Draft 3/25/87

The Government of the United States of America has the honor to refer to the Agreement between the Government of the United States of America and the Government of Japan on Cooperation in Research and Development in Science and Technology, signed at Washington on May 1, 1980 and extended for a period of two years by an exchange of notes on May 1, 1985 and proposes a further extension of the Agreement, pursuant to Article IX, for a period of five years from May 1, 1987. In implementation of Article I of the Agreement, the Government of the United States of America proposes that the two sides agree upon the following principles and objectives:

(hereinafter referred to as the Agreement)

The Importance of Science and Technology

- The United States and Japan have long recognized that the future prosperity and global security of mankind are driven by the world's ability to generate new scientific knowledge and translate new discoveries into operational technologies and commercial applications. The U.S. and Japan have shared responsibilities in this effort.

DRAFT PROPOSAL 7/87

...ic Note and Annexes

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Japan and has the honor to refer to the Agreement between the Government of the United States of America and the Government of Japan on Cooperation in Research and Development in Science and Technology, signed at Washington on May 1, 1980, and extended for a period of two years by an exchange of notes on May 1, 1985, and further extended for a period of six months by an exchange of notes on April 30, 1987 [hereinafter referred to as the Agreement] and proposes a further extension of the Agreement, pursuant to Article IX, for a period of five years from November 1, 1987. In implementation of Article I of the Agreement, the Government of the United States of America proposes that the two governments agree upon the following principles and objectives:

The Importance of Science and Technology

The United States and Japan have long recognized that the future prosperity and global security of mankind are driven by the world's ability to generate new scientific knowledge and translate new discoveries into operational technologies and commercial applications. The U.S. and Japan have shared

...1926 Agreement

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF JAPAN ON
COOPERATION IN RESEARCH AND DEVELOPMENT IN
SCIENCE AND TECHNOLOGY

The Government of the United States of America and the Government of Japan (hereinafter referred to as "the Parties"

Recalling the purposes of the Agreement on Cooperation in Research and Development in Science and Technology, which was signed by the President of the United States of America and t Prime Minister of Japan and entered into force on May 1, 1980 (hereinafter referred to as "the previous Agreement");

Recognizing that the two countries derive great benefits fro their long and highly successful scientific and technologica relationship;

Believing that the future prosperity and well-being of manki depend upon the world's ability to generate new scientific knowledge and translate new discoveries into operational and applied technologies;

Affirming that the United States of America and Japan, shari responsibilities in contributing to the world's future prosperity and well-being, should make further efforts to strengthen their respective national research and developmen policies;

Stressing the importance of sustaining long-term investments basic research and creating dynamic research and development environments with a view to generating fundamental new knowledge, ensuring the protection of intellectual property rights so as to preserve the value of innovations derived fr

- Scientific progress and technological innovation underpin our nations' economic growth, high standards of living, and security.
- Today, more than ever before, the rapid pace of scientific advance and technological know-how, coupled with the internationalization of the R&D enterprise, provide unique challenges and responsibilities for countries such as the United States and Japan, who are working at the frontiers of research and who possess the national assets and determination to profit from the unparalleled opportunities of the 21st century.
- To maintain leadership in science and technology and contribute to the world's well-being and future security, advanced countries such as the U.S. and Japan should establish national R&D policies that sustain long-term investments in basic research and create dynamic research environments that advance the following broad goals:

(1) generate fundamental new knowledge to expand the world's pool of science and technology understanding;

(2) swiftly transfer new technologies and applications to the marketplace; and

(3) nurture and expand the next generation's talent base.

responsibilities in this effort. Scientific progress and technological innovation underpin our nations' economic growth, high standards of living, and security.

Today, more than ever before, the rapid advancement of scientific and technological know-how, coupled with the internationalization of the R&D enterprise, provide unique challenges and responsibilities for countries such as the United States and Japan, which are working at the frontiers of research and development and which possess the national assets and determination to profit from the unparalleled opportunities of the 21st century.

To maintain leadership in science and technology and contribute to the world's well-being and future security, advanced countries such as the U.S. and Japan should establish national R&D policies that sustain long-term investments in basic research and create dynamic R&D environments that advance the following broad goals:

[1] Generate fundamental new knowledge to expand the world's understanding of science and technology;

[2] Protect intellectual property rights so as to preserve the value of innovations derived from joint collaboration;

[3] Provide for the swift transfer of new technologies and applications to the marketplace; and

joint collaboration, providing for the smooth application new technologies, and nurturing and expanding the next generation's human resources in science and technology;

Convinced that long-term mutually beneficial international science and technology collaboration is built upon long-last partnerships between scientists of different nationalities, performance of joint research and development at each other's facilities, education and training of each other's promising students, and publication of joint research and development results in international journals;

Affirming their commitment to equitable contributions and to comparable access to each nation's research and development systems;

Determined to strengthen the overall science and technology relationship based on the principles of shared responsibilities and mutual and equitable contributions and benefits, commensurate with the two nations' respective scientific and technological strengths and resources;

Affirming their commitment to further enhance cooperation in science and technology; and

Desiring to set forth the policy framework for the conduct of the overall science and technology relationship between the Parties and to strengthen that relationship for peaceful purposes;

Have agreed as follows:

Cooperation in International Science and Technology

- Acknowledging that in many recent cases the world's most important discoveries and technological applications are the direct result of successful partnerships between colleagues of different nationalities; and recognizing that long-term mutually beneficial international S&T collaboration is built upon longlasting partnerships between scientists of different nationalities, performance of joint research at each other's facilities, education and training of each other's promising students, and publication of joint research and development results in international journals;

  The Governments of the United States and Japan affirm their commitment to enhance cooperation in science and technology through acknowledging the need to create more equitable opportunities for interaction and to work for a balance of contributions and benefits.

- In order to achieve balanced collaboration in science and technology in which both countries derive equitable benefits from the relationship, the Governments of the United States and Japan acknowledge that at times one country may need to make greater commitments in particular components of the R&D process, such as basic research and infrastructure,

[4] Nurture and expand the next generation's talent base.

Cooperation in International Science and Technology

Acknowledging that in many recent cases the world's most important discoveries and technological applications are the direct result of successful partnerships between colleagues of different nationalities.

Recognizing that long-term mutually beneficial international S&T collaboration is built upon long-lasting partnerships between scientists of different nationalities, performance of joint research and development at each other's facilities, education and training of each other's promising students, and publication of joint R&D results in international journals.

The Governments of the United States and Japan affirm their commitment to enhance cooperation in science and technology through acknowledging the need to create more equitable opportunities for interaction and to work for a balance of contributions and benefits.

In order to achieve balanced collaboration in science and technology in which both countries derive equitable benefits from the relationship, the Governments of the United States and Japan acknowledge that at times one country may need to make greater commitments in particular components of the R&D process

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(such as graduate and postgraduate education and training at universities and national research institutes, research facilities and S&T information dissemination) commensurate with its scientific and technological strengths.

Revitalization of the U.S.-Japan Agreement on Research and Development in Science and Technology

- The Governments of the United States and Japan recall that the Agreement was signed by the President of the United States and the Prime Minister of Japan and concur that the scientific and technical content of the agreement should match the commitments of its Head of Government signatories.
- The Governments of the United States and Japan concur that this agreement sets forth the overall policy framework and national goals in the science and technology relationship between the two countries.
- Accordingly, the two countries intend to carry out under the agreement cooperative science and technology projects and programs of the highest national priority. The cooperative activities undertaken are expected to provide new knowledge and technology of importance to each country into the twenty-first century.
- Under the policy framework of this agreement the two

and infrastructure commensurate with its scientific and technological strengths. (In this regard, the Government of Japan should increase its commitments to our shared responsibilities in such areas as open, basic academic research support, graduate and post-graduate education, training at universities and national research institutes, research facilities and the published dissemination of information.)

Revitalization of the U.S.-Japan Agreement on Research and Development in Science and Technology

--The Governments of the United States and Japan recall that the Agreement was signed by the President of the United States and the Prime Minister of Japan and concur that the scientific and technical content of the Agreement should match the commitments of its head of Government signatories.

--The Governments of the United States and Japan concur that this Agreement sets forth the overall policy framework and national goals in the science and technology relationship between the two countries.

--Accordingly, the two countries intend to carry out under the Agreement cooperative science and technology projects and programs of the highest national priority. (The cooperative activities undertaken are expected to provide new knowledge and technology of importance to each country into the 21st century.)

--Under the policy framework of this Agreement the two

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governments will discuss the two nations science and technology policies, priorities, activities and plans. They will also examine the balance and reciprocity of the overall cooperative relationship between the United States and Japan and identify impediments to balanced opportunities, access and benefits, with a view to overcoming those impediments.

The Government of the United States of America further proposes that ~~the following annexes, which are~~ this note and the annexes appended thereto shall be an integral part of ~~this note, shall operate as implementing arrangements under~~ the Agreement. The Annexes are:

1. Major initiatives and priority areas
2. Mechanisms, initiatives and areas for joint review
3. Management of science and technology cooperation
4. Intellectual Property Rights

In this exchange of notes the Parties acknowledge that there is nothing herein, nor in the attached annexes, that is inconsistent with the Agreement ~~signed in Washington on May 1, 1980~~.

If the foregoing is acceptable to the Government of Japan, the Government of the United States of America has the honor to propose that this note together with the reply of the Government of Japan to that effect shall constitute an agreement between our Governments to renew the Agreement for a period of five years from May 1, 1987, adopt the principles and objectives included in this note, and approve the four annexes

governments will discuss the two nations' science and technology policies, priorities, activities and plans. They also will examine the balance and reciprocity of the overall cooperative S&T relationship between the United States and Japan and identify impediments to balanced opportunities, access and benefits, with a view to overcoming those impediments.

The Government of the United States of America further proposes that this note and the annexes appended thereto shall become an integral part of the Agreement. The annexes are:

1. Major Initiatives and Priority Areas
2. Mechanisms, Initiatives and Areas for Joint Review
3. Management of Science and Technology Cooperation
4. Intellectual Property Rights
5. Security Obligations

In this Exchange of Notes the Parties acknowledge that there is nothing herein, nor in the attached annexes, that is inconsistent with the Agreement.

If the foregoing is acceptable to the Government of Japan, the Government of the United States of America has the honor to propose that this note and the annexes appended hereto, together with the reply of the Government of Japan to that effect, shall constitute an agreement between our Governments to renew the Agreement for a period of five years from November 1, 1987.

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appended hereto.

Please accept the renewed assurances of the highest consideration of the Government of the United States of America.

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Please accept the renewed assurances of the highest consideration of the Government of the United States of America.

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Annex I - Major Initiatives and Priority Areas

Article I: Major International Initiatives and National R&D Programs

(1) When the United States and Japan agree to collaborate in major international R&D initiatives and large-scale national projects, such cooperation will be pursued under the policy framework of this Heads of Government Agreement and in keeping with the functions of the Joint Committee detailed in Article II of Annex III. ~~Which~~ Projects that have separate management mechanisms ~~that would~~ shall not fall under the technical and management review of the Joint Interagency Executive Committee established in Annex III, Article III.

(2) Consistent with Article III of the Agreement, interagency memorandums of understanding and other intergovernmental instruments may be negotiated by appropriate lead agencies in both countries to determine the specific terms and provisions of collaboration.

(3) When the U.S. and Japan agree to collaborate in major international R&D initiatives and large-scale basic research projects that require significant, new investments in infrastructure and state-of-the-art facilities, the two countries will share the costs equitably.

Annex I - Major Initiatives and Priority Areas

I. Major Bilateral Initiatives and National R&D Programs

[1] This Agreement provides a basis for the United States and Japan to collaborate in major international R&D initiatives and large-scale national projects, and to pursue such cooperation under the policy framework of this Heads of Government Agreement and in keeping with the functions of the Joint Committee detailed in Article II of Annex III. Projects that have separate management mechanisms shall not fall under the technical and management review of the Joint Interagency Executive Committee established in Annex III, Article III.

[2] Consistent with Article III of this Agreement, interagency memoranda of understanding and other intergovernmental instruments will be negotiated by appropriate lead agencies in both countries to determine the specific terms and provisions of collaboration.

[3] When the U.S. and Japan agree to collaborate in major R&D initiatives and large-scale research projects that require significant, new investments in infrastructure and state-of-the-art facilities, the two countries will share the costs in proportion to their respective risk, benefit and management shares, and considering the balance and reciprocity of their overall S&T relationship.

Article I

1. This Agreement establishes the policy framework for the overall science and technology relationship between the Parties, including collaboration in large-scale projects and major research and development initiatives. To strengthen that relationship, the Parties will conduct their science and technology relationship based on the principles of:

A. Shared responsibilities and mutual and equitable contributions and benefits, commensurate with the two nations' respective scientific and technological strengths and resources;

B. 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;

C. Adequate and effective protection and equitable distribution of intellectual property rights created in the course of collaboration and adequate and effective protection of intellectual property rights introduced in the course of collaboration;

D. Widest possible dissemination of information consistent with applicable national laws and regulations, including those related to security; and

E. Shared costs of collaboration taking into account their respective risks, benefits and management shares.

f. Under this policy framework, the Parties will discuss matters of importance in the field of science and technology, and policy issues related to the overall science and technology relationship between the two countries.

(4) The U.S. has proposed major scientific & technology initiatives such as the Manned Space Station in which participation of Japan would be of great mutual benefit. The recently announced Super-conducting Super Collider will also fall into this category when it has been formally proposed. Many other large scale U.S. or international R&D programs (including such potential programs as Mapping of the Human Genome and global environmental initiatives) could have a US-Japan cooperative component.

(5) Japanese international initiatives such as the Human Frontiers Science Program, the International Frontier Research System at RIKEN and the Japan Trust of the Key Technology Center, as well as national programs such as ICOT (the Institute for New Generation Computer Technology) ERATO (Exploratory Research for Advanced Technology) and institutes such as those of AIST also have great potential for cooperative activities between the United States and Japan.

[4] Collaboration will be undertaken subject to the appropriate laws and regulations of each country and to the availability of funds and personnel resources.

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Article II: Priority Areas for Science and Technology Cooperation between the United States and Japan

(1) For an activity to be included under this Agreement, the activity should meet the criteria described below. Those activities under the current agreement that do not meet these standards of priority will be placed under other existing bilateral agreements or will be considered for termination.

(2) The criteria are:

-- Each partner should possess strong, complementary or counterbalancing research capabilities, adequate resource bases, and appropriate centers of excellence to engage in joint ventures.

-- The subject areas should reflect the national R&D priorities of both countries and contribute to an equitable distribution of investment and pay-off to each partner's national needs.

-- Bilateral cooperation in the areas chosen should have the potential to accelerate the rate of scientific progress compared to what is achievable now and offer tangible contributions to the world's knowledge base.

II. Priority Areas for Science and Technology Cooperation between the United States and Japan

[1] For an activity to be included under this Agreement, the activity should meet the criteria described below. Those activities under the current Agreement that do not meet these standards of priority will be placed under other existing bilateral agreements or will be considered for termination.

[2] The criteria are:

--Each partner should possess strong, complementary or counterbalancing R&D capabilities, adequate resource bases, and appropriate centers of excellence to engage in joint ventures.

--The subject areas should reflect the national R&D priorities of both countries and contribute to an equitable distribution of investments and pay-off to each partner's national needs.

--Bilateral cooperation in the areas chosen should have the potential to accelerate the rate of scientific progress compared to what is achievable now and offer tangible contributions to the world's knowledge and technology base.

[3] The following general scientific and engineering

ARTICLE II

1. This Agreement also sets forth the principles and provisions for cooperative activities under this Agreement. Thereunder, the Parties will undertake cooperative activities for peaceful purposes in such areas of science and technology of national importance as may be mutually agreed.

2. The main areas and the forms of the cooperative activities under this Agreement are provided in Annex I, which is an integral part of this Agreement.

3. Implementing arrangements for the cooperative activities under this Agreement may be concluded between the Parties or their appropriate agencies to determine the specific terms of cooperation, in accordance with this Agreement.

4. A cooperative activity under this Agreement will be initiated by mutual agreement and should meet the following criteria:

A. Each party to that cooperative activity should possess strong complementary or counterbalancing research and development capabilities, adequate resource bases, and appropriate centers of excellence to engage in that cooperative activity;

B. The subject area of that cooperative activity should reflect an area of importance to both countries;

C. The results of that cooperative activity should be expected to contribute to an equitable distribution of benefits to each Party; and

(3) The following general scientific and engineering fields are priority areas for cooperation under the Agreement in implementation of Article 1 thereof. Identification of specific areas for actual implementation of cooperation and definition of the precise terms and mechanisms by which this cooperation is to be undertaken will be decided by the Joint Interagency Executive Committee which will establish working groups under the guidance of lead agencies in individual scientific areas to implement the agreed cooperation. This list of fields may be modified by mutual agreement of the two sides.

(4) The general fields agreed upon as priority areas for cooperation are:

a. Materials science and engineering (particularly electronic materials)
b. Life sciences (particularly biotechnology)
c. Information science and technology
d. Automation and process control
e. Global geosciences and environment
f. Joint database development
g. Joint standardization and nomenclature development

fields are priority areas for cooperation under the Agreement in implementation of Article I thereof. Identification of specific areas for actual implementation of cooperation and definition of the precise terms and mechanisms by which this cooperation is to be undertaken will be decided by the Joint Interagency Executive Committee which will establish working groups under the guidance of lead agencies in individual scientific areas to implement the agreed cooperation. This list of fields may be modified by mutual agreement of the two sides.

[4] The general fields agreed upon as priority areas for cooperation are: [to be identified during the negotiations]

D. That cooperative activity should have the potential to accelerate the rate of scientific and technological progress and to offer tangible contributions to the world's knowledge and technology base.

5. With regard to the cooperative activities under this Agreement, the Parties or their agencies, as appropriate, may allow the participation of researchers and organizations from all sectors of the research establishment, including universities, national laboratories, and the private sector.

6. The Parties or their agencies may include their respective major government-sponsored or government-supported research programs in the basic and applied research areas listed in Annex I as part of the cooperative activities under this Agreement when these programs and cooperative activities meet the criteria set forth in paragraph 4 of Article II.

7. This Article will be implemented subject to the applicable laws and regulations of each country.

ANNEX I

MAIN AREAS AND FORMS OF THE COOPERATIVE ACTIVITIES

The following may be included as main areas for the cooperative activities under this Agreement:

A. Life sciences, including biotechnology;

B. Information science and technology;

C. Manufacturing technology;

(5) Under this agreement, the institutional performers of the collaborative research developed in these priority areas may include all sectors of the R&D enterprise in both countries, i.e., universities, national laboratories, and private sector research centers.

(6) ~~Each government agrees that under this Agreement, research programs eligible for bilateral cooperation include those private sector programs exclusive of national security projects, that meet the criteria described in Article II (2) of this Annex and that receive government support or government subsidies.~~

Was (6) in March 87 draft or 8/87 [illegible]

[5] Under this Agreement, the institutional performers of the collaborative R&D activities in these priority areas may include all sectors of the R&D enterprise in both countries, i.e., universities, national laboratories, and private sector research centers.

[6] Given the structural differences between the R&D systems in the United States and Japan, the Japanese Government will facilitate U.S. participation in those national research programs in basic and applied sciences and engineering that meet the criteria described in this article and that are under government sponsorship and receive government funding. Such national R&D programs include, but are not limited to, the Japan Key Technology Center, ICOT [the Institute for New Generation Computer Technology, ERATO [Exploratory Research for Advanced Technology] the Next Generation Research Program as well as national R&D programs conducted by MITI's Agency for Industrial Science and Technology. Such national R&D programs in Japan, supported by MITI, as the Science and Technology Agency and Monbusho, are comparable to ongoing U.S.-government supported activities conducted at leading U.S. universities such as MIT and Caltech and U.S. national laboratories such as NIH and Oak Ridge in which there is significant Japanese participation

D. Automation and process control;

E. Global geoscience and environment;

F. Joint database development; and

G. Advanced materials, including superconductors.

his list may be modified by mutual agreement.

Forms of the cooperative activities under this Agreement ay include:

A. Conduct of joint projects and programs and other cooperative projects and programs;

B. Meetings of various forms, such as those of experts, to discuss and exchange information on scientific and technological aspects of general or specific subjects, and to identify research and development projects and programs which may be usefully undertaken on a cooperative basis;

C. Exchange of information on activities, policies, practices, laws and regulations concerning research and development;

D. Visits and exchanges of scientists, engineers or other experts on general or specific subjects; and

E. Other forms of cooperative activities as may be mutually agreed.

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1. This Agreement supersedes the previous Agreement. Implementing arrangements and cooperative activities undertaken under the previous Agreement are hereby incorporated under this Agreement, except that the Parties may agree that those arrangements and activities under the previous Agreement that do not meet the criteria set forth in paragraph 4 of Article II will be placed under other bilateral agreements.

2. This Agreement does not otherwise legally modify existing bilateral science and technology arrangements between the Parties or their agencies. However, the Parties or their appropriate agencies may amend such arrangements, as may be agreed, in accordance with their relevant amendment procedures, to make them consistent with the policy framework of this Agreement.

Annex II - Mechanisms, Initiatives and Areas for Joint Review

I. Mechanisms and Initiatives to Enhance U.S.-Japan Interactions in Science and Technology

(1) The United States and Japan have shared responsibilities to achieve balanced and equitable collaboration in science and technology as agreed in the exchange of notes renewing this Agreement. Each country undertakes to implement appropriate steps in order to establish a fair and equitable relationship.

(2) The U.S. Government will continue to work through appropriate U.S. agencies and organizations, such as the Departments of State and Commerce, the National Science Foundation, the National Academies of Science and Engineering, and others, to encourage and support language training programs for technical personnel at U.S. universities and other institutions to facilitate the participation of American scientists and engineers in Japanese R&D activities.

(3) In parallel, the Government of Japan will establish at Tsukuba University and other key institutions in the public and private sectors, intensive language programs for visiting American scientists and engineers to facilitate communication

Annex II --Mechanisms, Initiatives and Areas for Joint Review

I. Mechanisms and Initiatives to Enhance U.S.-Japan Interaction in Science and Technology

[1] The United States and Japan have shared responsibilities to achieve balanced and equitable collaboration in science and technology as agreed in the exchange of notes renewing this Agreement. Each country undertakes to implement appropriate steps in order to establish a fair and equitable relationship.

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[3] In parallel, the Government of Japan will establish at Tsukuba University and other key institutions in the public and private sectors, intensive language and cultural programs for visiting U.S. scientists and engineers to facilitate

ARTICLE IV

With a view to strengthening the overall science and technology relationship on the basis of the principles set forth in paragraph 1 of Article I, the Parties will take those steps listed in Annex II, which is an integral part of this Agreement, and such other steps as may be mutually agreed.

ANNEX II

STEPS TO STRENGTHEN THE OVERALL SCIENCE AND TECHNOLOGY RELATIONSHIP

In accordance with Article IV, the Parties will, subject to the applicable laws and regulations of each country, take the following steps to strengthen the overall science and technology relationship:

A. Continue their commitment to open research and development systems and international cooperation;

B. Continue to improve foreign language training programs for scientists and engineers to facilitate their communication and participation in research and development and daily life activities;

C. Provide comparable opportunities for scientists and engineers from the other country to engage in research and study in their respective facilities and major government-sponsored or government-supported research programs in basic and applied research areas;

in R&D environments as well as in daily life activities in Japan.

(4) The Ministry of Education, MITI, STA, and other ministries, will actively encourage the vigorous recruitment and acceptance of more American scientists and engineers, including junior researchers, at R&D facilities under their respective institutions or supported with their resources. In this regard, they will give priority attention to increasing the number of Americans participating in national R&D programs and collaborating in the priority areas listed in Annex I.

(5) Appropriate U.S. Government agencies and S&T organizations will work with universities and other R&D performers to encourage American researchers to take advantage of existing opportunities to work in Japan. To assist U.S. efforts, the Japanese Government will provide annually to the U.S. Government a comprehensive list, with all necessary particulars, of current opportunities for American researchers to participate and be employed in the Japanese R&D system.

(6) To increase the number of U.S. researchers in Japan and promote the long-term objective of balanced access and development of training opportunities in science and technology, the Government of Japan will establish and widely advertise a significant number of substantial and prestigious "Japan Fellowships" in science and engineering for American undergraduates, graduates and post-doctorals at Japanese

communication in R&D environments as well as in daily life activities in Japan. The GOJ will maintain and accommodate visiting U.S. scientists and engineers consistent with standard practices in other U.S. S&T agreements.

[4] The Ministry of Education, MITI, STA, and other ministries, will actively encourage vigorous recruitment and acceptance of more U.S. scientists and engineers, including junior researchers, at R&D facilities under their respective institutions or supported with their resources. In this regard, they will give priority attention to increasing the number of U.S. researchers participating in national R&D programs and collaborating in the designated priority areas listed in Annex I.

[5] Appropriate U.S. Government agencies and S&T organizations will work with universities and other R&D performers to encourage U.S. researchers to take advantage of existing opportunities to work in Japan. To assist U.S. efforts, the Japanese Government will provide annually to the U.S. Government a comprehensive list, with all necessary particulars, of current opportunities for U.S. researchers to participate and be employed in the Japanese R&D system.

[6] To increase the number of U.S. researchers in Japan and promote the long-term objective of balanced access and development of training opportunities in science and technology, the Government of Japan will establish and widely advertise a significant number of substantial and prestigious

D. Provide substantial numbers of competitive government fellowships in science and engineering for foreign nationals at their respective centers of excellence, with adequate allowances to cover accommodations and other needs;

E. Promote dissemination of information on the government fellowships and the opportunities for research and study referred to in subparagraphs C and D above;

F. Exert comparable efforts to encourage scientists and engineers to take advantage of the government fellowships and the opportunities for research and study referred to in subparagraphs C and D above;

G. Ensure that scientific and technical reports produced by government agencies or through major government-sponsored or government-supported research programs that are not published in readily available professional literature will be made available to researchers of the other country, through central sources such as National Technical Information Service and Japan equivalents, as well as through expansion of the National Technical Information Service - Japan Information Center of Science and Technology program.

centers of excellence. The fellowship subjects should promote interaction in the priority areas listed in Annex I and provide opportunities for the fellowship recipients to participate in the national R&D programs also listed in Annex I.

(7) Under the Joint Interagency Executive Committee established in Annex III, the U.S. and Japan will establish a working level task force of appropriate representatives from government, universities, and the private sector, to develop a system to identify, recruit, and monitor American scientists and engineers' access to and participation in Japanese R&D programs. This task force will examine barriers and other structural problems on both sides that impede or inhibit increasing the numbers of U.S. researchers in Japan. The task force will develop recommendations and actions for the consideration of their governments. In addition, the task force will set up a system to obtain accurate, yearly statistical data on Japanese S&T researchers participating in the U.S. R&D system and American S&T researchers participating in the Japanese R&D system.

"Japan Fellowships" in science and engineering for U.S. undergraduates, graduates and post-doctorals at Japanese centers of excellence. The fellowship subjects should promote interaction in the priority areas listed in Annex I and provide opportunities for the fellowship recipients to participate in the national R&D programs also listed in Annex I.

[7] Under the Joint Interagency Executive Committee established in Annex III, the U.S. and Japan will establish a working level task force of appropriate representatives from government, universities, and the private sector, to develop a system to identify, recruit, and monitor U.S. scientists and engineers' access to and participation in Japanese R&D programs. This task force will examine barriers and other structural problems on both sides that impede or inhibit increasing the numbers of U.S. researchers in Japan. The task force will develop recommendations and actions for the consideration of their Governments. In addition, the task force will set up a system to obtain accurate, yearly statistical data on Japanese S&T researchers participating in the U.S. R&D system and U.S. S&T researchers participating in the Japanese R&D system.

[8] Recognizing that U.S. scientists and engineers face unique problems in gaining access to Japanese scientific and technical information [STI] not encountered in other major STI source countries, an STI committee will be established to examine and develop recommendations on improving STI access. This committee will serve as a forum where STI organizations

[SIDE LETTER] June 20, 1988

Dear Mr. Secretary:

Pursuant to the Agreement between the Government of Japan and the Government of the United States of America on Cooperation in Research and Development in Science and Technology and the principles of equitable contributions and comparable access to each Government's research and development systems stated therein, I hereby confirm that the Government of Japan will take steps to identify and increase substantially opportunities for American scientists and engineers to engage in research and study in Japan, including in the areas of cooperation listed in Annex I of that Agreement.

I anticipate that the United States Government will also encourage and support American scientists and engineers to take advantage of such increased opportunities.

Sincerely,

Sousuke Uno

Sousuke Uno
Minister for Foreign Affairs
of Japan

The Honorable
George P. Shultz
Secretary of State
of the United States of America

may raise and resolve concerns. The committee will be comprised of the directors of Japanese and U.S. Government agencies and other organizations which are directly concerned with the availability of STI. In addition, to deal with the specific problem of unpublished literature which is produced as a result of Japanese Government-funded research, the Japanese Government will take steps to ensure that scientific and technical reports produced by GOJ agencies and their contractors which are not published in "open" journal literature will be made available to U.S. researchers through a central source comparable to the NTIS and through expansion of the NTIS-JICST program.

THE SECRETARY OF STATE
WASHINGTON

[SIDE LETTER]

June 20, 1988

Dear Mr. Minister:

I welcome and appreciate the Government of Japan's commitment that, pursuant to the Agreement between the Government of the United States of America and the Governm of Japan on Cooperation in Research and Development in Sci and Technology and the principles of equitable contributio and comparable access to each Government's research and development systems stated therein, the Government of Jap will take steps to identify and increase substantially opportunities for American scientists and engineers to end in research and study in Japan, including in the areas of cooperation listed in Annex I of that Agreement.

I hereby confirm that the United States Government wi strongly encourage and support American scientists and engineers to take advantage of such increased opportunitie

Sincerely yours,

George P. Shultz

His Excellency
Sousuke Uno,
Minister for Foreign Affairs,
Tokyo.

Annex III-Management of Science and Technology Cooperation

I. The Joint Committee established under Article IV of the Agreement shall be co-chaired by the Science Advisor to the President of the United States and the Minister of Science and Technology of Japan.

II. (1) In carrying out the functions pursuant to Article IV of the agreement the parties agree that the Joint Committee will serve as the forum for discussion of policy level issues related to activities under this agreement. Technical and management issues, including the routine review of cooperative activities and accomplishments under the agreement, will be dealt with by the Joint Interagency Executive Committee, the functions of which are further detailed in paragraph III below, and

(2) The Joint Committee will also serve as a forum for regular high level exchange of views between the two governments on matters of importance in the fields of science, technology and engineering. In this capacity it will discuss and negotiate on priority areas for science and technology cooperation between the United States and Japan and related issues of importance to both sides.

Annex III -- Management of Science and Technology Cooperation

I. The Joint Committee established under Article IV of the Agreement shall be co-chaired by the Science Advisor to the President of the United States and the ----------
[Japanese equivalent].

II. [1] In carrying out the functions pursuant to Article IV of the Agreement the Parties agree that the Joint Committee will serve as the forum for discussion of policy level issues related to activities under this Agreement. Technical and management issues, including the routine review of cooperative activities and accomplishments under the Agreement, will be dealt with by the Joint Interagency Executive Committee, the functions of which are further detailed in paragraph III below, and

[2] The Joint Committee will serve as a forum for annual high level exchange of views between the two Governments on matters of importance in the fields of science, technology and engineering. In this capacity it will discuss and negotiate priority areas for science and technology cooperation between the United States and Japan and related issues of importance to both sides.

[3] The Joint Committee also will approve and adopt the annual action plan covering the next review period of the Agreement to implement the provisions of Annex II, Articles I and II.

Article IV

1. The Parties will establish a Joint High Level Committee. The Joint High Level Committee will be co-chaired by the appropriate high-level representatives of both Parties. The U.S. chair will be the Science Advisor to the President. The Japanese chair will be the Minister for Foreign Affairs or his designee.

2. Meeting alternately in the United States of America and Japan, the Joint High Level Committee will serve as the annual forum for the Parties to review and discuss, under the policy framework of this Agreement, matters of importance in the field of science and technology and policy issues related to the overall science and technology relationship between the two countries, and the cooperative activities under this Agreement.

3. In this context, the Joint High Level Committee will submit an annual report to the Parties. The report will review the operation of this Agreement, including an assessment of major developments with respect to the factors listed in Annex III, which is an integral part of this Agreement. The report will also set forth steps and new initiatives for the Parties to adopt for the next year, and, as necessary, policy recommendations on matters of importance to the overall science and technology relationship between the two countries.

Annex III

1. Pursuant to paragraph 1 of Article I and Article V, the Joint High Level Committee will assess major developments with respect to the following factors:

[Annex II]
II. Areas for Joint Review

In its examination of the operation of the Agreement, the Joint Committee will review the following indicators, which are central to achieving a balanced and cooperative science and technology relationship between the United States and Japan:

a) Developments and trends in each government's policies for the support of science and technology, with particular reference to basic research activities performed at universities, national research institutes, and other government supported research institutes.

b) Efforts by each country to stimulate and achieve a balanced flow of scientific and technical information between the United States and Japan consistent with the provisions of Annex IV, and the concrete actions of each country to ensure that new scientific and technical information generated by their respective S&T establishments comes to the notice of the world scientific community through publication in international refereed journals and other customary practices.

c) Efforts in each country to maintain and enhance state-of-the-art educational and training facilities at universities and national research institutes to conduct science and technology and to promote advanced training opportunities for the next generation of scientists and engineers;

[Annex II]
II. Areas for Joint Review

In its annual examination of the operation of the agreement, the Joint Committee will review the following indicators, which are central to achieving a balanced and cooperative S&T relationship between the United States and Japan:

A] Developments and trends in each government's policies for the support of science and technology, with particular reference to R&D activities performed at universities, national research institutes, and other government supported research institutions;

B] Efforts by each country to stimulate and achieve a balanced flow of scientific and technical information between the United States and Japan consistent with the provisions of Article I-8 of this annex and Annex IV, and the concrete actions of each country to ensure that new scientific and technical information generated by their respective S&T establishments comes to the notice of the world scientific community through publication in refereed journals and other customary practices.

C] Efforts in each country to maintain and enhance state-of-the-art educational and training facilities at universities and national research institutes to conduct science and technology and to promote advanced training opportunities for the next generation of scientists and engineers;

A. Developments and trends in each Party's policies for the promotion and support of science and technology, with particular reference to research and development activities performed at universities and national research institutions, and in major government-sponsored or government-supported research and development programs;

B. Efforts by each Party to stimulate an equitable flow of scientific and technical information between the two countries, and its concrete actions to enable new scientific and technical information generated by their respective science and technology establishments to come to the notice of the world scientific community through publication in open, readily available professional literature;

C. Efforts in each country to promote advanced educational and training opportunities in science and engineering at universities and national research institutions;

D. Each Party's efforts to establish and enhance world-class research and development facilities at universities and national research institutions in its country to generate new knowledge and generic technologies;

E. Flows of scientists and engineers between the two countries to educational and research facilities, and efforts in each country to stimulate and encourage equitable flows;

F. Efforts by each Party to provide comparable access to universities and national research institutions and to major government-sponsored or government-supported research and development programs; and

d) Government investments in the establishment and enhancement of world-class R&D facilities in each country, at universities and national laboratories to generate fundamental new knowledge and generic technologies;

e) The levels of flows of scientists and ~~technologists~~ engineers between the United States and Japan to premier educational and research facilities;

f) Japan's initiatives to open research programs and S&T institutions to foreign participation specifically, to encourage American scientists to work in research and development institutions in Japan and to participate in research programs in Japan;

g) Actions by each country to encourage increased participation by American reserachers in Japanese science and technology programs by providing logistical support, especially language training and cultural familiarization;

h) Support in each country for ~~bilateral~~ visits, exchanges and joint projects for scientific and technical personnel in all levels of seniority, types of facilities, and levels of financial assistance;

i) Major science and technology initiatives in ~~each country~~ by each Govern to generate both new knowledge and generic and applied technologies, and the levels of participation in those initiatives by scientists, researchers and engineers from the United States and Japan.

D] Government investments in the establishment and enhancement of world-class R&D facilities in each country, at universities and national laboratories to generate fundamental new knowledge and generic technologies;

E] The levels of flows of scientists and engineers between the United States and Japan to premier educational and research facilities;

F] Japan's initiatives to open national R&D programs and S&T institutions to foreign participation specifically, to encourage U.S. scientists to work in research and development institutions in Japan and to participate in research programs in Japan;

G] Actions by each country to encourage increased participation by U.S. researchers in Japanese science and technology programs by providing logistical support, especially language training and cultural familiarization;

H] Support in each country for visits, exchanges and joint projects for scientific and technical personnel involving all levels of seniority, types of facilities, and levels of financial assistance.

The Joint Committee shall provide an annual report of its review of the above indicators to its respective Heads of Government.

The Joint Committee also will provide an annual action plan setting forth the concrete steps and new initiatives both countries will pursue during the next review period to implement the provisions of this annex.

and joint projects for, scientists and engineers involving all types of facilities and all levels of seniority and financial assistance.

G. Support in each country for visits and exchanges of

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III. The parties further agree to establish a Joint Interagency Executive Committee to support the work of the Joint Committee at the technical management level. The functions of the Joint Interagency Executive Committee shall be:

(1) to review the progress of cooperative science and technology activities under this agreement;

(2) to resolve routine technical and management issues which may arise;

(3) to formulate recommendations on matters related to activities under this agreement which require policy level attention for consideration by the Joint Committee.

III. The Parties further agree to establish a Joint Interagency Executive Committee to support the work of the Joint Committee at the technical management level. The functions of the Joint Interagency Executive Committee shall be:

[1] To monitor, manage, and review the progress of cooperative science and technology activities under this Agreement;

[2] To ensure that the lead agencies of both Parties keep the Joint Committee informed of the status of other activities related to the U.S.-Japan S&T relationship, including those large-scale projects endorsed at the head of State level.

[3] To resolve routine technical and management issues which may arise;

[4] To formulate recommendations on matters related to activities under this agreement which require policy level attention for consideration by the Joint Committee.

[Art. V]

1. The Parties will establish a Joint Working Level Committee at the technical management level to support the work of the Joint High Level Committee. For this purpose, specific functions of the Joint Working Level Committee are provided in Annex III and include a review of the overall science and technology relationship between the two countries under the policy framework of this Agreement and of the cooperative activities under this Agreement, and preparation of the annual report for the consideration of the Joint High Level Committee.

2. The Joint Working Level Committee will be chaired by the U.S. Department of State and the Ministry of Foreign Affairs of Japan. Each Party will determine its own representatives, including at least one technical management official from each agency with lead responsibility for a cooperative activity under this Agreement.

3. The Joint Working Level Committee will meet at least annually, alternately in the United States of America and Japan. Meetings of the Joint Working Level Committee will be scheduled with particular attention to its role in supporting the Joint High Level Committee.

IV. The Joint Interagency Executive Committee will be co-chaired by the Deputy Assistant Secretary of State for Science and Technology of the United States and the _____

_____.

The membership of the Joint Interagency Executive Committee will be determined by each side but will consist of at least one technical management official from each agency with lead responsibility for a project under the agreement.

V. The Joint Interagency Executive Committee will meet at least annually, alternately in the United States and Japan. Meetings of the Committee will be scheduled with particular attention to its role in supporting and developing policy recommendations for consideration by the Joint Committee.

[5] To develop an annual action plan for consideration of the Joint Committee, recommending specific steps both countries will pursue to implement the provisions of Annex II, Articles I and II.

[6] To assess periodically and report to the Joint Committee whether other agency-to-agency implementing arrangements are fully consistent with the policy framework of this Agreement and its annexes.

IV. The Joint Interagency Executive Committee will be chaired by the Department of State and the [Japanese equivalent]. The membership of the Joint Interagency Executive Committee will be determined by each side but will consist of at least one technical management official from each agency with lead responsibility for a project under the Agreement.

V. The Joint Interagency Executive Committee will meet at least annually, alternately in the United States and Japan. Meetings of the Committee will be scheduled with particular attention to its role in supporting and developing policy recommendations for consideration by the Joint Committee.

[Annex III]

2. The functions of the Joint Working Level Committee will include:

A. Reviewing and discussing the overall science and technology relationship between the two countries under the policy framework of this Agreement, including an assessment of the factors listed in paragraph 1 above;

B. Reviewing and discussing the overall progress of the cooperative activities under this Agreement and preparing recommendations, as necessary, for the consideration of the Joint High Level Committee to strengthen those activities;

C. Preparing, as necessary, policy recommendations on matters of importance to the overall science and technology relationship between the two countries for submission to the Joint High Level Committee for its consideration;

D. Preparing and submitting to the Joint High Level Committee for its consideration steps and new initiatives for the next year, including areas of cooperation under paragraph 1 of Annex I;

E. Preparing an annual report for the consideration of the Joint High Level Committee incorporating the results of the functions enumerated above;

F. Informing the Joint High Level Committee of the status of other bilateral science and technology arrangements in relation to the policy framework of this Agreement;

G. Dealing with technical and management issues related to the cooperative activities under this Agreement, except that large-scale projects and major research and development initiatives with separate management mechanisms

[Annex III]

VI. The two Parties also agree to establish a Joint High Level Advisory Panel composed of eminent leaders from the scientific and engineering disciplines, representing industry, academia, and government, to advise the two Governments on priority issues in the Science and Technology relationship. The Panel shall conduct annually a joint review of the entire range of U.S.-Japan S&T cooperation. These reviews shall take place alternately in the United States and Japan.

[Annex III]

VI. The two Parties also agree to establish a Joint High Level Advisory Panel composed of eminent leaders from the scientific, and engineering disciplines, representing industry, academia, and government with experience in the proposed area of research, to advise the two Governments on priority issues in the science and technology relationship. The Panel shall conduct annually a joint review of the entire range of U.S.-Japan S&T cooperation. These reviews shall take place alternately in the United States and Japan. A meeting of the Panel will be will be convened at the request of either side.

will not fall under the technical and management review of the Joint Working Level committee;

H. Establishing, as necessary, a task force to identify and monitor scientists' and engineers' access to and participation in major government-sponsored or government-supported research and development programs and to obtain annual statistical data on Japanese researchers' participation in the U.S. research and development system and U.S. researchers' participation in the Japanese research and development system; and

I. Establishing a task force to develop recommendations on improving access to scientific and technical information and to serve as a forum where scientific and technical information organizations may raise and resolve issues relating to open access to the results of scientific and technological research.

[Art V]

7. The Parties will establish a Joint High Level Advisory Panel to conduct a joint review of the overall science and technology relationship between the two countries and to advise the Joint High Level Committee on issues concerning that relationship. Specific functions of the Joint High Level Advisory Panel are provided in Annex III.

8. The Parties will each designate members of the Joint High Level Advisory Panel, which will comprise eminent leaders from the science and technology communities of both countries representing academia, industry, and other areas.

VII. The Joint High Level Advisory Panel shall be composed of senior scientific leaders representing a cross-section of the science and technology communities of the two countries. Members will be appointed by the President's Science Advisor on the U.S. side and the Science and Technology Minister on the Japanese side, respectively. On each side, a majority of the panelists will be selected from nongovernmental institutions, including industry and academia.

V). In appointing members to the Joint High Level Advisory Panel, each side may draw on existing bodies whose mandates encompass the concerns which would be addressed by the Panel in the specific U.S.-Japan context. On the U.S. side such a body is the White House Science Council. On the Japanese side, such a body is the Prime Minister's Council for Science and Technology.

IX. The functions of the Joint High Level Advisory Panel shall be:

(2) to identify issues that are of importance for the S&T relationship between the two countries;

(1) to review overall advances in S&T in the two countries and recommend to the Joint Committee priority areas for bilateral collaboration, under either private or governmental auspices;

VII. The Joint High Level Advisory Panel shall be composed of senior scientific, engineering and S&T application leaders representing a cross-section of the science and technology communities of the two countries. Members will be appointed by the President's Science Advisor on the U.S. side and [Japanese equivalent] respectively. On each side, a majority of the Panelists will be selected from non-governmental institutions, including industry and academia.

VIII. In appointing members to the Joint High Level Advisory Panel, each side may draw on existing bodies whose mandates encompass the concerns which would be addressed by the Panel in the specific U.S.-Japan context. On the U.S. side such a body is the White House Science Council. On the Japanese side, such a body is the Prime Minister's Council for Science and Technology.

IX. The functions of the Joint High Level Advisory Panel would include:

[2] Identifying issues that are of importance for the S&T relationship between the two countries;

[1] Reviewing overall advances in R&D in the two countries and recommending to the Joint Committee priority areas for bilateral collaboration, under either private or governmental auspices;

9. The Joint High Level Advisory Panel will meet on an annual basis and may also be convened at its own initiative or at the request of either chair of the Joint High Level Committee in consultation with the other chair.

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[Annex III]

3. The functions of the Joint High Level Advisory Panel will include:

A. Identifying issues of importance to the overall science and technology relationship between the two countries and making appropriate recommendations to the Joint High Level Committee;

B. Reviewing major advances in research and development in the two countries and recommending to the Joint High Level Committee priority areas for bilateral collaboration, under either private or governmental auspices;

(3) to assess ongoing mechanisms of science and technology cooperation for their effectiveness in achieving equitable scientific benefit for both sides, and recommend new mechanisms, as appropriate, to further these objectives;

(4) to identify and recommend approaches for dealing with structural/institutional differences that may impede balanced access to research and training opportunities, facilities, expertise, data, and results; and

(5) to identify areas and mechanisms for strengthening scientific and technological cooperation between the U.S. and Japan outside the governmental framework.

[3] Assessing ongoing mechanisms of S&T cooperation for their effectiveness in achieving equitable scientific and economic benefit for both sides, and recommending new mechanisms, as appropriate, to further these objectives;

[4] Identifying and recommending approaches for dealing with structural/institutional or policy differences that may impede balanced access to research and training opportunities, facilities, expertise, data, and results;

[5] Identifying areas and mechanisms for achieving symmetry in S&T cooperation between the U.S. and Japan outside the governmental framework;

[6] Addressing, at the request of either Party, all other issues, problems or questions pertaining to full implementation of this agreement and making appropriate recommendations to resolve such matters.

C. Reviewing mechanisms of science and technology cooperation for their effectiveness in strengthening the overall science and technology relationship, and making appropriate recommendations to the Joint High Level Committee; and

D. Identifying and recommending approaches to enhance comparable access to research and training opportunities, facilities, expertise, data, and results, taking into consideration each nation's research and development system, institutions, and policies.

ANNEX IV--INTELLECTUAL PROPERTY RIGHTS

NONE

For purposes of implementation of Article V of the Agreement, the Parties agree on the following principles.

I. PROTECTION OF INTELLECTUAL PROPERTY

The Parties will ensure adequate and effective protection for intellectual property created or introduced under the Agreement and the relevant implementing arrangements, in conformity with their respective laws and international agreements to which Japan and the United States are or will be Parties.

Annex IV--Intellectual Property Rights

NONE

For purposes of implementation of Article V of the Agreement, and to provide appropriate stewardship for and equitable distribution of intellectual properties created or introduced under the Agreement, the Parties and Participants agree to the following terms:

I. Protection of Intellectual Property Rights

The Parties will ensure adequate and effective protection for intellectual property created or introduced under the Agreement and the relevant implementing arrangements, in conformity with their respective laws and regulations and with international agreements to which Japan and the United States are or will be parties.

ARTICLE VI

Intellectual Property Rights

1. Scientific and technological information of a non-proprietary nature arising from the cooperative act under this Agreement may be made available to the publi either Party through customary channels and in accorda the normal procedures of the participating agencies.

2. The Parties will ensure:

A. the adequate and effective protection and equ distribution of intellectual property rights and o rights of a proprietary nature as provided in Anne created in the course of the cooperative activitie this Agreement; and

B. the adequate and effective protection of intel property rights and other rights of a proprietary provided in Annex IV introduced in the course of cooperative activities under this Agreement,

in accordance with the laws and regulations of the re countries and with international agreements to which States of America and Japan are or will be parties. Parties will consult for this purpose as necessary.

X. Applicability

This Annex is applicable to the Agreement and any implementing arrangements or cooperative activities entered into or performed thereunder, except as otherwise specifically provided for in individual implementing arrangements. Agency implementing arrangements may elaborate the provisions of this Annex and should explicitly refer to it. This Annex is not applicable to any cooperative activity not conducted under this

VIII. MISCELLANEOUS

Other questions or issues regarding the treatment of information, inventions, discoveries, writings, etc., not covered by this Annex, or any disagreements between the Parties respecting this Annex, will be settled through consultations between the Parties or their competent Government agencies.

II. PROTECTION OF DUAL USE TECHNOLOGY

Recognizing that technology having both peaceful and defense uses may be developed or introduced under the cooperation, the Parties agree to accept for filing in their respective patent offices applications classified or otherwise held in secrecy for national security purposes, in accordance with the Agreement between the Government of the United States of America and the Government of Japan to Facilitate Interchange of Patent Rights and Technical Information for Purposes of dated 22 March 1956 (hereinafter "1956 Agreement"). Information classified or otherwise held in secrecy shall not be exchanged under this Agreement before the 1956 Agreement is fully implemented

K. Applicability

This Annex is applicable to the Agreement and any implementing arrangements or cooperative activities entered into or performed thereunder, except as otherwise specifically provided for in individual implementing arrangements. Agency implementing arrangements may elaborate the provisions of this annex and should explicitly refer to it.

VIII. Miscellaneous

Other questions or issues regarding the treatment of information, inventions, discoveries, writings, etc., or any disagreements between the Parties respecting this Annex, will be referred to the Joint Committee.

II. Protection of Dual Use Technology

Recognizing that dual use technology may be developed under the cooperation, the Parties agree to accept for filing patent applications classified or otherwise held in secrecy for national security purposes, in accordance with the Agreement between the Government of the United States of America and the Government of Japan to Facilitate Interchange of Patent Rights and Technical Information for Purposes of Defense, dated 22 March 1956 [hereinafter "1956 Agreement"]. Such information classified or otherwise held in secrecy shall not be exchanged under this Agreement and this Agreement shall not otherwise be implemented until the procedures under the 1956 Agreement permitting the filing of patent applications classified or otherwise held in secrecy are fully implemented.

[Art VI]

3. Details and procedures for the protection and distri
of intellectual property rights and other rights of a proprietary nature as referred to in paragraph 2 above a forth in Annex IV, which is an integral part of this Agreement. Annex IV is applicable to any cooperative activities under this Agreement, except as otherwise specifically agreed by the parties to the cooperative activities concerned, in individual implementing arrange or otherwise. Implementing arrangements may also elabo the provisions of Annex IV.

[Art. VI]

4. Issues that arise between the parties to a cooperat activity regarding the treatment of information, invent discoveries, writings, etc., under this Article or Anne will be settled, in principle, between those parties. issues which cannot be resolved by those parties may be referred to the Joint Working Level Committee.

NONE

III. CONFIDENTIAL INFORMATION

(2) Information to be protected [means] information of a confidential nature which is appropriately identified and which meets all of the following conditions:

(a) it is of a type customarily held in confidence by governmental or commercial sources;

(b) it is not generally known or publicly available from other sources;

(c) it has not been previously made available by the owner to others without an obligation concerning its confidentiality; and

(d) it is not already in the possession of the recipient Party or Participant without an obligation concerning its confidentiality.

III. Confidential Information

[2] Information to be protected means trade secrets, commercial or financial information, or technical data if such secrets, information or data are privileged or if their disclosure could reasonably be expected to:

[A] Impair a Government's ability to obtain such information in the future;

[B] Cause substantial harm to the competitive position of the person from whom the information was obtained, either directly or indirectly; or

[C] Harm an identifiable Government interest.

Such protectable information meets the following conditions:

[A] It is of a type customarily held in confidence by governmental or commercial sources;

[B] It is not generally known or publicly available from other sources;

[C] It has not been previously made available by the owner to others without an obligation concerning its confidentiality; and

[D] It is not already in the possession of the recipient Party or Participant without an obligation concerning its confidentiality.

Annex V

PROTECTION AND DISTRIBUTION OF INTELLECTUAL PROPERTY RIGHTS AND OTHER RIGHTS OF A PROPRIETARY NATURE

1. Business-Confidential Information

A. For the purpose of this Annex, "business-confidential information" means any know-how, technical data, or techn commercial, or financial information that meets all of the following conditions:

(i) It is of a type customarily held in confidence f commercial reasons;

(ii) It is not generally known or publicly available other sources;

(iii) It has not been previously made available by the owner to others without an obligation concerning its confidentiality; and

(iv) It is not already in the possession of the recip without an obligation concerning its confidentiality.

(1) Any information of a confidential nature, as described below, furnished under the Agreement or its implementing arrangements, shall be protected. Such information shall be introduced and furnished only by mutual written agreement of the Participants and after review by the competent Government agency, or as otherwise agreed in writing by the Parties. Each Party, agency and Participant shall give full protection to such information in accordance with its laws, regulations, and administrative practices.

(3) Any information to be protected shall be appropriately marked before it is introduced under the cooperation, and responsibility for marking such information is on the Participant who introduces it or asserts that it is to be protected. Unmarked information shall be assumed not to be information to be protected except as required by the laws/regulations of the Parties. Implementing arrangements may address in greater detail the provisions for marking, acceptance or refusal of confidential information, and procedures to resolve disagreements as to whether information is to be protected under this Article.

[1] Any information of an unclassified proprietary or business-confidential nature, as described below, furnished under the Agreement or its implementing arrangements, shall be protected. Such information shall be introduced and furnished only by mutual written agreement of the participants and after review by the competent Government agency, and shall be protected as agreed in writing by the Parties.

[3] Except as otherwise required by law, any information to be protected shall be appropriately marked before it is introduced under the cooperation or, unless otherwise provided in the implementing arrangements, immediately upon being generated, and responsibility for marking such information is on the Participant who introduces it or asserts that it is to be protected. Unmarked information shall be assumed not to be information to be protected except as required by the laws, regulations and administrative practices of the Parties. Implementing arrangements will address in greater detail the provisions for marking, acceptance or refusal of confidential information, procedures for the protection of such information, and procedures to resolve disagreements as to whether information is to be protected under this Article.

B. Any business-confidential information will be furnished when created in the course of the cooperative activities und this Agreement, transferred only by mutual written agreement the parties to the cooperative activity concerned and will b given full protection in accordance with the laws and regulations of their respective countries.

C. Any business-confidential information will be appropri identified before it is furnished in the course of the cooperative activities under this Agreement or, unless otherwise provided in the implementing arrangements, immediately upon being created. Responsibility for identi such information will fall on the party which furnishes it asserts that it is to be protected. Unidentified informat will be assumed not to be information to be protected, exce that a party to the cooperative activity may notify the oth party in writing, within a reasonable period of time after furnishing or transferring such information, that such information is business-confidential information under the and regulations of its country. Such information will thereafter be protected in accordance with subparagraph B a

[IV Inventions]

Between a Party and its nationals, the ownership of rights will be determined in accordance with the Party's national laws and practices.

IV. INVENTIONS

For purposes of this Article, "invention" includes any invention made or conceived in the course of or under this Agreement or its implementing arrangements and which is or may be patentable or otherwise protectable under the laws of the United States, Japan, or any third country.

As to inventions made or conceived under the Agreement or its implementing arrangements, the Parties, their competent Government agencies, and Participants will take appropriate steps to secure rights to implement the following:

(1) If the invention is made or conceived as a result of the exchange of information between the Parties, such as by joint meetings, seminars, or the exchange of technical reports or papers:

[IV. Inventions. Para 2]

Between a Party and its nationals, the ownership of rights will be determined in accordance with the Party's national laws and practices.

IV. Inventions

For purposes of this Article, "invention" means any invention made or conceived under this Agreement or its implementing arrangements and which is or may be patentable or otherwise protectable under the laws of the United States, Japan, or any third country. "Made" means conceived or first actually reduced to practice.

As to inventions made under the Agreement or its implementing arrangements, the Parties, their competent Government agencies, and Participants will take appropriate steps to secure rights to implement the following:

[1] If the invention is made as a result of cooperation that involves only the transfer or exchange of information between the Parties, such as by joint meetings, seminars, or the exchange of technical reports or papers, unless provided otherwise in an applicable implementing arrangement:

[A] The Party whose personnel make the invention [the

2. Ownership of Intellectual Property Rights

Between each Party and nationals of its country, the ownership of intellectual property rights will be determined in accordance with its national laws, regulations and practices.

3. Inventions

A. For the purpose of this Annex, the "Invention" means any invention made in the course of the cooperative activities under this Agreement which is or may be patentable or otherwise protectable under the laws of the United States of America, Japan or any third country.

B. As to an Invention, the parties to the cooperative activity concerned will take appropriate steps, in accordance with the national laws and regulations of the respective countries, with a view to realizing the following:

(i) If an Invention is made as a result of a cooperative activity under this Agreement that involves only the transfer or exchange of information between the parti[illegible] such as by joint meetings, seminars, or the exchange of technical reports or papers, unless otherwise provided in an applicable implementing arrangement:

(a) the party whose personnel make the Invention (hereinafter referred to as "the Inventing Party") or the personnel who make the Invention (hereinafter referred to as "the Inventor") have the right to obtain all rights and interests in the Invention in all countries and

(A) the Party whose personnel make the invention (the Inventing Party) has the right to obtain all rights and interests in the invention in all countries;

(B) in any country where the Inventing Party decides not to obtain such rights and interests, the other Party has the right to do so; and

(C) in any country where one Party obtains all rights and interests in an invention, the other Party has the right to a nonexclusive, irrevocable, royalty-free license to the invention for the Party, with the right to grant sublicenses;

(2) If the invention is made or conceived by personnel of one Party (the Assigning Party) while assigned to the other Party (the Receiving Party) during an exchange of scientific and technical personnel:

(A) the Receiving Party has the right to obtain all rights and interests in the invention in its country and in third countries, and the Assigning Party has the right to obtain all rights and interests in its country;

(B) in any country where either Party decides not to obtain such rights and interests, the other Party has the right to do so; and

Inventing Party] has the right to obtain all rights and interests in the invention in all countries, and

[B] In any country where the Inventing Party decides not to obtain such rights and interests, the other Party has the right to do so.

[2] If the invention is made by personnel of a Party [the Assigning Party] while assigned to another Party [the Receiving Party] in the course of cooperation that involves only the visit or exchange of scientific and technical personnel:

[A] The Receiving Party has the right to obtain all rights and interests in the invention in all countries, and

[B] In any country where the Receiving Party decides not to obtain such rights and interests, the Assigning Party has the right to do so.

(b) in any country where the Inventing Party or the Inventor decides not to obtain such rights and interests, the other party has the right to do so.

(ii) If the Invention is made by an Inventor of a party ("the Assigning Party") while assigned to another party ("the Receiving Party") in the course of programs of a cooperative activity that involve only the visit or exchange of scientists and engineers, and:

(a) in the case where the Receiving Party is expecte to make a major and substantial contribution to the programs of the cooperative activity:

i. the Receiving Party has the right to obtain all rights and interests in the Invention i all countries, and

ii. in any country where the Receiving Party decides not to obtain such rights and interests, the Assigning Party or the Inventor has the right to do so;

(b) in the case where the provision in subparagraph (a) above is not satisfied:

(c) in any country where one Party obtains rights and interests in an invention, the other Party has the right to a nonexclusive, irrevocable, royalty-free license for the Party and its nationals.

(3) If the invention is made or conceived as a result of other specific forms of cooperation, such as special joint research projects, the Parties, their competent Government agencies, and Participants shall provide for the appropriate distribution of the rights thereto. In general, each Party should normally determine the rights to such inventions in its own country, and third country rights should be agreed upon by the Parties on an equitable basis.

(4) The Party whose personnel make an invention shall communicate promptly to the other Party information disclosing the invention and any patent or other protection it elects to obtain and will furnish the documentation necessary for the establishment of the other Party's rights in the invention. The Communicating Party may ask the other Party in writing to delay publication or public disclosure of such information. Unless otherwise agreed in writing, such restriction shall not exceed a period of six months from the date of the communication of such information. Communication shall be through the competent Government agencies or as designated in the implementing arrangements.

[3] Specific agreements involving other forms of cooperation, such as special joint research projects, shall provide for the mutually agreed upon disposition of rights to an invention made as a result of such a special project in accordance with the policies of the participants and their respective Governments.

[4] The Participant whose personnel make an invention must disclose promptly the invention to the other Participant and furnish any documentation and information necessary to enable the other participant to establish rights to which they are entitled. The Inventing Party may ask the other Participant in writing to delay publication or public disclosure of such information. Unless otherwise agreed in writing, such restriction shall not exceed a period of six months from the date of communication of such information. Communication shall be through the competent Government agencies or as designated in the implementing arrangements.

i. the Receiving Party has the right to obtain all rights and interests in the Invention in its own country and in third countries,

ii. the Assigning Party or the Inventor has the right to obtain all rights and interests in the Invention in its own country, and

iii. in any country where the Receiving Party decides not to obtain such rights and interests, the Assigning Party or the Inventor has the right to do so.

(iii) Specific arrangements involving other forms of the cooperative activities, such as joint research projects with an agreed research work scope, will provide for the mutually agreed upon disposition, on an equitable basis, of rights to the Invention made as a result of such activities.

(iv) The Inventing Party will disclose promptly the Invention to the other party and furnish any documentation or information necessary to enable the other party to establish rights to which it may be entitled. The Inventing 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 or the rights of the Inventor related to the Invention. Unless otherwise agreed in writing, such restrictions will not exceed a period of six months from the date of communication of such documentation or information

V. COPYRIGHTS

Participants will take appropriate steps to secure copyrights to works created under this Agreement in accordance with their respective national laws, except as specifically provided otherwise in an implementing arrangement. Rights to such works shall be determined in the relevant implementing arrangements, which may also provide for a non-exclusive, irrevocable, royalty-free license under the copyright to translate, reproduce, publish and distribute such works, for the Parties and, where appropriate, for their nationals. In determining the rights of the Parties, the principles of Article IV may serve as guidance.

V. Copyrights

Rights to works created under this Agreement shall be determined in the relevant implementing arrangements. Participants must take appropriate steps to secure copyright to works created under this Agreement in accordance with their respective national laws, except as provided otherwise in an implementing arrangement. In the absence of such provisions in an implementing arrangement, rights will be determined in accordance with the policies of the Participants and their respective Governments.

NONE

4. Copyrights

Disposition of rights to copyright-protected works created in the course of the cooperative activities under this Agreement will be determined in the relevant implementing arrangements. The parties to the cooperative activities concerned will take appropriate steps to secure copyright to works created in the course of the cooperative activities under this Agreement in accordance with the national laws and regulations of the respective countries.

5. Rights to Semiconductor Chip Layout Designs

Disposition of rights to semiconductor chip layout designs created in the course of the cooperative activities under this Agreement will be determined in the relevant implementing arrangements. The parties to the cooperative activities concerned will take appropriate steps to secure rights to semiconductor chip layout designs created in the course of the cooperative activities under this Agreement in accordance with the national laws and regulations of the respective countries.

VI. OTHER FORMS OF INTELLECTUAL PROPERTY

Rights to other forms of intellectual property, such as mask work registrations, shall be determined on an equitable basis, as set forth in the implementing arrangements.

VI. Other Forms of Intellectual Property

Rights to other forms of intellectual property, such as mask works, shall be determined on an equitable basis, as set forth in implementing arrangements.

6. Other Forms of Intellectual Property

For those other forms of intellectual property created in the course of the cooperative activities under this Agreement which are protected under the laws of either country, disposition of rights will be determined on an equitable basis, in accordance with the laws and regulations of the respective countries.

VII. COOPERATION

Each Party, its competent Government agency, and Participant will take all necessary and appropriate steps to provide for the cooperation of its authors and inventors which is required to carry out the provisions of this Annex. Each Party and Participant assumes the sole responsibility for any award or compensation that may be due to its personnel in accordance with its laws and regulations, provided, however, that this Article creates no entitlement to any such award or compensation.

VII. Cooperation

Each Party, its competent Government agency, and participant will take all necessary and appropriate steps to provide for the cooperation of its authors and inventors which are required to carry out the provisions of this annex. Each Party and Participant assumes the sole responsibility for any award or compensation that may be due its personnel in accordance with its laws and regulations, provided, however, that this article creates no entitlement to any such award or compensation.

7. Cooperation

Each party to the cooperative activity concerned will take all necessary and appropriate steps, in accordance with the laws and regulations of its country, to provide for the cooperation of its authors and inventors which are required to carry out the provisions of this Annex. Each party to the cooperative activity concerned assumes the sole responsibility for any award or compensation that may be due its personnel in accordance with the laws and regulations of its country, provided, however, that this Annex creates no entitlement to any such award or compensation.

IX. RELATION TO DOMESTIC LAW

No provision of the Agreement or this Annex requires either Party to modify its domestic law as to matters covered by the Agreement or Annex.

IX. Relation to Domestic Law

Except as provided in Article II, no provision of this Annex requires either Party to modify its domestic law as to matters covered by the Annex.

See Art II.7

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Annex V -- Security Obligations

I. Protection of Information

Both Governments agree that no information or equipment requiring protection in the interests of national defense or foreign relations of either Government and classified in accordance with the applicable national laws and regulations shall be provided under this Agreement. Information or equipment, which is known or suspected to require such protection, identified in the course of projects undertaken pursuant to this Agreement, immediately shall be brought to the attention of the appropriate Government officials.

II. Technology Transfer

The transfer of unclassified information and equipment between the parties under this Agreement shall be subject to the national export control laws and regulations of each Government. The Governments will take all necessary and appropriate measures, in accordance with the international obligations, national laws and regulations of each Government, to prevent the unauthorized transfer or retransfer of unclassified, export-controlled information and equipment provided or produced under this Agreement. Detailed provisions for the prevention of unauthorized transfer or retransfer of such information or equipment shall be incorporated into all contracts and other arrangements implementing this Agreement.

ARTICLE VII

1. Both Parties support the widest possible dissemination of the information or equipment created in the course of the cooperative activities under this Agreement, unless otherwise stipulated in this Article, Article VI, or Annex IV. In furtherance of the principle of maintaining an open basic research environment, both Parties confirm that no information or equipment classified for reasons of national defense will be utilized in the cooperative activities under this Agreement.

2. The transfer of export-controlled information or equipment between the countries in the course of the cooperative activities under this Agreement will be in accordance with the applicable national export control laws and regulations of each country. Each Party will take all necessary and appropriate measures, in accordance with applicable national laws and regulations, to prevent the diversion to unauthorized destinations of export-controlled information and equipment provided or produced in the course of the cooperative activities under this Agreement.

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THE SECRETARY OF STATE

WASHINGTON

June 20, 1988

Dear Mr. Minister:

I wish to confirm the following understanding shared by ou two Governments regarding paragraph 1 of Article VII of the Agreement between the Government of the United States of Americ and the Government of Japan on Cooperation in Research and Development in Science and Technology:

1. In the event that information or equipment that may be classified for reasons of national defense is unexpectedly created in the course of cooperative activities under the aforementioned Agreement, it may, insofar as permitted by applicable laws and regulations, be protected from unauthorized disclosure.

2. Neither Government is obligated to modify existing law and regulations or to create new laws and regulations.

Sincerely yours,

George P. Shultz

George P. Shultz

His Excellency
Sousuke Uno,
Minister for Foreign Affairs,
Tokyo.

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MINISTRY OF FOREIGN
TOKYO, JAPAN

June 20, 1988

Dear Mr. Secretary:

I wish to confirm the following understanding shared by our two Governments regarding paragraph 1 of Article VII of the Agreement between the Government of Japan and the Government of the United States of America on Cooperation in Research and Development in Science and Technology:

1. In the event that information or equipment that may be classified for reasons of national defense is unexpectedly created in the course of cooperative activities under the aforementioned Agreement, it may, insofar as permitted by applicable laws and regulations, be protected from unauthorized disclosure.

2. Neither Government is obligated to modify existing laws and regulations or to create new laws and regulation

Sincerely,

Sousuke Uno

Sousuke Uno
Minister for Foreign Affai
of Japan

The Honorable
George P. Shultz
Secretary of State
of the United States of America

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See Para 1, Diplomatic Note

See Para 1, Diplomatic Note

ARTICLE VIII

1. Implementation of this Agreement will be subject to the availability of appropriated funds and to the applicable laws and regulations of each country.

2. Costs of the cooperative activities under this Agreement will be borne by the Parties as mutually agreed, taking into account their respective risks, benefits and management shares.

ARTICLE IX

1. This Agreement will enter into force upon signature and remain in force for five years. Either Party may at any time give written notice to the other Party of its intention to terminate this Agreement, in which case this Agreement will terminate six months after such notice has been given.

2. This Agreement may be extended or amended by mutual agreement of the Parties.

ARTICLE X

The expiration of this Agreement will not affect the carrying out of any project or program undertaken under this Agreement and not fully executed at the time of the expiration of this Agreement.

DONE at Toronto, this twentieth day of June, 1988, in duplicate in the English and Japanese languages, both texts being equally authentic.

Ronald

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Noboru Takeshita

FOR THE GOVERNMENT OF JAPAN: