



Department of Energy
Washington, D.C. 20585

January 25, 1983

Mr. Kazuhiko Moriya
Acting Director General
Agency of Industrial Science and Technology
Ministry of International Trade and Industry
1-3-1 Kasumigaseki, Chiyoda-ku
Tokyo 100, Japan

Dear Sir:

I am in receipt of your letter dated January 25, 1983 which reads as follows:

"The Ministry of International Trade and Industry of Japan (MITI), desiring to make arrangements with the Department of Energy of the United States of America (DOE) for specific implementing procedures and details for a program of cooperation in the area of fusion research and development between the Government of Japan and the Government of the United States of America (hereinafter referred to as the "MITI-DOE Cooperation in Fusion Research and Development") under subparagraph (1) of paragraph 6 of the Exchange of Notes between the two Governments dated January 24, 1983 (hereinafter referred to as "the Exchange of Notes"), which was effected in accordance with the Agreement between the Government of Japan and the Government of the United States of America on Cooperation in Research and Development in Energy and Related Fields, signed at Washington on May 2, 1979 (hereinafter referred to as "the Basic Agreement"), proposes that MITI and DOE agree as follows:

I. MITI and DOE (hereinafter referred to as "the Parties") shall each appoint a contact person who is responsible for the coordination of the MITI-DOE Cooperation in Fusion Research and Development and for reporting to the Fusion Committee referred to in the Exchange of Notes.

II. The areas for cooperation under the MITI-DOE Cooperation in Fusion Research and Development may include:

1. plasma-containment devices, such as tokamaks, mirror machines, and pinches;
2. joint research relating to plasma physics;
3. magnetic fusion concepts;
4. magnetic systems for fusion devices;

5. plasma engineering, including plasma heating, plasma fueling, and other techniques for the maintenance and control of fusion plasmas;
6. fusion-reactor materials;
7. fusion-systems engineering;
8. environmental and safety aspects of fusion energy;
9. plasma diagnostics and vacuum technology;
10. applications of fusion energy; and
11. such other areas as may be discussed and identified by the Fusion Committee referred to in Article I within the scope of its duties, and as mutually agreed by the Parties.

III. 1. The implementation of the MITI-DOE Cooperation in Fusion Research and Development may include, but is not limited to, the following activities:

- (1) exchange of scientific and technical information;
- (2) holding of seminars and other meetings;
- (3) short-term visits by scientists, engineers and other experts to the facilities of the Parties;
- (4) exchange and loan of equipment, instruments and materials for testing;
- (5) exchange of scientists, engineers and other experts for participation in research, development, analysis, design, planning and experimental activities conducted at the facilities of the Parties; and
- (6) other forms of cooperative activities as may be mutually agreed between the two Governments.

2. When necessary, any specific details to implement activities listed in subparagraphs (1) through (5) of 1 above may be determined through consultations or auxiliary arrangements between the Parties. Specific terms and conditions necessary to implement activities listed in subparagraph (6) of 1 above shall be determined through written agreement between the Parties.

IV. 1. (1) The Parties will support the widest possible dissemination of information provided or exchanged under the MITI-DOE Cooperation in Fusion Research and Development subject to the need to protect proprietary information, to copyright restrictions, and to the provisions of Article VI.

- (2) Upon publication of such information, it shall be made clear that the information was obtained under the MITI-DOE Cooperation in Fusion Research and Development.

2. Use of Proprietary Information

A. Definitions as used for the MITI-DOE Cooperation in Fusion Research and Development.

(i) The term "information" means scientific or technical data, results or methods of research and development, and any other information intended to be provided or exchanged under the MITI-DOE Cooperation in Fusion Research and Development.

(ii) The term "proprietary information" means information which contains trade secrets or commercial or financial information which is privileged or confidential, and may only include such information which:

- a) has been held in confidence by its owner;
- b) is of type which is customarily held in confidence by its owner;
- c) has not been transmitted by the transmitting Party to other entities (including the receiving Party) except on the basis that it be held in confidence; and
- d) is not otherwise available to the receiving Party from another source without restriction on its further dissemination.

B. Procedures

(i) A Party receiving proprietary information pursuant to the MITI-DOE Cooperation in Fusion Research and Development shall respect the privileged nature thereof. Any document which contains proprietary information shall be clearly marked with the following (or substantially similar) restrictive legend:

"This document contains proprietary information furnished in confidence under the exchange of letters dated _____ between the United States Department of Energy and the Ministry of International

Trade and Industry of Japan, and shall not be disseminated outside these organizations, their contractors, licensees and the concerned departments and agencies of the Governments of the U.S. and Japan without the prior approval of _____"

"This notice shall be marked on any reproduction hereof, in whole or in part. These limitations shall automatically terminate when this information is disclosed by the owner without restriction."

(ii) Proprietary information received in confidence under the MITI-DOE Cooperation in Fusion Research and Development may be disseminated by the receiving Party to:

- a) persons within or employed by the receiving Party, and other concerned Government Departments and Government agencies in the country of the receiving Party;
- b) prime contractors or subcontractors of the receiving Party located within the geographical limits of the Party's nation for use only within the framework of their contracts with the receiving Party in work relating to the subject matter of the proprietary information;

provided that any proprietary information so disseminated shall be pursuant to an agreement of confidentiality and shall be marked with a restrictive legend substantially identical to that appearing in subparagraph 2.B(i) above.

(iii) With the prior written consent of the Party providing proprietary information under the MITI-DOE Cooperation in Fusion Research and Development the receiving Party may disseminate such proprietary information more widely than otherwise permitted in the foregoing section (ii). The Parties shall cooperate with each

other in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party will grant such approval to the extent permitted by its national policies, regulations and laws.

C. If one of the Parties becomes aware that it will be, or may reasonably be expected to become, unable to meet the non-dissemination provisions of this Article, it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.

D. Information arising from seminars, workshops, and other meetings arranged under the MITI-DOE Cooperation in Fusion Research and Development arising from the assignments of staff and use of facilities and exchange of equipment shall be treated by the Parties according to the principles specified in this Section with the provision that no proprietary information orally communicated shall be subject to the limited disclosure requirements of the MITI-DOE Cooperation in Fusion Research and Development unless the individual communicating such information places the recipient on notice as to the proprietary information communicated.

V. The transmitting Party in its relation with the receiving Party does not warrant the suitability of any information transmitted for any particular use or application.

VI. The Parties shall take necessary steps under the applicable laws and regulations of the relevant country or countries to achieve the equitable distribution of industrial property resulting from the MITI-DOE Cooperation in Fusion Research and Development and licenses thereof, as follows:

1. With respect to any invention or discovery made or conceived in the course of or under the MITI-DOE Cooperation in Fusion Research and Development:

a. If made or conceived by personnel of one Party (the Assigning Party) or its contractors while assigned to the other Party (Receiving Party) or its contractors in connection with exchanges of scientists, engineers and other specialists:

(1) The Receiving Party shall acquire all right, title and interest in and to any such invention or discovery in its own country and in third countries.

(2) The Assigning Party shall acquire all right, title and interest in and to any such invention or discovery in its own country.

b. If made or conceived by a Party or its contractors as a direct result of employing information which has been communicated to it under the MITI-DOE Cooperation in Fusion Research and Development by the other Party or its contractors or communicated during seminars or other joint meetings, the Party making the invention shall acquire all right, title, and interest in and to such invention or discovery in all countries.

c. For loans or exchanges of material, instruments and equipment having a value of less than five thousand United States dollars, the provisions of subparagraph b above shall apply.

d. The Party which owns an invention referred to in subparagraphs a, b and c above shall license such inventions to the other Party, its Government and the nationals of its country designated by it, upon request of the other Party on reasonable terms and conditions.

e. The distribution of rights set forth in subparagraphs a, b and c are applicable only to the exchange of personnel and information, and loans or exchanges of material, instruments and equipment having a value of less than five thousand United States dollars. With regard to other specific forms of cooperation including special joint research projects, the Parties shall provide for appropriate distribution of rights to inventions or discoveries resulting from such cooperation taking into consideration the benefits, rights and contributions of the Parties.

2. The provisions of the preceding paragraph 1 of this Article shall apply mutatis mutandis to the protection of utility model and of design.

3. Each Party shall assume the responsibility to pay awards or compensation required to be paid to its own nationals according to its own laws. Each Party shall, without prejudice to any rights of inventors under its national laws, take all necessary steps to provide the cooperation from its inventors required to carry out the provisions of this Article.

VII. Copyrights of the Parties shall be accorded treatment consistent with internationally recognized standards of protection. As to copyrights on materials within the scope of paragraph 1 of Article IV above owned or controlled by a Party, that Party shall make efforts to grant to the other Party a license to reproduce or translate copyrighted material.

VIII. Cooperation under the MITI-DOE Cooperation in Fusion Research and Development shall be in accordance with the laws of the respective countries and the regulations of the respective Parties. All questions relating to the MITI-DOE Cooperation in Fusion Research and Development or activities carried out hereunder shall be settled by mutual agreement of the Parties. Compensation for damages under the MITI-DOE Cooperation in Fusion Research and Development shall be in accordance with the applicable laws of the countries of the Parties.

IX. With respect to the exchange of staff under the MITI-DOE Cooperation in Fusion Research and Development:

1. Whenever an exchange of staff is contemplated under the MITI-DOE Cooperation in Fusion Research and Development each Party shall ensure that qualified staff are selected for assignment to the other Party.
2. Each such assignment of staff shall be the subject of a separate assignment agreement between the Parties.
3. Each Party shall be responsible for the salaries, insurance and allowances to be paid to its staff.
4. The sending Party shall pay for the travel and living expenses of its staff while on assignment to the receiving Party unless otherwise agreed.

5. The receiving Party shall arrange for adequate accommodations for the assigned staff and their families on a mutually agreeable reciprocal basis.
6. The receiving Party shall provide all necessary assistance to the assigned staff and their families as regards administrative formalities (travel arrangements, etc.).
7. The staff of each party shall conform to the general and special rules of work and safety regulations in force at the host establishment, or as agreed in separate assignment-of-staff agreements.

X. Both Parties agree that in the event equipment, instruments, materials or necessary spare parts (hereinafter referred to as "the equipment, etc.") are to be exchanged, loaned or supplied by one Party to the other, the following provisions shall apply covering the shipment and use of such equipment, etc.

1. The sending Party shall supply as soon as possible a detailed list of the equipment, etc. to be provided together with the relevant specifications and technical and informational documentation.
2. The equipment, etc. supplied by the sending Party shall remain its property and shall be returned to the sending Party upon completion of the mutually agreed upon activity unless otherwise agreed.
3. The above-mentioned equipment, etc. shall be brought into operation at the host establishment only by mutual agreement between the Parties.
4. The receiving Party shall provide the necessary premises for the equipment, etc. and will provide for electrical power, water, gas, etc., in accordance with technical requirements which shall be mutually agreed.
5. Responsibility and expenses for the transport of equipment, etc. from the United States to their ultimate destination in Japan, and return, and also responsibility for their safekeeping and insurance en route, shall rest with DOE.
6. Responsibility and expenses for the transport of equipment, etc. from Japan to their ultimate destination in the United States, and return, and also responsibility for their safekeeping and insurance en route, shall rest with MITI.

7. The receiving Party will notify the customs authorities that it considers the equipment, etc. provided by the sending Party for carrying out mutually agreed upon activities are of a scientific character and not of a commercial character.

XI. The implementation of the MITI-DOE Cooperation in Fusion Research and Development shall be subject to the availability of appropriated funds.

XII. 1. The MITI-DOE Cooperation in Fusion Research and Development shall continue in force as long as the Exchange of Notes remains in force, unless terminated earlier in accordance with subparagraph 2 below.

2. The MITI-DOE Cooperation in Fusion Research and Development may be terminated at any time at the discretion of either Party, upon six (6) months advance notification in writing by the Party seeking to terminate the MITI-DOE Cooperation in Fusion Research and Development. Such termination shall be without prejudice to the rights which may have accrued under the MITI-DOE Cooperation in Fusion Research and Development to either Party up to the date of such termination.

3. Specific activities initiated hereunder but not completed at the termination of this Arrangement may be continued until their completion under the terms of this Arrangement.

4. This Arrangement may be amended through mutual written agreement of the Parties.

I would be grateful if you would be kind enough to confirm that the foregoing arrangement is acceptable to the Department of Energy of the United States of America.

With best regards from the Ministry of International Trade and Industry of Japan."

I am pleased to confirm to you that the Department of Energy is agreeable to the arrangement contained in the above letter of yours.

With best regards,

Sincerely,


Alvin W. Trivelpiece, Director
Office of Energy Research
U.S. Department of Energy