

ANNEX I

To the Protocol on Cooperation in the Fields of  
Nuclear Physics and Controlled Magnetic Fusion Research  
between the  
Department of Energy of the United States of America  
and the  
State Science and Technology Commission  
of the People's Republic of China

In accordance with Article 8 of the Protocol on Cooperation in the Fields of Nuclear Physics and Controlled Magnetic Fusion Research between the Department of Energy of the United States of America and the State Science and Technology Commission of the People's Republic of China (hereinafter referred to as the Protocol), signed in Beijing on May 11, 1983 by the Department of Energy of the United States of America and the State Science and Technology Commission of the People's Republic of China (hereinafter referred to as the Parties), the Parties agree as follows:

1. All information of each Party provided to the cooperative program under the Protocol or Annexes and all information arising from the Protocol or Annexes, except any information of a confidential nature, may be published through scientific journals and other channels commonly used for dissemination of scientific and technological information. The Parties agree that any information of a confidential nature exchanged under the Protocol or Annexes (such as trade secrets and technical know-how or information with obligation concerning its confidentiality requested by either Party), shall be protected. A decision to introduce and furnish such information shall be made only by mutual agreement of the Parties which may be arrived at on a case-by-case basis through consultation between the representatives designated by both Parties or their designated coordinators under Article 4 of the Protocol, or as otherwise agreed by the Parties; the terms and conditions for such agreement shall be set forth in Annexes as described in Article 5 of the Protocol.

2. As to inventions or discoveries made or conceived under the Protocol or Annexes, the Parties agree:

A. If the invention or discovery is made or conceived by personnel of one Party as a result of the exchange of information between the Parties, such as by joint meetings, seminars, or exchange of technical reports or papers:

(1) The Party whose personnel made the invention or discovery (the inventing Party) is entitled to obtain all rights and interests in the invention or discovery in all countries, subject to a nonexclusive, irrevocable, royalty-free license to the other Party, its government and nationals; and

(2) In the event the inventing Party decides not to obtain such rights and interests in the other Party's country, or a third country, the other Party may do so, subject to a nonexclusive, irrevocable, royalty-free license to the inventing Party, its government and nationals.

B. If the invention or discovery is solely or jointly made or conceived by personnel of one Party (the assigning Party) while assigned to the other Party (the receiving Party) during exchange of scientific and technical personnel:

(1) The receiving Party is entitled to obtain all rights and interests in the invention or discovery in its country, and third countries, and the assigning Party is entitled to all rights and interests in its country and a nonexclusive, irrevocable, royalty-free license in third countries for use by the assigning Party, its government and nationals; and

(2) In the event the receiving Party decides not to obtain such rights and interests in third countries, or a particular third country, the assigning Party may do so, subject to a nonexclusive, irrevocable, royalty-free license to the receiving Party, its government and nationals.

C. If the invention or discovery is made or conceived as a result of other forms of cooperation, such as collaborative research and development activities, as set forth in Article 2 of the Protocol, or if an invention or discovery is made or conceived under the circumstances of paragraph 1 above by personnel of both Parties (co-inventors), the Parties shall provide for appropriate distribution of the rights thereto in annexes as described in Article 5 of the Protocol. In general, each Party shall normally own the rights to such inventions in its own country, and third-country rights shall be agreed upon by the Parties on an equitable basis.

D. The Party whose personnel made the invention or discovery shall communicate to the other Party information disclosing the invention, any patent or other protection it elects to obtain, and furnish documentation necessary for the establishment of the other Party's rights in the invention. The communicating Party may ask the other Party to delay publication or public disclosure of such information, provided that this restriction does not extend beyond a period of six months from the date of the communication of such information.

3. Either Party, or any entity acting under agreement with either Party, may obtain copyright protection in its own country and third countries on works which the Party or its entity originates under the Protocol or Annexes, in which event the non-originating Party, its government and nationals shall have a nonexclusive, irrevocable, royalty-free license under the copyrights to translate, reproduce, publish and distribute such works.

4. Each Party shall assume the responsibility to pay awards or compensation required to be paid to nationals of its own country according to the laws of its own country.

5. Other questions or issues that arise under this Annex shall be settled through consultation between the representatives designated by both Parties or their designated coordinators under Article 4 or as otherwise agreed by the Parties.

6. This Annex shall enter into force upon signature by both Parties and shall remain in force for the duration of the Protocol.

Done at Beijing, on the thirteenth day of March of 1986, in duplicate in the English and Chinese languages, both equally authentic.

For the Department of Energy  
of the  
United States of America



For the State Science and  
Technology Commission of the  
People's Republic of China

