

Memorandum of Understanding

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) IS ENTERED INTO BY

The National Institute of Standards and Technology, hereinafter referred to as “NIST”, a public scientific and technological research organization, having its head office at 100 Bureau Drive, Stop 1070, Gaithersburg, MD 20899-1070 U.S.A. and being represented by Dr. Willie E. May, Acting Director,

AND

National Institute of Advanced Industrial Science and Technology, hereinafter referred to as “AIST”, a public scientific and technological research organization, having its head office at 1-3-1 Kasumigaseki, Chiyoda-ku Tokyo 100-8921 Japan and being represented by Dr. Ryoji Chubachi, President,

Both hereinafter referred to as the “Parties” collectively or “Party” individually,

PREAMBLE:

WHEREAS, the Parties believe that expansion and development of cooperation between the two organizations will contribute to enhanced scientific and technological cooperation between the United States of America and Japan,

WHEREAS, the Parties recognize that cooperation in research and development related to the development of technical standards between NIST and AIST will bring mutual benefits to the industry of both countries,

WHEREAS, the Parties recognize the benefits accrued from the long standing information exchange on technical standards and conformity assessment between NIST and the Ministry of Economy, Trade and Industry “METI” (in consultation with technical experts from AIST),

WHEREAS, the Parties have gained mutual benefits through the collaboration under the Memorandum of Understanding for Cooperation on Research and Development in Support of Technical Standards which was entered into between the Parties on May 4, 2009 and was made effective for five (5) years thereafter and wish to renew the collaboration under the terms and conditions herein,

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

Article 1: Purpose

The purpose of this MOU is to facilitate the cooperation between the Parties in a broad range of scientific areas, including but not limited to:

- Metrology,
- Life Science and Biotechnology,
- Environment and Energy, and
- Nanotechnology and Materials.

Article 2: Action for the Joint Scientific and Technological Cooperation

1. The Parties will meet regularly and as needed to discuss possible subjects for future cooperation, to review the state of current cooperative projects, and to decide on the joint seminars and the implementation of joint cooperation on priority subjects.
2. The Parties intend to jointly work on the implementation of mutually beneficial activities and cooperative projects. Such cooperation may consist of exchanges of personnel, exchanges of technical information, reference data, exchange visits, and other activities as may be mutually agreed.
3. The Parties intend to enter into project-specific agreements for cooperative scientific and technical activities conducted pursuant to this MOU. Such agreements should include detailed provisions for the conduct of research and other terms as appropriate. (hereinafter referred to as "Joint Research Projects").
4. The Parties intend to work together on the confirmation of measurement standards equivalence and the development of technical standards in the fields as may be mutually agreed.

Article 3: Administrative Unit

The unit responsible for administration and management of collaboration arrangement established under this MOU will be for NIST the International and Academic Affairs Office and for AIST the International Affairs Division.

Article 4: Confidentiality

To the extent permitted by the laws applicable to each Party, the Parties shall keep confidential the items defined as "Confidential Information" in the Appendix, and shall not provide or disclose Confidential Information to any third party without the other Party's written consent. Confidential Information shall remain confidential for an additional three (3) years after the termination of this MOU.

Article 5: Publications

The Parties are encouraged to make widely available on an unrestricted basis the data or other technical information created in the course of the Joint Research Projects or cooperative activities pursuant to this MOU. The Parties shall observe the confidentiality terms set forth in the foregoing Article to ensure no proprietary information is disclosed in any proposed publication or public release of information. The publishing Party shall disclose to the other Party the contents of the any announcement or other publication in advance, and shall consult with the other Party unless a compelling case under the laws applicable to each Party. The terms of this Article shall remain valid for three (3) years after the termination of this MOU.

Article 6: Intellectual Property Rights

Intellectual Property Rights shall be as defined in the Appendix.

1. Ownership

- a) The Intellectual Property Rights related to an invention made independently by a researcher of either Party shall be owned solely by such Party.
- b) The Intellectual Property Rights related to an invention made jointly by researchers of both Parties (“Jointly-Owned Intellectual Property Rights”) shall be basically owned jointly by the Parties with the extent of the ownership to be determined through consultation between the Parties, taking into consideration the contributions made by each Party.

2. Application and Maintenance

Prior to filing for patent protection or other form of intellectual property protection, the Parties shall consult and determine the extent to which each Party will be responsible for the application and maintenance expenses of the Jointly-Owned Intellectual Property Rights.

Article 7: Safety

The Parties shall ensure that appropriate policies and practices are in place to provide for the safety of their employees, the public, and the environment during the conduct of cooperative activities and subject to applicable national laws and regulations.

Article 8: Duration

This MOU shall remain in effect for five (5) years from May 4, 2014. It may be terminated, amended or extended by a prior written agreement between both Parties hereto. However, either Party may terminate this MOU upon sixty (60) days written notice to the other. Termination of this MOU will not affect any project specific agreements between the Parties in force at the time of the termination of this MOU.

Article 9: Compliance with Export Controls and Regulations

1. If goods and/or technology are transferred, Parties shall comply with the export control laws and regulations of Japan and the United States of America, as applicable.
2. When export licenses are required by the export control laws and regulations of Japan or the United States of America, the Parties will consult as to whether or not an export license will be obtained. Each Party is responsible for its own compliance with such laws.
3. The Parties represent that they shall not use themselves or intentionally allow any third party to use any goods and/or technology obtained under this MOU for the purpose of developing or manufacturing nuclear, chemical or biological weapons, or missiles to deliver any such weapons.

Article 10: Disputes

1. The Parties agree that if any of the terms herein are subject to questions of intent or interpretation, or if the Parties identify other issues that are not addressed in this MOU, the Parties shall enter into good faith negotiations to resolve such issues, and the resolution will be incorporated as written amendments to this MOU.
2. As the final resolution to any dispute hereunder, either Party may terminate this MOU under the provisions of Article 8.

Article 11: Assignment

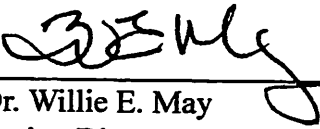
Neither Party may assign, transfer or dispose of this MOU in whole or in part or any right or obligation hereunder to any individual, firm, institution or corporation without obtaining prior written consent from the other Party; and such consent shall not be unreasonably withheld.

Article 12: Availability of Funds

The activities contemplated under this MOU are subject to the availability of funds and other necessary resources to the Parties. This MOU does not obligate funds and neither Party is required to obligate funds to the activities proposed herein.


IN WITNESS WHEREOF, the undersigned, duly authorized, have signed duplicates of the present MOU on behalf of their respective institutions. Each Party shall keep one copy of the originals.

National Institute of Standards and Technology

By: 
Dr. Willie E. May
Acting Director

Date: July 25, 2014

National Institute of Advanced Industrial Science and Technology

By: 
Dr. Ryoji Chubachi
President

Date: July 11, 2014

APPENDIX

Definitions:

Confidential Information

1. "Confidential Information" as used in this MOU means the following:
 - a) technical information and documents and marketing information provided or disclosed by the other Party (hereinafter in this Article to include researchers of the other Party) in connection with this MOU, which were disclosed in writing and/or marked with an appropriate confidentiality legend by the other Party at the time of provision or disclosure, or which were disclosed with an oral confidential designation at the time of disclosure and subsequently reduced to writing and marked with an appropriate confidential legend to the other Party within thirty (30) days of the disclosure; and
 - b) all technological achievements such as Intellectual Property Rights like know-how and inventions generated from Joint Research and/or any activities conducted pursuant to this MOU, which Parties agree to designate as confidential promptly after its creation.

2. The provisions of the foregoing Paragraph shall not apply to Confidential Information which falls under any of the following:
 - a) Information which was in the public domain at the time of disclosure or thereafter enters the public domain other than through a breach of the receiving Party,
 - b) Information that is lawfully obtained from a third party under circumstances permitting the receiving Party to use or disclose the information without restrictions,
 - c) Information which is in the possession of the receiving Party prior to its receipt from the disclosing Party,
 - d) Information that can be proven in writing to have been developed independently by the receiving Party without using information received from the disclosing Party, and
 - e) Information which is required to be disclosed as a result of governmental or judicial order.

These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

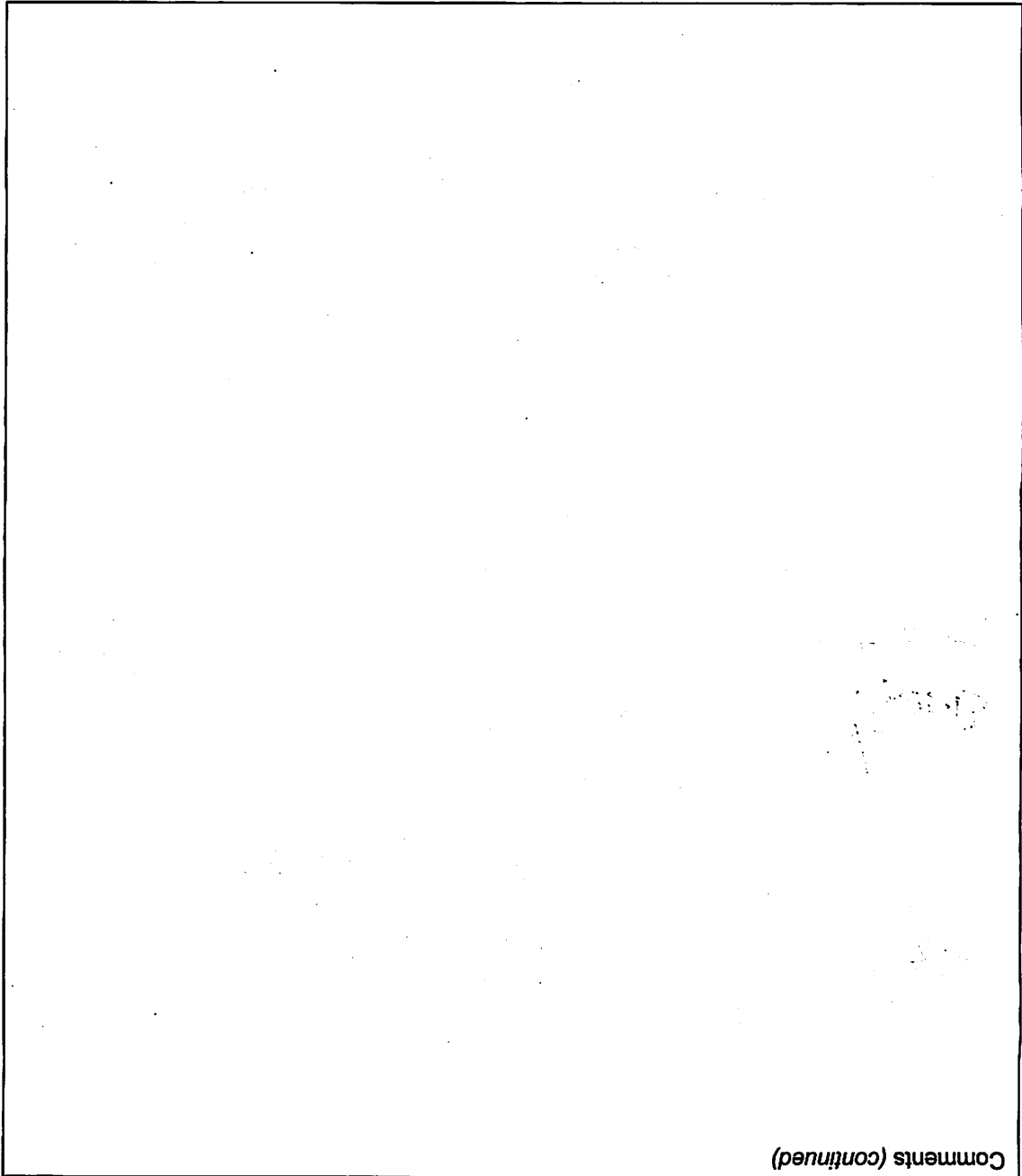
Intellectual Property Rights

“Intellectual Property Rights” as used in this MOU means the following:

- a) Any and all world-wide intellectual property rights, including but not limited to, patent right, utility model right, design right, trademark right, copyright, and right to obtain these rights;
- b) Know-how, including but not limited to, technical information, experimentation data, sample materials, and drawings, which is of concealable and proprietary nature and is designated through consultation between the Parties.

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FORM CD-15 (12-6-73) PRESCR. BY TRANSMIT/ROUTE DAO 214-2		U.S. DEPARTMENT OF COMMERCE		DATE
NAME	BUILDING, ROOM OR REFERENCE NO.	TAKE ACTION BELOW	INITIALS AND DATE	
Claire Saundry	X2386/A220	2	CMM 7/25/14	
Jazmine Whiting	x2803/A534	3	JW 7/21/14	
Henry Wixon/Melissa Lieberman <i>MADSEN</i>	x2803/A534	3	ML 7-24-14	
Michelle Harman	x5333/A1105	12		
Kevin Kimball	X2301/A1100	2	KJ 7-21-13	
Leona Bedroissan	x2300/A1134	12	LB 7/25/14	
Willie May	x2300/A1134	1		
Robin Davitt	x3069/A200	12		
ACTION ITEMS				
1. APPROVAL/SIGNATURE		9. YOUR INFORMATION		
2. CLEARANCE/INITIALS		10. PER OUR CONVERSATION		
3. RECOMMENDATION OR COMMENT		11. AS REQUESTED		
4. RETURN WITH MORE DETAILS		12. NECESSARY ACTION		
5. INVESTIGATE AND REPORT		13. CIRCULATE AMONG STAFF		
6. NOTE AND SEE ME		14. ANSWER DIRECTLY		
7. NOTE AND RETURN		15. PREPARE REPLY FOR SIGNATURE		
8. NOTE AND FILE		OF: _____		
COMMENTS				
Please provide complete copy to OCC (A534, MS1052) Thanks!				
<input type="checkbox"/> Continued on reverse				
FROM (Name)	BUILDING, ROOM OR REF. NO.	CODE AND EXTENSION		
Claire Saundry	A220	x2386		



Comments (continued)