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Ministry of External Relations and Trade

AGREEMENT

FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION
BETWEEN THE GOVERNMENT OF NEW ZEALAND AND
THE GOVERNMENT OF THE UNITED STATES OF
AMERICA

Washington, 21 May 1991
[In force, 21 May 1991]

Presented to the House of Representatives

AGREEMENT
FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION
BETWEEN THE
GOVERNMENT OF NEW ZEALAND
AND THE
GOVERNMENT OF THE UNITED STATES OF AMERICA

The Government of New Zealand and the Government of the United States of America,

Desiring to advance the boundaries of knowledge useful in improving man's well-being, and

Recognising the mutual benefits of scientific and technological cooperation,

Have agreed as follows:

ARTICLE I

The two Governments will jointly establish and implement a program of scientific and technological cooperation for peaceful purposes in agreed areas of mutual interest.

ARTICLE II

Cooperative activities shall be the subject of such specific arrangements as may be deemed appropriate.

ARTICLE III

Scientific and technological cooperation under this Agreement may take such forms as may be deemed appropriate, including but not limited to:

- (a) Joint or coordinated planning, support or implementation of projects;
- (b) Exchange of scientific and technological information subject to the provisions of Article V of this Agreement;
- (c) Establishment, operation and utilisation of scientific and technological installations relating to individual projects;
- (d) Exchange of scientific and technical personnel relating to projects or cooperative activities under this Agreement.

ARTICLE IV

The support of cooperative activities under this Agreement shall be as agreed to in the specific arrangements referred to in Article II and shall be subject to the availability of funds. In general each Government will bear the costs for discharging its responsibilities in cooperative activities.

ARTICLE V

- (a) Scientific and technological information of a non-proprietary nature resulting from cooperation under this Agreement will be made available to the world scientific community through customary channels and in accordance with normal procedures.
- (b) The protection and disposition of intellectual property created or introduced in the course of cooperative activities under this Agreement shall be governed by Annex I which constitutes an integral part of this Agreement.

ARTICLE VI

- (a) Each Government shall facilitate, consistent with law, the entry into and exit from its territory or scientific and technical personnel engaged in cooperative activities under this Agreement, as well as their families.
- (b) Each Government shall facilitate, consistent with law, the entry into and exit of equipment and materials to be utilised in cooperative activities under this Agreement, as well as the personal effects of scientific and technical personnel and of their families.

ARTICLE VII

Each Government shall designate an Executive Agent responsible for the coordination and facilitation of cooperative activities under this Agreement. These agents shall consult with a view to developing such cooperative activities.

ARTICLE VIII

Existing arrangements and agreements between the Governments relating to cooperation in science and technology shall not be affected by this Agreement. However, they may be incorporated into the framework of this Agreement as may be agreed by the Governments.

ARTICLE IX

Nothing in this Agreement shall preclude or prejudice scientific and technological cooperation by nationals of New Zealand and the United States of America outside the provisions of this Agreement.

ARTICLE X

Scientific and technical personnel, agencies, organisations and institutions of third countries may be invited to participate in projects and cooperative activities under this Agreement with the joint approval of the Governments of New Zealand and the United States.

ARTICLE XI

The two Governments shall jointly review the progress of this Agreement from time to time.

ARTICLE XII

This Agreement shall enter into force on signature. Upon entry into force it shall supersede the Agreement for Scientific and Technological Cooperation between the Government of New Zealand and the Government of the United States of America of 27 February 1974, as extended.¹

ARTICLE XIII

(a) This Agreement shall remain in force unless terminated upon six months' notice by either of the two Governments. The termination of the Agreement shall not affect the validity or duration of any arrangement made in accordance with Article II.

(b) Five years from the date on which this Agreement has entered into force and thereafter at five-yearly intervals, the Agreement shall be reviewed if either Government so requests by notice through the diplomatic channel.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed the present Agreement.

DONE in duplicate at Washington this twenty-first day of May 1991 in the English language.

For the Government of
New Zealand
DENIS MARSHALL

For the Government of the
United States of America
E. U. CURTIS BOHLEN

¹NZTS 1974, No. 2

ANNEX I
INTELLECTUAL PROPERTY

PREAMBLE

Pursuant to Article V of this Agreement;

The two Governments shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant implementing arrangements. The Governments agree to notify one another in a timely fashion of any inventions or claim to copyright 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.

ARTICLE 1
SCOPE

1. This Annex is applicable to all cooperative activities undertaken pursuant to this Agreement, except as otherwise specifically agreed by the two Governments or their designees.

2. 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.

3. This Annex addresses the allocation of rights, interests, and royalties between the two Governments. Each Government shall ensure that the other Government 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 of intellectual property rights between a Government and its nationals, which shall be determined by that Government's laws and practices.

4. Disputes concerning intellectual property arising under this Agreement should be resolved through discussions between the participating institutions concerned, or, if necessary, the two Governments or their designees. Upon mutual agreement of the two Governments, a dispute shall be submitted to an arbitral tribunal for binding arbitration in accordance with the applicable rules of international law. Unless the two Governments or their designees agree otherwise in writing, the arbitration rules of UNCITRAL shall govern.

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

ARTICLE 2
ALLOCATION OF RIGHTS

1. Subject to Article 3 of this Annex, each Government 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 work prepared under this provision shall indicate the names of the authors of the work unless an author explicitly declines to be named.

2. Subject to Articles 1.1, 2.1, and 3 of this Annex, rights to all forms of intellectual property covered by this Agreement shall be allocated as follows:

- (a) 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 shall be entitled to national treatment with respect to royalties, bonuses, awards, payments, or any other reward in accordance with the law and with the policies of the host institution.
- (b) i For intellectual property created during joint research, for example, when the two Governments, participating institutions, or participating personnel have agreed in advance on the scope of work, each Government 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 2.2 (a). In addition, each visiting researcher shall be entitled to national treatment with respect to royalties, bonuses, awards, payments, or any other reward in accordance with the law and with the policies of the host institution.
- ii Notwithstanding paragraph 2.2 (b) i, if the intellectual property is of a type for which protection is available under the laws of one Government but not the other Government, the Government whose laws provide for this type of protection shall be entitled to all rights and interests worldwide. Each visiting researcher shall, with respect to the property, nonetheless be entitled to national treatment with respect to royalties, bonuses, awards, payments, or any other reward in accordance with the law and with the policies of the host institution.

ARTICLE 3
BUSINESS-CONFIDENTIAL INFORMATION

In the event that information identified, within a reasonable amount of time, as business-confidential is furnished or created under the Agreement, each Government 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.