SCIENTIFIC COOPERATION

Earth Sciences

Memorandum of Understanding

Between the

UNITED STATES OF AMERICA

and SAMOA

Signed at Reston and Apia
March 27 and June 4, 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."

SAMOA

Scientific Cooperation: Earth Sciences

Memorandum of understanding signed
at Reston and Apia March 27 and June 4, 2009;
Entered into force June 4, 2009.
With annexes.

SO-01.0000

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U.S. GEOLOGICAL SURVEY
OF THE
DEPARTMENT OF THE INTERIOR
OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE
APIA OBSERVATORY
OF THE
MINISTRY OF NATURAL RESOURCES AND ENVIRONMENT
OF THE GOVERNMENT OF
THE INDEPENDENT STATE OF SAMOA
CONCERNING
SCIENTIFIC AND TECHNICAL COOPERATION
IN THE EARTH SCIENCES

ARTICLE I. SCOPE AND OBJECTIVES

1. The U.S. Geological Survey of the Department of the Interior of the Government of the United States of America (hereinafter "USGS") and the Apia Observatory of the Ministry of Natural Resources and Environment of the Government of the Independent State of Samoa (hereinafter "Observatory"), hereby agree to pursue scientific and technical cooperation in the earth sciences in accordance with this Memorandum of Understanding (hereinafter "Memorandum").

2. The purpose of this Memorandum is to provide a framework for the exchange of scientific and technical knowledge and the augmentation of scientific and technical capabilities of the USGS and Observatory (hereinafter "Party" or "Parties") with respect to the earth sciences.

3. The Parties shall encourage and facilitate, where appropriate, the development of direct contacts and cooperation among government agencies, universities, research centers, institutions, private sector companies, and other entities of the two Parties.

4. Each Party may, with the consent of the other Party and to the extent permitted by the laws and policies of each Party's Government, invite other government entities or agencies of the United States of America and the Independent State of Samoa, and other entities, including scientists, technical experts, governmental agencies and institutions of third countries or international organizations, to participate in activities undertaken pursuant to this Memorandum, subject to such terms and conditions as the Parties may specify.

ARTICLE II. COOPERATIVE ACTIVITIES

1. Forms of cooperation under this Memorandum may consist of exchanges of technical information, visits, participation in training courses, conferences and symposia; the exchange of professional geoscientists in areas of mutual interest; and any other cooperative research consistent with programs of the Parties. Specific areas of cooperation may include, but are not limited to, such areas of mutual interest as:

    A. Earth-science investigations, including hazards, resources and the environment;

    B. Biology, biological investigations, and technical developments;

    C. Geographic and geospatial analysis and investigations;

    D. Water resources and other hydrologic investigations; and

    E. Information systems.

2. Activities under this Memorandum shall be undertaken in accordance with the laws, regulations, and procedures of the two countries.

ARTICLE III. AVAILABILITY OF RESOURCES

Cooperative activities under this Memorandum shall be subject to the availability of personnel, resources, and funds. This Memorandum shall not be construed to obligate any particular expenditure or commitment of resources or personnel. In accordance with Article IX below, the Parties shall agree in writing upon specific Project Annexes before the commencement of any activity pursuant to this Memorandum.

ARTICLE IV. FEE AND TAX EXEMPTION

In accordance with its laws and regulations, each Party shall work toward obtaining on behalf of the other Party, relief from taxes, fees, customs duties, and other charges (excluding fees for specific services rendered) levied with respect to:

A. All transfer, ownership, construction, renovation, or maintenance of facilities or property by or on behalf of the other Party to implement this Memorandum.

B. The import, purchase, ownership, use, or disposition (including export) of goods and services by or on behalf of the other party in support of activities under this Memorandum; and

C. Personal property of personnel of the other Party or entities of that Party implementing provisions of this Memorandum.

ARTICLE V. INTELLECTUAL PROPERTY

Provisions for the protection and distribution of intellectual property created or furnished in the course of cooperative activities under this Memorandum shall be governed by Annex I, which forms an integral part of this Memorandum.

ARTICLE VI. SECURITY OBLIGATIONS

Provisions for the protection of classified information and unclassified export-controlled information and equipment are set forth in Annex II, which forms an integral part of this Memorandum.

ARTICLE VII. DISCLAIMER

Information transmitted by one Party to the other Party under this Memorandum shall be accurate to the best knowledge and belief of the transmitting Party, but the transmitting Party does not warrant the suitability of the information transmitted for any particular use or application by the receiving Party or by any third Party.

ARTICLE VIII. PLANNING AND REVIEW OF ACTIVITIES

Each Party shall designate a principal representative who, at such times as are mutually agreed upon by the Parties, shall meet to review the activities under this Memorandum and develop proposals for future activities, as appropriate.

ARTICLE IX. PROJECT ANNEXES

Any activity carried out under this Memorandum shall be agreed upon in advance by the Parties in writing. Whenever more than the exchange of technical information or visits of individuals are planned, such activity shall be described in an agreed Project Annex to this Memorandum, which shall set forth, in terms appropriate to the activity, a work plan, staffing requirements, cost estimates, funding sources, and other undertakings, obligations, or conditions not included in this Memorandum. In the case of any inconsistency between the terms of this Memorandum and the terms of a Project Annex, the terms of this Memorandum shall control.

ARTICLE X. ENTRY INTO FORCE AND TERMINATION

This Memorandum shall enter into force upon signature and remain in force until terminated by either Party upon ninety (90) days prior written notice to the other Party. Unless otherwise agreed, the termination of this Memorandum, shall not affect the validity or duration of projects

under this Memorandum that have been initiated prior to such termination. This Memorandum may only be amended by mutual written agreement of the Parties.

Done at Reston, and Apia, in duplicate, in the English language.

FOR THE U.S. GEOLOGICAL SURVEY OF THE DEPARTMENT OF THE INTERIOR OF GOVERNMENT OF THE UNITED STATES OF AMERICA:

Suzette M. Kimball

Signature

Suzette M. Kimball

Name

Acting Director

Title

27 March 2009

Date

FOR THE APIA OBSERVATORY OF THE MINISTRY OF NATURAL RESOURCES AND ENVIRONMENT OF THE INDEPENDENT STATE OF SAMOA:

Signature

Mulipola A. Titimaea

Name

Asst. Chief Executive Officer

Title

4 June 2009

Date

ANNEX I

Intellectual Property Rights

Pursuant to Article V of this Memorandum:

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 this 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.

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 Paragraph 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 country. 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, right to intellectual property arising from the research will be allocated in accordance with paragraph II.B.(1) above. 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) above, 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 or authors of the property shall nonetheless be entitled to royalties as provided in paragraph
II.B.2(a).

III. 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, 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 II

SECURITY OBLIGATIONS

I. Protection of Sensitive Technology

Both Parties agree that no information or equipment requiring protection in the interest of national defense or foreign relations and classified in accordance with its applicable national laws and regulations shall be provided under this Memorandum. In the event that information
or equipment which is known or believed to require such protection is identified in the course
of cooperative activities pursuant to this Memorandum, it shall be brought immediately to the attention of the appropriate officials and the Parties shall consult to identify appropriate security measures to be agreed upon by the Parties in writing and applied to this information and equipment and shall, if appropriate, amend this Memorandum to incorporate such measures.

II. Technology Transfer

The transfer of unclassified export-controlled information or equipment between the Parties shall be in accordance with the relevant laws and regulations of each Party. If either Party deems it necessary, detailed provisions for the prevention of unauthorized transfer or retransfer of such information or equipment shall be incorporated into the contracts or project annexes. Export controlled information shall be marked to identify it as export controlled and identify any restrictions on further use or transfer.