

**AGREEMENT  
AMONG  
THE GOVERNMENT OF CANADA,  
THE GOVERNMENT OF THE UNITED MEXICAN STATES  
AND  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
FOR COOPERATION IN  
ENERGY SCIENCE AND TECHNOLOGY**

The Government of Canada, the Government of the United Mexican States, and the Government of the United States of America (the “Parties”);

Recognizing the long history of cooperation among their respective government authorities responsible for the energy sector, and desiring to expand that cooperation on a trilateral basis, with a view to joint planning of energy science and technology programs and the equitable allocation of research tasks within joint programs or projects;

Considering the interest of the leaders of Canada, the United Mexican States, and the United States of America to foster communication and cooperation among the three countries on energy-related matters of common interest and to enhance North American energy interconnections consistent with the goal of sustainable development, for the benefit of all;

Noting the formation of the trilateral North American Energy Working Group for cooperation in energy science and technology to work on identifying opportunities for cooperation in energy technology fields that are of common interest, and to foster collaboration among laboratories, scientists, universities, institutes, and industry of the Parties’ countries; and

Believing that trilateral initiatives in which the Parties cooperate through sharing tasks, facilities, scientific and technical information, costs and human resources can enhance accomplishment of their respective objectives more efficiently and cost-effectively;

Have agreed as follows:

## **ARTICLE 1 – DEFINITIONS**

For the purposes of this Agreement:

“Cooperative Activity” means scientific and technological research, including joint research programs, or other activities, implemented pursuant to this Agreement with the approval of the Implementing Agents.

“Equipment” means any equipment, end item, subsystem, instrumentation, component or test equipment acquired or provided for use in research, development, testing, and evaluation or other Cooperative Activity.

“Implementing Agent” means the governmental ministry, department, agency or other entity designated by a Party to implement this Agreement on its behalf. The Parties’ designated Implementing Agents are: for the Government of Canada, the Department of Natural Resources; for the Government of the United Mexican States, the Secretariat of Energy; for the Government of the United States of America, the Department of Energy. A Party may change its Implementing Agent at any time by notification to the other Parties through diplomatic channels.

“Implementing Arrangement” means a written arrangement signed by two or more Parties, their Implementing Agents, or federal governmental entities designated by those Implementing Agents for the conduct of Cooperative Activity.

“Information” means recorded scientific or technical data, regardless of the form or the media on which it may be recorded.

“Participant” means a Party, its Implementing Agent, and, in coordination with the Implementing Agent, any other interested federal or non-federal entity, private sector entity, or academic institution that participates in Cooperative Activity.

“Personnel” means an Implementing Agent’s staff or contractors.

## **ARTICLE 2 – OBJECTIVE**

1. The objective of this Agreement is to facilitate and promote bilateral and trilateral cooperation where the programs of one Party complement or strengthen those of one or both of the other Parties. In entering into this Agreement, the overarching goal of the Parties is to foster bilateral and trilateral energy research and development, and deployment of advanced energy technologies for peaceful uses on the basis of mutual benefit, equality and reciprocity.

2. The Parties shall encourage and facilitate, where appropriate, the development under this Agreement of direct contacts and cooperation between other entities, including government agencies, universities, science and research centers, institutes and institutions, private sector firms and other entities of the Parties.

### **ARTICLE 3 – AREAS OF COOPERATION**

Cooperation under this Agreement may include research, development, and deployment in the areas of renewable energy, energy efficiency, nuclear energy, fossil fuels and electricity, with a view to advancing science and technology in:

- a. Low, or zero emission energy production and end-use technologies;
- b. Low carbon fuels;
- c. Technology for cyber security related to energy infrastructure;
- d. Carbon dioxide (CO<sub>2</sub>) sequestration;
- e. Energy-related fundamental science;
- f. Hydrogen and fuel cell technologies;
- g. Electricity generation, storage and transmission;
- h. Energy security planning tools; and
- i. Any other energy-related area, as the Parties may mutually decide upon in writing.

### **ARTICLE 4 – FORMS OF COOPERATION**

Cooperation in accordance with this Agreement may include, but is not limited to, the following forms:

- a. Execution of joint studies, projects or experiments;
- b. Exchange and provision of Information and data on scientific and technical activities, developments, practices and results, and on program policies and plans, deployment of information tools, and market needs, including exchange of business-confidential information in accordance with Annex I;

- c. Exchange of scientists, engineers, and other specialists for agreed periods of time in order to participate in experiments, analysis, design and other research and development and deployment activities at existing and new research centers, laboratories, engineering offices and other facilities and enterprises of a Party or its associated organizations or contractors in accordance with Article 7;
- d. Meetings in various forms to discuss and exchange information on scientific and technological aspects of general or specific subjects in the areas listed in Article 3, and to identify additional Cooperative Activity which may be usefully undertaken;
- e. Exchange and provision of samples, material, and Equipment for experiments, testing and evaluation in accordance with Articles 8 and 9; and
- f. Development of networks for efficient communication and information exchange among and between the Parties and other members of the Parties' public or private sectors.

#### **ARTICLE 5 – MANAGEMENT**

1. Each Implementing Agent may appoint one person to serve as its Lead Coordinator. Each Lead Coordinator may, as necessary, appoint persons to assist the Lead Coordinators to coordinate the activities undertaken in the areas of cooperation set forth in Article 3 of this Agreement.
2. Unless otherwise determined, the Lead Coordinators should meet at least once each year at a location of their choosing to evaluate the status of cooperation under this Agreement. This evaluation should include a review of the past year's activities and accomplishments and of the activities planned for the coming year within each of the technical areas or groups of related technical areas listed in Article 3.

#### **ARTICLE 6 – IMPLEMENTING ARRANGEMENTS AND CONTRACTS**

Cooperative Activity may be conducted through the conclusion of Implementing Arrangements or contracts. Each such Implementing Arrangement or contract shall include detailed provisions for carrying out the specified forms of cooperation and may include, as appropriate, such matters as technical scope, the protection and allocation of intellectual property, management (performance measurement, systematic approach, targeting), total costs, cost sharing and schedule. Each Implementing Arrangement shall be subject to, and shall refer to, the provisions of this Agreement.

## **ARTICLE 7 – ASSIGNMENTS AND EXCHANGES OF PERSONNEL**

Unless otherwise decided in writing:

- a. Whenever an assignment or exchange of Personnel is contemplated under this Agreement, an Implementing Agent should select qualified Personnel for assignment to the host establishment to conduct the activities planned under this Agreement. Each such assignment of Personnel should be mutually decided in advance by an exchange of letters between the entities concerned, referencing this Agreement and its pertinent intellectual property provisions.
- b. Each sending Implementing Agent should be responsible for the salaries, insurance, and allowances to be paid to its Personnel.
- c. Each sending Implementing Agent should pay for the travel and living expenses of its Personnel while on assignment to the host establishment.
- d. The host Implementing Agent should help locate adequate accommodations for the sending Implementing Agent's assigned Personnel on a mutually acceptable, reciprocal basis.
- e. The host Implementing Agent should provide all necessary assistance to the assigned Personnel regarding administrative formalities, such as assistance in making work-related travel arrangements.
- f. Each sending Implementing Agent should inform its Personnel of the need to conform to the general and special rules of work and safety regulations in force at the host establishment.

## **ARTICLE 8 –PROVISION OF EQUIPMENT**

Unless otherwise decided in writing:

- a. The sending Implementing Agent should supply to the receiving Implementing Agent as soon as possible a detailed list of the Equipment to be provided, together with the associated specifications and technical and informational documentation related to the use, maintenance, and repair of the Equipment.
- b. The Equipment, spare parts, and documentation supplied by the sending Implementing Agent shall remain the property of the owner thereof and shall be returned upon completion of the activity or disposed of in accordance with terms agreed with the owner.

- c. Each Implementing Agent should ensure that the host establishment provides the necessary premises and shelter for the Equipment, as well as electric power, water and gas, and other necessary services in accordance with all technical requirements mutually accepted by the Implementing Agents concerned. The receiving Implementing Agent should also ensure that the host establishment takes reasonable measures to protect, care for and maintain the Equipment.
- d. The sending Implementing Agent should be responsible for expenses, safekeeping and insurance during the transport of the Equipment from the original location in its country to the point of entry in the country of the receiving Implementing Agent. Upon return of the Equipment, the sending Implementing Agent should be responsible for expenses, safekeeping, and insurance during the transport of the Equipment from the original point of entry in the country of the receiving Implementing Agent to the final destination in the country of the sending Implementing Agent.
- e. The receiving Implementing Agent should be responsible for expenses, safekeeping, and insurance during the transport of the Equipment from the point of entry in its country to the final destination in the country of the receiving Implementing Agent. Upon return of the Equipment, the receiving Implementing Agent should be responsible for expenses, safekeeping, and insurance during the transport of the Equipment from the final destination in its country to the original point of entry in its country.
- f. The Equipment provided by the sending Implementing Agent for carrying out Cooperative Activity should be considered to be scientific, not having a commercial character.

## **ARTICLE 9 – SAMPLES AND MATERIAL**

- 1. All samples and material provided under this Agreement shall remain the property of the owner thereof, and shall be returned to the owner upon completion of the Cooperative Activity if so requested, or used or disposed of in accordance with applicable laws and regulations of the receiving Party.
- 2. Where one Implementing Agent agrees to the request of another Implementing Agent to provide a sample or material, the Implementing Agent making the request should bear all costs and expenses associated with the transportation of the sample or material from the location of the sending Implementing Agent to the final destination.
- 3. Each Implementing Agent should promptly disclose to the other Implementing Agents all information arising from the examination or testing of samples or material exchanged under this Agreement.

## **ARTICLE 10 - TRANSFER OF INFORMATION, MATERIAL AND EQUIPMENT**

1. All Information, material or Equipment transferred under this Agreement and any related Implementing Arrangement should be appropriate and accurate to the best knowledge and belief of the transmitting Implementing Agent, but the transmitting Implementing Agent does not warrant the suitability of the Information, material or Equipment transmitted for any particular use or application by the receiving Implementing Agent or any third party. Information, material or Equipment developed jointly by the Parties' Implementing Agents should be appropriate and accurate to the best knowledge and belief of the developing Implementing Agents. No Implementing Agent warrants the accuracy of the jointly developed Information or the suitability of the material or Equipment for any particular use or application by any Party, Implementing Agent or by any third party.
2. No Equipment, Information or material may be transferred to any person or entity without the consent of the owner thereof.

## **ARTICLE 11 – ENTRY OF PERSONNEL, EQUIPMENT AND MATERIAL**

With respect to Cooperative Activity under this Agreement, each Party, in accordance with its laws and regulations, and as appropriate, shall facilitate:

- a. Prompt and efficient entry into and exit from its territory of appropriate Equipment and material;
- b. Prompt and efficient entry into its territory, for domestic travel and work therein, and exit from its territory, of persons participating on behalf of Participants;
- c. Prompt and efficient access, as appropriate, to relevant geographical areas, Information, Equipment and material, institutions, and persons participating on behalf of Participants; and
- d. Mutual logistic support.

## **ARTICLE 12 – INTELLECTUAL PROPERTY AND BUSINESS CONFIDENTIAL INFORMATION**

The allocation and protection of intellectual property and business confidential information created or furnished under this Agreement shall be in accordance with the provisions of Annex 1 to this Agreement, which is an integral part hereof.

## **ARTICLE 13 – FUNDING**

1. Each Party shall be responsible for the costs it incurs in participating in Cooperative Activity under this Agreement.
2. Two or more Implementing Agents may create a fund, called the Joint Fund for Cooperation, consisting of contributions from their nationally-appropriated funds, to provide supplemental financial support for Cooperative Activity under this Agreement by research institutions, universities, and other entities of the Parties. The management and operation of the fund should be the subject of separate written arrangements between or among the Implementing Agents concerned.
3. Two or more Implementing Agents may create a fund, called the Facilitation Fund, consisting of contributions from their nationally-appropriated funds, for the purpose of holding workshops, discussions and travel for scientists. The management and operation of the fund should be the subject of separate written arrangements between or among the Implementing Agents concerned.
4. As set forth in the relevant Implementing Arrangement, a Participant may make an in-kind contribution (in the form of provision of Equipment, use of test facilities, or otherwise) to Cooperative Activity, in lieu of or in addition to providing financial support.
5. The Parties do not foresee the provision of foreign assistance under this Agreement. If they or their Implementing Agents decide otherwise with respect to a particular Cooperative Activity, the relevant Implementing Arrangement would need to reflect the requirements of the laws of the cooperating Parties that regulate activities related to foreign assistance.

## **ARTICLE 14 – GENERAL PROVISIONS**

1. Cooperative Activity under this Agreement shall be subject to the availability of resources, Personnel and appropriated funds of each of the Parties.
2. Each Party shall conduct the cooperation under this Agreement in accordance with the laws and regulations of its respective country and international agreements to which that Party is a party.
3. The Parties shall hold consultations with respect to all claims and demands, loss, costs, damages, actions, suits or other proceedings arising in the course of the implementation of this Agreement.



4. Any dispute regarding the interpretation or implementation of this Agreement arising during its term shall be settled by consultations between or among the Parties concerned, except as set out in Annex I.
5. Nothing in this Agreement is intended to affect existing or future arrangements for cooperation or collaboration between or among the Parties. This Agreement shall not affect the rights and obligations of a Party resulting from other international agreements to which it is a party.
6. The treatment of security arrangements for sensitive information or equipment and unclassified export-controlled information or equipment transferred under the Agreement shall be in accordance with the provisions of Annex II, which is an integral part hereof.

#### **ARTICLE 15 – ENTRY INTO FORCE, AMENDMENT AND TERMINATION**

1. This Agreement shall enter into force upon the date of the last note of the exchange of notes among the Parties indicating that the domestic procedures necessary for its entry into force have been completed.
2. Subject to Article 15(5), this Agreement shall remain in force for five (5) years and shall be automatically renewed for further five (5) year periods unless a Party notifies the other Parties in writing at least 6 months prior to the expiration of the first 5-year period or any succeeding 5-year period of its intent to withdraw from the Agreement, in which event the Agreement shall continue between the remaining two Parties.
3. This Agreement may be amended by written agreement of all Parties. Such amendments shall enter into force following the procedure described in paragraph 1 of this Article.
4. A Party may withdraw from this Agreement upon 6 months' advance written notification to the other Parties, in which case this Agreement shall remain in force between the remaining Parties.
5. The Parties may, by written agreement, terminate this Agreement at any time.
6. Cooperative Activity not completed at the termination of this Agreement may be continued until its completion under the terms of this Agreement.

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

DONE in triplicate at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 2007,  
in the English, French and Spanish languages, each version being equally authentic.

FOR THE GOVERNMENT OF CANADA:

FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES:

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

## Annex I

### Intellectual Property

Pursuant to Article 12 of this Agreement:

#### **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 Activity undertaken pursuant to this Agreement, except as otherwise specifically agreed by the cooperating Parties.

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, 14 July 1967, and may include other subject matter as agreed by the Parties.

C. Each Party shall ensure, through contracts or other legal means, if necessary, that the other Parties 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.

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 entities, or, if necessary, the cooperating Parties or their designees. Upon mutual agreement of the cooperating Parties, the dispute shall be submitted to an arbitration tribunal for binding arbitration in accordance with the applicable rules of international law. The arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL), or any other internationally recognized rules for binding arbitration agreed to by the cooperating Parties, shall govern.

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

#### **III. Allocation of Rights**

A. Each cooperating 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 Cooperative Activity 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 III.A 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 a Cooperative Activity other than that covered by paragraph III.B(1) shall be owned by that Party. Intellectual property created by persons employed or sponsored by more than one cooperating Party shall be jointly owned by those cooperating Parties that employed or sponsored the persons who created the intellectual property. 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 decided in an Implementing Arrangement or contract, each cooperating Party shall have within its territory all rights to exploit or license intellectual property created in the course of the Cooperative Activity.

(c) The rights of a cooperating Party outside its territory shall be determined by agreement of the cooperating Parties considering the relative contributions to the creation of the intellectual property of the cooperating Parties and their participating entities to the Cooperative Activity, the degree of commitment in obtaining legal protection and licensing of the intellectual property, and such other factors deemed appropriate.

(d) Notwithstanding paragraphs III.B(2)(a) and (b) above, if a cooperating Party believes that a particular Cooperative Activity is likely to lead to or has led to the creation of intellectual property protected by the laws of one or more cooperating Parties but not the other cooperating Party(s), the cooperating Party(s) whose laws provide for this type of protection shall be entitled to equal rights to exploit or license intellectual property worldwide although 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 cooperating Party employing or sponsoring the inventor(s) shall disclose the invention promptly to the other cooperating Party(s) together with any documentation and information necessary to enable the other cooperating Party(s) to establish any rights to which it or they may be entitled. The other cooperating Party(s) may ask the cooperating Party employing or sponsoring the inventor in writing to delay publication or public disclosure of such documentation or information for the purpose of protecting its or their rights in the invention. The delay shall not exceed a period of six months from the date of disclosure by the inventing cooperating Party to the other cooperating Party (s).

#### **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 cooperating Party shall protect such information in accordance with its 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 II  
Security Obligations

**I. Protection of Sensitive Technology**

The Parties agree that no Information, material or Equipment requiring protection in the interest of national security, defense or foreign relations and classified in accordance with applicable national laws and regulations shall be provided under this Agreement. In the event that Information, material or Equipment which is known or believed to require such protection is identified by a cooperating Party in the course of a Cooperative Activity, it shall be brought immediately to the attention of the appropriate officials of the other cooperating Parties. The cooperating Parties shall consult to identify and implement appropriate security measures for such Information, material and Equipment, to be agreed upon by the Parties in writing. The Parties shall, if appropriate, amend this Annex in accordance with Article 15(3) of this Agreement, to incorporate such security measures.

**II. Technology Transfer**

The transfer of unclassified Information, material or Equipment between or among the Parties shall be in accordance with the relevant laws and regulations of the transferring and receiving Parties, including the export control laws of the transferring and receiving Parties to prevent the unauthorized transfer or retransfer of such Information, material or Equipment provided or produced under this Agreement. If any cooperating Party deems it necessary, detailed provisions for the prevention of unauthorized transfer or retransfer of such Information, material or Equipment, and any Information, material or Equipment derived from such Information, material or Equipment, shall be incorporated into the contracts or Implementing Arrangements. Export controlled Information, material and Equipment shall be marked to identify it as export controlled and shall be accompanied by appropriate documentation identifying any restrictions on further use or transfer of such Information, material or Equipment.