

No. 31331

**CHILE
and
UNITED STATES OF AMERICA**

**Basic Agreement relating to scientific and technological co-
operation (with annexes). Signed at Washington on
14 May 1992**

Authentic texts: Spanish and English.

Registered by Chile on 28 October 1994.

**CHILI
et
ÉTATS-UNIS D'AMÉRIQUE**

**Accord de base relatif à la coopération scientifique et tech-
nologique (avec annexes). Signé à Washington le 14 mai
1992**

Textes authentiques : espagnol et anglais.

Enregistré par le Chili le 28 octobre 1994.

BASIC AGREEMENT¹ RELATING TO SCIENTIFIC AND TECHNOLOGICAL COOPERATION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CHILE AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

The Government of the Republic of Chile and the Government of the United States of America (hereinafter "the Parties"),

Desiring to promote further the close and friendly relations existing between them,

Considering their common interest in promoting scientific research and technological development,

Recognizing the benefits to be derived by both Parties from close cooperation in these fields,

Have agreed as follows:

Article I

1. The Parties shall promote cooperation between the two countries in science and technology for peaceful purposes.

2. The principal purposes of this cooperation are to provide opportunities to exchange ideas, information, skills and techniques and to collaborate on matters of mutual interest.

¹ Came into force on 19 January 1994, the date on which the Parties notified each other that it had been approved in conformity with their constitutional procedures, in accordance with article XII (1).

Article II

The cooperation contemplated in this Agreement may include exchanges of scientific and technical information, exchanges of scientists, technicians, and experts, the convening of joint seminars and meetings, the conduct of joint research projects in the basic and applied sciences, and such other forms of scientific and technical cooperation as may be mutually agreed.

Article III

Pursuant to the aims of this Agreement, the Parties shall encourage and facilitate, where appropriate, the development of direct contacts and cooperation between governmental agencies, universities and other institutions of higher education, research and development centers and other institutions and entities of the two countries. Appropriate supplementary agreements will be concluded for the conduct of cooperative activities under this Agreement.

Article IV

Scientists, technical experts, governmental agencies and institutions of third countries or international organizations may be, in appropriate cases, invited by agreement of the Parties to participate, at their own expense unless otherwise agreed, in projects and programs being carried out under this Agreement.

Article V

Financial arrangements for cooperation shall be set forth in supplementary agreements referred to in Article III.

Article VI

Cooperative activities shall be undertaken in accordance with applicable laws in both countries and be subject to the availability of funds.

Article VII

1. The Parties shall establish a Joint Committee to coordinate, facilitate, and review cooperative activities under this Agreement, composed of representatives designated by the Parties. The Joint Committee shall meet not less frequently than every two years, alternately in the United States and in Chile.

2. In the intervals between the sessions of the Joint Committee, representatives of the two Parties may meet to analyze and further the implementation of this Agreement and to exchange information on the progress of cooperative programs, projects and activities.

Article VIII

1. Each Party shall use its best efforts to facilitate entry into and exit from its territory of personnel and equipment of the other country, engaged in or used in projects and programs 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 IX

Each Party shall endeavor to provide comparable access to major government-sponsored or government-supported programs and facilities for visiting researchers and comparable access to and exchange of information in the field of scientific and technological research and development.

Article X

1. Scientific and technical information of a nonproprietary nature derived from the cooperative activities conducted under this Agreement shall be made available, unless it is agreed otherwise under specific circumstances, to the world scientific community through customary channels and in accordance with the normal procedures of the participating agencies.

2. The treatment of intellectual property created or furnished in the course of the cooperative activities under this Agreement is set forth in Annex I, which is an integral part of this Agreement.

3. Reciprocal security obligations shall be observed under this Agreement in accordance with the provisions of Annex II, which is an integral part of this Agreement.

Article XI

Nothing in this Agreement shall be construed to limit or prejudice other conventions and agreements for scientific and technical cooperation or assistance between the two Parties.

Article XII

1. This Agreement shall enter into force on the date of notification by the Parties that it has been approved in accordance with applicable constitutional procedures.

2. This Agreement shall remain in force for five years, unless one of the Parties terminates it in writing, at any time, upon six months notice through diplomatic channels. Notwithstanding the foregoing, the termination of this Agreement shall not affect the validity of any supplementary agreements in force.

3. This Agreement may be extended or amended by mutual written agreement of the Parties. The extensions and amendments shall enter into force in the manner indicated in paragraph 1 of this article.

IN WITNESS WHEREOF, the undersigned, having been duly authorized by their respective Governments, have signed this Agreement.

DONE at Washington, this fourteenth day of May, 1992, in duplicate, in the English and Spanish languages, both texts being equally authentic.

For the Government
of the Republic of Chile:

 ¹

For the Government
of the United States of America:

 ²

¹ Enrique Silva Cimma.

² James Baker III.

ANNEX I

INTELLECTUAL PROPERTY

Pursuant to Article X of this Agreement:

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant supplementary agreements. 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, unless otherwise agreed.

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, 1967.¹

C. This Annex defines the allocation of rights, interests, forms of exploitation or use, and royalties between the Parties for works derived from cooperative activities governed by this Agreement. 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. This

¹United Nations, *Treaty Series*, vol. 828, p. 3.

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. If the participating or concerned institutions, the Parties, or their designees are unable to reach a solution to the dispute, and upon mutual agreement of the Parties, a dispute shall be submitted to an arbitral tribunal composed of three judges 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 UNCITRAL¹ shall govern.

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

F. Cooperative activities shall not be conducted where the purpose thereof is to produce inventions or where there is a possibility of producing inventions, in areas which one of the Parties considers, in accordance with its internal legislation, to be non-patentable material, as long as this legal status is maintained. For purposes of this Agreement, "patentable material" shall mean all material subject to legal protection through a patent of invention, utility model, drawing or industrial design, or any other procedure sui generis.

¹United Nations, *Official Records of the General Assembly, Thirty-first Session, Supplement No. 17 (A/31/17)*, p. 34.

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

II.B.1. 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), 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 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 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.

ANNEX II

PROTECTION OF SENSITIVE TECHNOLOGY

Both Parties agree that no information or equipment identified as requiring protection for national security reasons (such as that which is classified) by either Party shall be provided under this Agreement. Should such information or equipment unintentionally be created or furnished in the course of projects or cooperation under this Agreement, it shall be protected from unauthorized disclosure under applicable national laws, regulations and administrative practices. Where information or equipment has been inadvertently disclosed to unauthorized recipients, the originating Party shall be informed. Any difficulties in providing appropriate protection for sensitive information or equipment shall be the subject of consultations between both Parties.

This agreement does not supersede the international obligations, national laws and regulations of each Party with respect to transfers and release of information and equipment subject to export and re-export laws and regulations.
