

**AGREEMENT
FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION**

BETWEEN

THE GOVERNMENT OF CANADA

AND

THE GOVERNMENT OF THE REPUBLIC OF INDIA

THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE REPUBLIC OF INDIA, hereinafter referred to together as the "Parties",

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

CONSIDERING the ongoing scientific and technological cooperation between India and Canada

RECALLING the Parties' rights and obligations pursuant to international treaties and conventions relating to Intellectual Property to which both Canada and India are party, in particular the *Berne Convention for the Protection of Literary and Artistic Works* (Paris Act, 1971), the *Paris Convention for the Protection of Industrial Property* (Stockholm Act, 1967), the *Agreement on Trade Related Aspects of Intellectual Property Rights* (TRIPS);

DESIRING to establish a framework 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

Purpose

The Parties, shall encourage, develop and facilitate Cooperative Activities in science and technology for peaceful purposes in fields of common interest and on the basis of equality and mutual benefit.

ARTICLE 2

Definitions

1. For the purpose of this Agreement:

a) "Cooperative Activity" means any activity carried out pursuant to this Agreement;

b) "Implementing Arrangement" means an arrangement in written form between the Parties or between two or more Participants, for the conduct of a Cooperative Activity, but excluding an arrangement between two Participants from the same Party;

c) "Information" means scientific or technical data, including design procedures and techniques, product formulas, manufacturing methods, processes and treatments, the chemical composition of materials, computer programs, data compilations and employee know-how such as specialized skills and experience; business information, including strategic and marketing plans, financial information and credit or pricing policies; and any other data as may be jointly decided in writing by the Parties;

d) "Intellectual Property" shall have the meaning set out in Article 2 of the Convention establishing the World Intellectual Property Organization, done at Stockholm on 14 July 1967;

e) "Joint Research Activity" means a Cooperative Activity in research, technological development or demonstration that involves collaboration by Participants from both Parties and is designated as a Joint Research Activity in writing by the Participants;

f) "Participant" means any individual or legal entity established pursuant to the legislation of either Party and includes, but is not limited to, academies of science, governmental and non-governmental organizations, universities and colleges, institutes of technology, science and research centres and institutes, private sector enterprises and firms;

g) "Technology Management Plan" means a contract in written form between two or more Participants concerning the ownership and use of Intellectual Property rights that may be developed or created in the course of a specific Joint Research Activity, but excluding a contract between two Participants from the same Party.

2. For the purpose of this Agreement, the term "peaceful" shall be understood as including "non-military".

ARTICLE 3

Principles

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

- (a) mutual benefit based on an overall balance of advantages;
- (b) reciprocal access to the activities of research and technological development undertaken by each Party or its Participants, where practicable;
- (c) timely exchange of Information, which may affect Cooperative Activities;
- (d) effective protection of Intellectual Property rights;
- (e) peaceful uses; and
- (f) respect for the applicable legislation of the Parties.

ARTICLE 4

Cooperative Activities

Cooperative Activities shall be jointly decided in writing from time to time by the Parties.

ARTICLE 5
Forms of Cooperative Activities

1. Subject to their applicable legislation, the Parties shall foster, to the fullest extent possible, Co-operative Activities under this Agreement. The Parties shall conduct such Cooperative Activities through the conclusion of Implementing Arrangements or contracts, as appropriate, and shall ensure that their Participants conduct Cooperative Activities in the same manner.
2. Cooperative Activities may take the following forms:
 - (a) joint research and development activities;
 - (b) facilitation of commercially viable research and development;
 - (c) pooling of research and development projects, already underway in each Party, into Joint Research Activities
 - (d) visits and exchanges of scientists, technical experts and academics;
 - (e) exchanges and loans of equipment and materials;
 - (f) exchanges of information on practices, laws, regulations and programs relevant to the Cooperative Activities undertaken pursuant to this Agreement;
 - (g) organization of scientific seminars, symposia, conferences and workshops as well as participation of experts in those activities;
 - (h) demonstrations of technologies and application development;
 - (i) any other mode of cooperation jointly decided in writing by the Parties including as recommended by the Joint Science and Technology Cooperation Committee established pursuant to Article 6 of this Agreement.
3. In case of any inconsistency between this Agreement and an Implementing Arrangement entered into pursuant to this Article, the Agreement shall prevail.

ARTICLE 6
Coordination and Facilitation of Cooperative Activities

1. The coordination and facilitation of Cooperative Activities under this Agreement shall be effected, on behalf of the Republic of India by the Department of Science and Technology and, on behalf of Canada, by the Department of Foreign Affairs and International Trade, acting as Executive Agencies.
2. Each Party may designate another Executive Agency should its Executive Agency identified in Paragraph 1 of this Article cease to be responsible for the subject-matter of this Agreement. The Party designating another Executive Agency shall notify the other Party in writing of the name of its new Executive Agency.

ARTICLE 7
Joint Science and Technology Cooperation Committee

1. The Parties shall establish a Joint Science and Technology Cooperation Committee (hereinafter referred to as the "Joint Committee"). The Parties shall each designate an equal number of representatives to sit on the Joint Committee. The Joint Committee shall be co-chaired by a representative of each Party. The Joint Committee shall operate on the basis of consensus. It shall establish its own rules of procedures

2. The functions of the Joint Committee shall be to:
 - (a) promote and oversee the different areas of Cooperative Activities as decided by the Parties pursuant to Article 4 of this Agreement;
 - (b) identify among the forms of Cooperative Activities, listed in Article 5 of this Agreement, priority forms of Cooperative Activities for each calendar year;
 - (c) propose, pursuant to Article 5 of this Agreement, the pooling of certain research and development projects which would be of mutual benefit and complementary;
 - (d) advise the Parties on ways to enhance and improve cooperation consistent with the principles set out in this Agreement;
 - (e) review the functioning and implementation of this Agreement;
 - (f) provide an annual report to the Parties on the status, the level reached and the effectiveness of Cooperative Activities undertaken pursuant to this Agreement.
3. The Joint Committee shall meet annually according to a jointly determined schedule. The meetings shall be held alternately in India and in Canada. Extraordinary meetings may be organized at the request of either Party.
4. The costs incurred by members of the Joint Committee in the exercise of their functions shall be borne by the Party who has designated them. The costs, other than those for travel and accommodation, which are directly associated with the meetings of the Joint Committee shall be borne by the host Party.

ARTICLE 8 **Availability of Resources**

Cooperative Activities shall be subject to the availability of appropriated funds, personnel and other resources.

ARTICLE 9 **Entry and Exit of Persons, Material, Information and Equipment**

Each Party, subject to its legislation, shall take all reasonable steps and use its best efforts, to facilitate entry to, sojourn and exit from its territory of persons, material, Information and equipment involved in or used in Cooperative Activities undertaken pursuant to this Agreement.

ARTICLE 10 **Peaceful Uses**

Each Party shall ensure that all funds, material, Information, equipment, services, technology and expertise provided to it or its Participants, by the other Party or the other Party's Participants, in connection with the implementation of this Agreement, shall be used solely for peaceful purposes and in a manner consistent with this Agreement.

ARTICLE 11
Use and Dissemination of Information

1. Each Party shall ensure that Information that is transmitted under this Agreement or created as a result of its implementation and that it considers to be confidential is clearly defined and identified as such, through appropriate marking or otherwise.
2. Information covered by this Article shall be protected in accordance with the legislation applicable to the Party or Participant receiving the Information. Subject to the legislation applicable to the Party or Participant receiving the Information, each Party shall ensure that such Information shall not be divulged or transmitted by it or its Participants to a third party not directly involved in the implementation of this Agreement without the written permission of the Party or Participant that provided the Information.
3. Parties shall take all reasonable measures, in accordance with this Agreement, their respective legislation and applicable international treaties and conventions relating to Intellectual Property to which both Canada and India are party, to protect Information covered by this Article against unauthorized use or disclosure.

ARTICLE 12
Intellectual Property

1. Nothing in this Agreement shall be construed as granting to the other Party or its Participants any rights in Intellectual Property belonging to a Party or its Participants that came into existence prior to or outside the scope of this Agreement.
2. Each Party shall ensure that all rights in Intellectual Property developed exclusively by one Party in the context of a Cooperative Activity undertaken pursuant to this Agreement shall vest in that Party, unless otherwise decided by the Parties.
3. Each Party shall ensure that any Intellectual Property it holds and that is necessary for the effective conduct of a Cooperative Activity by the other Party or its Participants, shall be made available to such Party or its Participants prior to the commencement of the Cooperative Activity. Each Party shall take reasonable measures to ensure that its Participants provide the Intellectual Property they hold, and that is necessary for the conduct of a Cooperative Activity, in the same manner. A Party or its Participants shall not be required to grant more than a licence to use such Intellectual Property for the conduct of the Cooperative Activity concerned. The Intellectual Property that is necessary for the conduct of a Cooperative Activity shall be specifically identified in the Implementing Arrangement or contract relating to such Cooperative Activity.
4. Intellectual Property rights related to inventions, discoveries and other science and technology achievements jointly developed solely by the Parties within the context of Cooperative Activities shall be allocated to each Party in accordance with the proportions jointly decided by the Parties in writing.
5. Unless the Parties agree otherwise in writing in accordance with their domestic procedures, any Intellectual Property arising from the results of a Joint Research Activity shall be governed by the Annex on Intellectual Property Arising from the Results of Joint Research Activities, which forms an integral part of this Agreement.

ARTICLE 13

Claims

1. Each Party shall indemnify and hold harmless the other Party, its officers, servants, employees or agents, from and against all claims and demands, loss, costs, damages, actions, suits or other proceedings by whomsoever brought or prosecuted in any manner, based upon, or occasioned by any injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights caused by or arising directly or indirectly from any omission or other wilful or negligent act of the former Party or its officers, servants, employees or agents, in the course of the implementation of this Agreement.

2. The Parties shall hold consultations with respect to all claims and demands, loss, costs, damages, actions, suits or other proceedings not covered by Paragraph 1 of this Article and arising in the course of the implementation of this Agreement.

ARTICLE 14

Existing Rights and Obligations

The Agreement shall not affect the rights and obligations of a Party, resulting from other international agreements to which it is a party.

ARTICLE 15

Dispute Settlement

1. The Parties shall endeavour, in good faith, to resolve any dispute between them arising from the interpretation or implementation of this Agreement amicably, through consultations through their Executive Agencies.

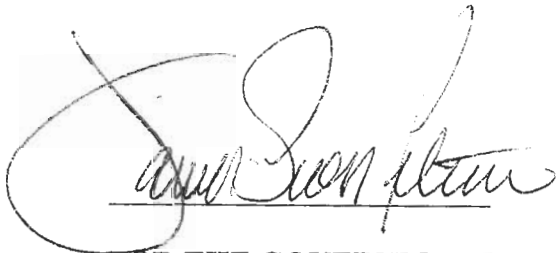
2. The Parties may mutually decide to refer a dispute arising from the implementation of Article 12 or the Annex to this Agreement to arbitration, if such dispute cannot be resolved through consultations within a reasonable time. Arbitration shall be subject to the Arbitration Rules of the United Nations Commission on Trade Law (UNCITRAL). Any arbitration award shall be final and binding on the Parties.

ARTICLE 16
Entry into Force, Amendment and Termination

1. This Agreement shall enter into force on the date of the latter written notification that domestic procedures necessary for its entry into force have been completed by the Parties.
2. The Agreement shall remain in force for an initial period of five years. It shall automatically be renewed for subsequent periods of five years, unless either Party notifies the other Party in writing of its intention not to renew the Agreement, at least 90 days prior to its expiry date.
3. This Agreement may be amended by mutual written agreement of the Parties. An amendment shall enter into force on the date of the latter written notification that domestic procedures necessary for its entry into force have been completed by the Parties.
4. This Agreement may be terminated at any time by either Party upon six months written notice to the other Party. Notwithstanding any termination of this Agreement, the obligations hereunder shall continue to apply to any Implementing Arrangement, that is in effect at the time of termination of the Agreement, for the duration of such Implementing Arrangement. Obligations under Article 10 (Peaceful Uses), 11 (Use and Dissemination of Information), 12 (Intellectual Property) and 13 (Claims), as well as the Annex to this Agreement, shall remain in effect, regardless of the expiry or termination of this Agreement, unless otherwise agreed to in writing by the Parties in accordance with their domestic procedures.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at Toronto, on the 18th day of November 2005, in two originals, in the English, French and Hindi languages, each text being equally authentic.



**FOR THE GOVERNMENT
OF CANADA**



**FOR THE GOVERNMENT
OF THE REPUBLIC OF INDIA**

**ANNEX ON INTELLECTUAL PROPERTY RIGHTS ARISING FROM THE
RESULTS OF JOINT RESEARCH ACTIVITIES**

**Article 1
Application**

1. Each Party shall ensure that the other Party and its Participants are given the opportunity to secure the protection of the rights to Intellectual Property allocated to them by or in accordance with this Annex.
2. This Annex does not alter or prejudice the allocation of Intellectual Property rights between a Party and its nationals, which shall be determined by the laws and practices of that Party.

**Article 2
Intellectual Property Rights Arising from Joint Research Activities**

1. Terms used in this Annex shall have the same meaning as those defined in Article 2 of the Agreement.
2. The Parties shall:
 - (a) notify one another within a reasonable time of the creation of new Intellectual Property rights arising from a Joint Research Activity undertaken pursuant to this Agreement and shall, as appropriate, seek protection for such Intellectual Property rights, within their respective jurisdictions and pursuant to their domestic legislation; and
 - (b) ensure that the Participants from the other Party receive treatment no less favorable than that afforded under applicable international treaties and conventions relating to Intellectual Property to which both Canada and India are party.
3. The Parties shall ensure that, for each Joint Research Activity, the Participants shall jointly develop a Technology Management Plan (hereinafter referred to as the "TMP") in respect of the ownership and use of Intellectual Property rights that may be developed or created in the course of the Joint Research Activity. The Parties shall ensure that the TMP is developed by the Participants taking into account the applicable legislation of the Parties, including legislation relating to the transfer or export of controlled Information, goods or services; the aims of the Joint Research Activity; and the relative financial or other contribution of each Party and its Participants.
4. With respect to Intellectual Property, the TMP shall address: ownership; protection; maintenance; management; exploitation; user rights and obligations for research and development; dissemination, including arrangements for joint publication; the rights and obligations of visiting researchers (*i.e.*, researchers not coming from either Party or one of its Participants), including the allocation to and acquisition by Participants of rights and obligations in respect of Intellectual Property generated by visiting researchers; and dispute settlement procedures, including arbitration where appropriate.
5. Intellectual Property rights generated by a Joint Research Activity, the allocation and acquisition of which has not been addressed in the TMP, shall be allocated, to the largest extent possible on the basis of the principles set out in the relevant TMP, as jointly decided in writing by the Participants.

6. Each Party shall take all reasonable measures to ensure that, in its territory, the other Party and its Participants shall be able to exercise the Intellectual Property rights allocated to them in accordance with this Annex and the Agreement.

Article 3

Publication of Research Results of a Joint Research Activity

1. Without prejudice to Article 2 of this Annex, each Party shall ensure that the publication of results of a Joint Research Activity is effected jointly by the Participants in a Joint Research Activity, unless otherwise agreed by them in the relevant TMP.
2. Subject to Paragraph 1 of this Article, the following procedures shall apply:
 - (a) The Parties shall take reasonable measures to encourage the publication of literary works of a scientific character arising from a Joint Research Activity undertaken pursuant to this Agreement; and
 - (b) The Parties shall ensure that all copies of a work that embodies the results of a Joint Research Activity, that is subject to copyright and that is distributed to the public, shall contain the names of the author(s) of the work unless an author explicitly declines to be named, as well as a clearly visible acknowledgement of the cooperative support of the Parties.