SCIENTIFIC COOPERATION

Agreement Between the
UNITED STATES OF AMERICA
and DENMARK

Signed at Copenhagen September 15, 2009

with

Annexes

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

". . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

DENMARK

Scientific Cooperation

Agreement signed at Copenhagen September 15, 2009;
Entered into force September 15, 2009.
With annexes.

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE KINGDOM OF DENMARK FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

The Government of the United States of America and the Government of the Kingdom of Denmark (hereinafter referred to as "the Parties");

Convinced the importance of science and technology for their economic and social development;

Recognizing that the Parties are pursuing research and technological activities in a number of areas of common interest, and that participation in each other's research and development activities on a basis of reciprocity will provide mutual benefits;

Desiring to establish a formal basis for cooperation in scientific and technological research which will extend and strengthen the conduct of cooperative activities in areas of common interest and encourage the application of the results of such cooperation to their economic and social benefit;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

1. The Parties shall encourage, develop and facilitate cooperative activities in fields of common interest where they are pursuing research and development activities in science and technology.

ARTICLE 2

For the purposes of this Agreement:

1. "Cooperative activity" means any activity which the Parties undertake or support pursuant to this Agreement;

2. "Information" means scientific or technical data, results or methods of research and development stemming from cooperative activities, and any other data relating to cooperative activities;

3. "Intellectual Property" means the subject matter listed in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm July 14, 1967, and may include other subject matter as agreed by the Parties;

4. "Participants" means any individual or entity, including, inter alia, the Parties' scientific and technological organizations and agencies, private persons, undertakings, research centers, universities and colleges, subsidiaries of U.S. and Danish entities, or any other legal entity involved in cooperative activities;

5. "Science" shall include all fields of research.

ARTICLE 3

Cooperative activities shall be conducted on the basis of the following principles:

1. Mutual benefit based on an overall balance of advantages;

2. Reciprocal opportunities to engage in cooperative activities;

3. Equitable and fair treatment for the participants; and

4. Timely exchange of information which may affect cooperative activities.

ARTICLE 4

1. Priority will be given to collaboration that can advance common goals in science and technological research.

2. The Parties may jointly pursue cooperative activities with third parties.

ARTICLE 5

1. Subject to applicable laws, regulations and policies, the Parties shall foster, to the fullest extent practicable, the involvement of participants in cooperative activities under this Agreement with a view to providing comparable opportunities for participation in their scientific and technological research and development activities.

2. Cooperative activities may take the following forms:

   a. coordinated research projects;

   b. joint task forces;

   c. joint studies;

   d. joint organization of scientific seminars, conferences, symposia and workshops;

   e. training of PhD students, scientists and technical experts;

   f. exchanges or sharing of equipment and materials;

   g. visits and exchanges of PhD students, scientists, engineers or other appropriate personnel;

   h. exchanges of scientific and technological information as well as information on practices, laws, regulations and programs relevant to cooperation under this Agreement.

ARTICLE 6

1. The coordination and facilitation of cooperative activities under this Agreement shall be carried out on behalf of the Government of the United States of America by the Department of State, and on behalf of the Government of the Kingdom of Denmark by the Ministry of Science, Technology and Innovation or a Government- appointed Executive Agent. The Parties or their duly authorized representatives shall meet regularly to decide which common goals should be given priority and how to promote the cooperation. For this purpose a joint committee with representatives from each Party shall be established.

2. Upon request of either Party, representatives of the Parties shall meet to consider matters related to the implementation of this Agreement. Groups of experts may be designated to discuss specific questions.

3. Each Party shall designate a national contact person to maintain contacts between meetings.

4. Requests for authorization for access to the waters under national jurisdiction for the purpose of scientific research shall be sent through diplomatic channels, and each Party will treat those requests with diligence, taking into account the significance of these activities to the advancement of scientific knowledge.

5. Where appropriate, cooperative activities under this Agreement shall take place pursuant to implementing arrangements concluded between the Parties or their participants. These arrangements may describe, as appropriate, the nature and the duration of cooperation for a specific area or purpose, treatment of intellectual property, funding, allocation of costs, and other relevant matters. The implementing arrangements should make a reference to this Agreement. Any arrangements deviating from any of the provisions in this Agreement, including the Annex, shall be concluded in writing.

ARTICLE 7

1. Cooperative activities shall be subject to the availability of appropriated funds, resources, and personnel and to the applicable laws and regulations, policies and programs of the United States of America and Denmark.

2. Unless otherwise provided for in an implementing arrangement, each Party or participant shall bear the costs of its participation and that of its personnel engaged in cooperative activities under this Agreement.

ARTICLE 8

1. Each Party shall take all reasonable steps and use its best efforts, within applicable laws and regulations, to facilitate entry to and exit from its territory of persons, material, data and equipment involved in or used in cooperative activities under this Agreement.

2. Each Party shall endeavor to ensure that all participants in agreed cooperative activities under this Agreement have access to facilities and personnel within its country as needed to carry out those activities.

ARTICLE 9

1. The allocation and protection of intellectual property rights under this Agreement shall be in accordance with the provisions of Annex I unless the Parties or their designees agree otherwise in writing.

2. Reciprocal security obligations related to sensitive information or equipment and unclassified export-controlled information or equipment transferred under the Agreement are contained in Annex II. Annexes I and II form integral parts of this Agreement.

ARTICLE 10

1. The Parties shall endeavour, where appropriate, to bring under the terms of this Agreement new arrangements that facilitate scientific and technological cooperation between the Parties that fall under the scope of Article

2. This Agreement is without prejudice to rights and obligations under other agreements between the Parties and any agreement or arrangement between either of the Parties and any third parties.

ARTICLE 11

1. This Agreement shall enter into force on the date of signature thereof.

2. This Agreement may be terminated at any time by either Party upon six months' written notice to the other Party. The expiration or termination of this Agreement shall not affect the validity or duration of any arrangements made under it, or any specific obligations that have accrued in compliance with the Annex.

3. This Agreement may be amended by written agreement of the Parties.

4. All questions or disputes related to the interpretation or implementation of this Agreement shall be settled by mutual agreement of the Parties. This paragraph does not affect any implementing arrangement between non-governmental participants.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at Copenhagen, in duplicate, this 15th day of September, 2009, in the English language.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT THE KINGDOM OF DENMARK:

ANNEX A

Intellectual Property Rights

I. General Obligation

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant implementing arrangements. Rights to such intellectual property shall be allocated as provided in this Annex.

II. 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 mean the subject matter listed in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967 and may include other subject matter as agreed by the Parties.

C. Each Party shall ensure, through contracts or other legal means with its own participants, if necessary, that the other Party can obtain the rights to intellectual property allocated in accordance with this Annex. 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 This Annex does not preclude Participants from mutally agreeing to more detailed arrangements for the allocation of rights to intellectual property arising from cooperative activities under the Agreement, provided that such arrangements are consistent with the terms of this Annex, national laws and regulations, and funding instruments.

D. Except as otherwise provided in this Agreement, disputes concerning intellectual property arising under this Agreement shall 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.

III. Allocation of Rights

A. To the extent consistent with applicable national laws, 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 paragraph IIIA. 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) 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 concerned participants, or if necessary the Parties, or their designees, shall immediately hold discussions to determine the allocation of rights to the intellectual property. Pending

the resolution of the matter, the intellecutal property shall not be commercially exploited except by mutual agreement. . 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.

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, and 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.

ANNEX B

SECURITY OBLIGATIONS

I. PROTECTION OF INFORMATION

Unless otherwise agreed in relevant implementing arrangements, no information or equipment requiring protection in the interests of national defense or foreign relations of either Party and classified in accordance with the applicable national laws and regulations shall be provided under this Agreement. In the event that information or equipment which is known or believed to require such protection is identified in the course of cooperative activities undertaken pursuant to this Agreement, it will be brought immediately to the attention of the appropriate officials and the Parties shall consult concerning the need for and level of appropriate protection to be accorded such information or equipment.

II. TECHNOLOGY TRANSFER

The transfer of export-controlled information or equipment between the two countries shall be in accordance with the relevant laws and regulations of each Party to prevent the unauthorized transfer or retransfer of such information or equipment provided or produced under this Agreement. If either Party deems necessary, detailed provisions for the prevention of unauthorized transfer or retransfer of such information or equipment shall be incorporated into the contracts or implementing arrangements.