution

FROM: OES/SCT - Martin Prochnik 

SUBJECT: Request for Circular 175 Authority to Negotiate and Conclude a Memorandum of Understanding on Scientific and Technical Cooperation in the Fields of Standards and Metrology between the National Institute of Standards and Technology of the United States of America and the Committee for Standardization and Metrology of the Russian Federation

The National Institute of Standards and Technology has requested Circular 175 authority to negotiate and conclude the subject Memorandum of Understanding (MOU) with the Russian Committee for Standardization and Metrology. A draft text and C-175 cover memo for an agreement were cleared interagency last summer. However, the coup attempt last August occurred before formal C-175 authority was granted.

A copy of the revised MOU and C-175 cover memo are attached. The proposed MOU reflects all changes requested last summer and is substantially the same as the text you cleared previously, with the exception of the intellectual property annex, which now follows the interagency agreed standard language.

In order that granting of Circular 175 authority for the subject MOU can proceed, we request you provide a final clearance of the text. Please provide your comments and clearance to Michael Andrews on 647-4068 no later than May 19, 1992.

Thank you for your assistance in this matter.

Attachment:
As stated.

Distribution:

L/T: GTaft
L/OES: SMurphy

EB/IFD/IPC: FBaron
EUR/ISCA: JTefft



United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*

Washington, D.C. 20520

May , 1992

MEMORANDUM

TO: OES - Mr. Bohlen

THROUGH: OES/S - Dr. Boright

FROM: OES/SCT - Martin Prochnik

SUBJECT: Request for Circular 175 Authority to Negotiate and Conclude a Memorandum of Understanding on Cooperation in the Field of Standards and Metrology between the National Institute of Standards and Technology of the United States of America and the Committee for Product Quality Control and Standards of the Russian Federation.

ISSUE FOR DECISION

Whether to grant Circular 175 authority to negotiate and conclude the subject Memorandum of Understanding (MOU) between the National Institute of Standards and Technology (NIST) and the Russian Committee for Product Quality Control and Standards (GOSSTANDART).

DESCRIPTION OF THE AGREEMENT

Purpose: To facilitate the expansion of cooperation in the fields of standards development and chemical, physical, and engineering metrology for the mutual benefit of both sides.

Background:

GOSSTANDART is the organization in the Russian Federation that has responsibilities for the development and enforcement of product standards and the measurement research (metrology) that supports the scientific operations of the system of quality assurance. In the United States, NIST has many of these same responsibilities. The two organizations had exchange agreements in the past, but have had no formal agreement for

-2-

several years. As interest has evolved in Russia toward a market economy, GOSSTANDART has requested an agreement be concluded that would allow occasional exchange of information and staff.

NIST is willing to enter into such an agreement because of benefits to the United States, (1) in obtaining up-to-date information on Russian standards and metrology developments, (2) through the opportunity to influence Russian developments as they move toward harmonization of their standards with United States, and/or international standards, and (3) through gaining knowledge of Russian scientific advances and/or the results of collaborative metrological research. The activities are expected to be balanced and reciprocal, and will provide American access to many Russian laboratories.

A text of the draft MOU is attached at Tab 1. Exchange visits carried out under the Memorandum will normally be of two to three week duration, and generally involve standards, measurement science, and the underlying physical and chemical science. NIST will accept only visitors who are working in fields in which NIST has a clear interest. With very few exceptions, NIST does not engage in classified work, and results of research conducted pursuant to the Memorandum will be published in the open literature.

SOURCE OF FUNDING

Activities under this Memorandum are subject to the availability of appropriated funds and personnel. The Department of State commits no funds or personnel to the implementation of this MOU.

ENVIRONMENTAL CONSIDERATIONS

NIST has determined that activities under the proposed MOU will have no significant effect on the environment of the United States; therefore, the preparation of an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 et seq.) is not required. Activities under the proposed MOU will not have adverse effect on the environment outside the United States, and the preparation of an environmental document under E.O. 12114 (January 4, 1979), "Environmental Effects Abroad of Major Federal Actions," also is not required.

CONGRESSIONAL CONSULTATIONS

H, OES, and NIST have determined that no Congressional consultations are necessary due to the routine and technical nature of this type of MOU.

- 3 -

INTELLECTUAL PROPERTY RIGHTS

Annex I of the MOU provides for the adequate and effective protection and allocation of intellectual property created or furnished under this MOU and relevant implementing agreements. The IPR annex uses the standard interagency-agreed language.

LEGAL AUTHORITY

On September 18, 1981, pursuant to Circular 175 procedures, the Under Secretary for Security Assistance, Science and Technology reconfirmed the authority of OES to approve the negotiation and conclusion of routine S & T agreements with other governments, subject to approval of the final texts by the appropriate regional bureau and L. Legal authority to negotiate and conclude this agreement is derived from the President's Constitutional powers (Article II) and his authority to represent the nation in foreign affairs, as exercised by the Secretary of State on a day-to-day basis (22 U.S.C. Section 2656). Additional authority is contained in 22 U.S.C. 2656d, which states that "the Secretary of Stateshall have primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries."

The legislative authority for NIST to enter into a Memorandum of Understanding of this type is provided by 15 U.S.C. 272, (b)(8) and (9), and (c)(5).

RECOMMENDATION

That you grant Circular 175 Authority for the negotiation and conclusion of the proposed MOU subject to the concurrence of OES, EUR, L and other bureaus and agencies, as appropriate, to any changes to the proposed text.

Approve: _____ Disapprove: _____

Date: _____

Attachments:

Tab 1 - Proposed MOU

Tab 2 - Memorandum to Amb. Bartholomew

DRAFT 4/7/92

**MEMORANDUM OF UNDERSTANDING ON
SCIENTIFIC AND TECHNICAL COOPERATION
IN THE FIELDS OF STANDARDS AND METROLOGY
BETWEEN
THE U.S. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY
AND
THE COMMITTEE FOR STANDARDIZATION AND METROLOGY
OF THE RUSSIAN FEDERATION**

The U.S. National Institute of Standards and Technology and the Committee for Standardization and Metrology, (hereinafter referred to as "the Parties"):

Recognizing the growing importance of international standards in the global marketplace;

Desiring to facilitate the expansion of cooperation between the Parties in standards development and chemical, physical, and engineering metrology; and

Taking into account their mutual interest and the scientific, technical, and trade benefits in developing such cooperation;

Have agreed as follows:

Article 1

Scientific and technical cooperation between the Parties should be realized in the following fields:

1. Enhancing the use of international standards in international trade;
2. The harmonization of the Parties' national standards and conformity assessment practices and the further harmonization of those standards and practices with international standards, practices, and guidelines;
3. Mutual development of new methods, technical means and reference materials for different types of measurements;
4. Harmonization of standards for legal metrology;

5. Research in precise measurements of physical quantities and comparison of standards of basic physical units;
6. Fundamental research in chemical, physical, and engineering metrology; and
7. Other activities related to standards and/or metrology as may be mutually agreed.

Article 2

Scientific and technical cooperation between the Parties in subjects specified in Article 1 may take the following forms:

1. Exchange of scientific and technical information and documents;
2. Reciprocal visits of experts and research scientists;
3. Mutual consultations concerning the analysis of policy, and scientific and technical problems; and
4. Collaborative research, developments and tests, exchange of results and experience obtained.

All activities are subject to the applicable laws and regulations of the Parties and to the availability of funds. Scientific exchanges will be carried out under the principle of mutual benefit and reciprocity.

Article 3

1. Nominations of scientists or experts for exchange visits will be submitted to the receiving Party no later than three months before the proposed date for starting the visit. For each person nominated, the sending Party will provide the following information: the full name of the expert, date and place of birth, education and academic degrees, place of work, scientific specialty, a list of main scientific works and publications, the proposed program of scientific work with a suggested list of the scientific establishments or laboratories to be visited and the scientists to be met, knowledge of foreign languages, topics of lectures that could be delivered by the expert, proposed date of arrival, and the length of stay.
2. The receiving Party will respond to this nomination no later than two months after its receipt. If the nomination is acceptable, the receiving Party will inform the sending Party of a possible date of arrival of the expert in the country and will give its agreement to the program or will propose alternatives to the program.

3. After receiving the consent of the receiving Party to accept a given expert, the sending Party shall inform the receiving Party by telegram or telex, two weeks or more in advance, of the exact date of the arrival of the expert in the country.
4. The Parties will facilitate the timely receipt of visas by the experts travelling in accordance with this Memorandum.

Article 4

1. Each Party will provide experts of the other Party the opportunity to conduct scientific research work in laboratories and libraries without cost;
2. The receiving Party will bear expenses for procuring such materials, apparatus, literature, photocopies and microfilm as are essential for the completion of the agreed plan of work by experts of the sending Party.
3. As both Parties acknowledge the importance and desirability of periodic working meetings of their officers to discuss implementation and cooperation, the Parties agree to meet at least annually at a mutually convenient location.

Article 5

The Director for International and Academic Affairs of the U.S. National Institute of Standards and Technology and the Head of the International Cooperation Section of the Committee for Standardization and Metrology will be the Executive Agents and will conduct administrative affairs in connection with cooperation under this Memorandum.

Article 6

Protection of intellectual property and rights thereto are set forth in Annex I, which is an integral part of this Memorandum.

Article 7

Nothing in this Memorandum shall be construed to prevent either Party from carrying out cooperation with third countries in the fields covered by this Memorandum.

Article 8

1. This Memorandum shall enter into force upon signature by both Parties and shall remain in force for five years.
2. Either Party may terminate this Memorandum upon 60 days written notification. Specific projects that may be underway at the time of termination of this Memorandum may be continued if mutually agreed in writing.
3. This Memorandum may be amended or extended by written agreement of the Parties.

FOR THE U.S. NATIONAL INSTITUTE
OF STANDARDS AND
TECHNOLOGY:

FOR THE COMMITTEE
FOR STANDARDIZATION
AND METROLOGY:

Signature

Signature

Place

Place

Date

Date

ANNEX IINTELLECTUAL PROPERTY

Pursuant to Article VI 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.

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.

- 2 -

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.

2. (a) For intellectual property created during joint research, 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 IIB1. 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 IIB2(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).

- 3 -

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.

This initiative stems from the President's
last meeting w/ Yel at Camp David



United States Department of State

Bureau of Oceans and International
Environmental and Scientific Affairs

Washington, D.C. 20520

DATE: 5/14/92
NUMBER OF PAGES: 18
(Excluding Cover Sheet)

TO: <u>John O'Neil</u>	
AGENCY/ROOM NO.: <u>OSTP</u>	
OFFICE PHONE: _____	FAX NO.: _____
FROM: <u>Cathy Campbell</u>	
AGENCY/ROOM NO.: <u>OES/SCT</u>	Room <u>4330</u>
OFFICE PHONE: _____	FAX NO.: <u>647-0773</u>

MESSAGE:

Here's the NIST man.

John O'Neil

*To Ann, Done 5/14/92
Pls provide Sarg
a copy of both of
these, and the
Agreement to
Nancy. Thanks Jch*



United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*Washington, D.C. 20520
May 13, 1992MEMORANDUM

TO: Distribution

FROM: OES/SCT - Martin Prochnik 

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Attachment:
As stated.

Distribution:

L/T: GTaft
L/OES: SMurphy

EB/IFD/IPC: FBaron
EUR/ISCA: JTefft



United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*

Washington, D.C. 20520

May , 1992

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THROUGH: OES/S - Dr. Boright

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SOURCE OF FUNDING

Activities under this Memorandum are subject to the availability of appropriated funds and personnel. The Department of State commits no funds or personnel to the implementation of this MOU.

ENVIRONMENTAL CONSIDERATIONS

NIST has determined that activities under the proposed MOU will have no significant effect on the environment of the United States; therefore, the preparation of an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) is not required. Activities under the proposed MOU will not have adverse effect on the environment outside the United States, and the preparation of an environmental document under E.O. 12114 (January 4, 1979), "Environmental Effects Abroad of Major Federal Actions," also is not required.

CONGRESSIONAL CONSULTATIONS

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- 3 -

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LEGAL AUTHORITY

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RECOMMENDATION

That you grant Circular 175 Authority for the negotiation and conclusion of the proposed MOU subject to the concurrence of OES, EUR, L and other bureaus and agencies, as appropriate, to any changes to the proposed text.

Approve: _____ Disapprove: _____

Date: _____

Attachments:

Tab 1 - Proposed MOU

Tab 2 - Memorandum to Amb. Bartholomew

- 4 -

Drafted: OES/SCT:CACampbell/MAndrews 5/11/91
647-3632 SESCTA 5833

Cleared:

EUR/SOV/SOEX:JMcGhee
L/OES:JO'Brien
FMP/MP:AFairchild
FMP/BP:PGartabane
USIR:CSuro-Bredie
DOI/ITA:DSenese
COMEX:JDearlove
DOJ:GSchroeder
HHS/PHS:PHenry
NASA:JClapp
NIST:GSinnott
NSF:GSher
S/P:CDawson

L/T:Gtaft
H:SStyles
EB/IFD/IPC:FBaron
OMB:JNix
DOC/ITA:Sfox
CIA:PCocks
DOD/OASACW:KCook
DOT:VMack
HUD/OIA:JGeraghty
NAVY:STuretsky
NOAA:BMoore
NTIS:JHounsell
SMITH:FBerkowitz

OES/EX:JLewis
OES:LStrachen
OSTP:JO'Neil
DOD/DTEA:JThomas
DOE/IE:HJaffe
EPA/OIA:WFreeman
NAS:GWaxmonsky
NIH:GHandley
NRC:EShomaker
NSC:EMelby
USDA/OICS:RHughes
USGS:PHeain
TREAS:EMurphy

DRAFT 4/7/92

**MEMORANDUM OF UNDERSTANDING ON
SCIENTIFIC AND TECHNICAL COOPERATION
IN THE FIELDS OF STANDARDS AND METROLOGY
BETWEEN
THE U.S. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY
AND
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Recognizing the growing importance of international standards in the global marketplace;

Desiring to facilitate the expansion of cooperation between the Parties in standards development and chemical, physical, and engineering metrology; and

Taking into account their mutual interest and the scientific, technical, and trade benefits in developing such cooperation;

Have agreed as follows:

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1. Enhancing the use of international standards in international trade;
2. The harmonization of the Parties' national standards and conformity assessment practices and the further harmonization of those standards and practices with international standards, practices, and guidelines;
3. Mutual development of new methods, technical means and reference materials for different types of measurements;
4. Harmonization of standards for legal metrology;

5. Research in precise measurements of physical quantities and comparison of standards of basic physical units;
6. Fundamental research in chemical, physical, and engineering metrology; and
7. Other activities related to standards and/or metrology as may be mutually agreed.

Article 2

Scientific and technical cooperation between the Parties in subjects specified in Article 1 may take the following forms:

1. Exchange of scientific and technical information and documents;
2. Reciprocal visits of experts and research scientists;
3. Mutual consultations concerning the analysis of policy, and scientific and technical problems; and
4. Collaborative research, developments and tests, exchange of results and experience obtained.

All activities are subject to the applicable laws and regulations of the Parties and to the availability of funds. Scientific exchanges will be carried out under the principle of mutual benefit and reciprocity.

Article 3

1. Nominations of scientists or experts for exchange visits will be submitted to the receiving Party no later than three months before the proposed date for starting the visit. For each person nominated, the sending Party will provide the following information: the full name of the expert, date and place of birth, education and academic degrees, place of work, scientific specialty, a list of main scientific works and publications, the proposed program of scientific work with a suggested list of the scientific establishments or laboratories to be visited and the scientists to be met, knowledge of foreign languages, topics of lectures that could be delivered by the expert, proposed date of arrival, and the length of stay.
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4. The Parties will facilitate the timely receipt of visas by the experts travelling in accordance with this Memorandum.

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1. Each Party will provide experts of the other Party the opportunity to conduct scientific research work in laboratories and libraries without cost;
2. The receiving Party will bear expenses for procuring such materials, apparatus, literature, photocopies and microfilm as are essential for the completion of the agreed plan of work by experts of the sending Party.
3. As both Parties acknowledge the importance and desirability of periodic working meetings of their officers to discuss implementation and cooperation, the Parties agree to meet at least annually at a mutually convenient location.

Article 5

The Director for International and Academic Affairs of the U.S. National Institute of Standards and Technology and the Head of the International Cooperation Section of the Committee for Standardization and Metrology will be the Executive Agents and will conduct administrative affairs in connection with cooperation under this Memorandum.

Article 6

Protection of intellectual property and rights thereto are set forth in Annex I, which is an integral part of this Memorandum.

Article 7

Nothing in this Memorandum shall be construed to prevent either Party from carrying out cooperation with third countries in the fields covered by this Memorandum.

Article 8

1. This Memorandum shall enter into force upon signature by both Parties and shall remain in force for five years.
2. Either Party may terminate this Memorandum upon 60 days written notification. Specific projects that may be underway at the time of termination of this Memorandum may be continued if mutually agreed in writing.
3. This Memorandum may be amended or extended by written agreement of the Parties.

FOR THE U.S. NATIONAL INSTITUTE
OF STANDARDS AND
TECHNOLOGY:

FOR THE COMMITTEE
FOR STANDARDIZATION
AND METROLOGY:

Signature

Signature

Place

Place

Date

Date

ANNEX IINTELLECTUAL PROPERTY

Pursuant to Article VI of this Agreement:

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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 or their designees agree otherwise in writing, the arbitration rules of UNCITRAL shall govern.

E. Termination or expiration of this Agreement shall not effect 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.

2. (a) For intellectual property created during joint research, 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 IIB1. 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 IIB2(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 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.