

**MEMORANDUM OF UNDERSTANDING
REGARDING COLLABORATION AND COOPERATION
BETWEEN
THE UNIVERSITY OF CALIFORNIA, THE CENTRE NATIONAL DE LA RECHERCHE
SCIENTIFIQUE AND THE ECOLE PRATIQUE DES HAUTES ETUDES**

BETWEEN

The Regents of the University of California, hereinafter referred to as “UC”, a public university with the Office of the President located at 1111 Franklin Street, Oakland, CA 94607-5200 (USA), represented by its Vice President for Research and Graduate Studies, Steven Beckwith,

AND

The Centre National de la Recherche Scientifique, hereinafter referred to as “CNRS”, a public scientific and technological institution with headquarters at 3, rue Michel Ange, 75794 Paris Cedex 16 (France), represented by its Director General, Arnold Migus,

AND

L’Ecole Pratique des Hautes Etudes, hereinafter referred to as “EPHE”, a public scientific, cultural and vocational institution located at 4, 6 rue de Lille 75007 Paris (France) represented by its President, Jean-Claude Waquet.

The Regents of the University of California and the Ecole Pratique des Hautes Etudes (EPHE) and the Centre National de la Recherche Scientifique (CNRS) (hereinafter referred to as “**the Parties**”)

PREAMBLE

The Regents of the University of California (UC) and the Centre National de la Recherche Scientifique (CNRS) and the Ecole Pratique des Hautes Etudes (EPHE) in support of research, education, outreach and technology development based at the UC BERKELEY RICHARD B. GUMP SOUTH PACIFIC RESEARCH STATION (hereinafter “**Gump Station**”) and the UMS 2978 CNRS-EPHE, CENTRE DE RECHERCHES INSULAIRES ET OBSERVATOIRE DE L’ENVIRONNEMENT (hereinafter “**CRIOBE**”), on Moorea (French Polynesia) have recognized the key role that research, education, outreach and technology play in sustainable development of tropical regions and the benefits of a strategic partnership between the Parties in French Polynesia have reached the following understanding:

1- EXECUTING AUTHORITIES

The executing authority will be:

- 1 - The Office of the President for the University of California (UC);
- 2 – The President of the Ecole Pratique des Hautes Etudes (EPHE)
- 3 –The Director General of the Centre National de la Recherche Scientifique (CNRS)

EPHE and CNRS are hereinafter referred to as "CRIOBE ".

2- OBJECTIVES

The Parties shall

(a) Promote the exchange of ideas, information and methods in regard to their programs in French Polynesia;

(b) Promote cooperation in the support of research, education, and outreach in areas of mutual interest, especially those relevant to tropical island ecosystems, including but not limited to the following examples:

- Long-term studies of the coral reef ecosystem through the Moorea Coral Reef Long-Term Ecological Research (MCR-LTER) site (a multi-UC campus program led by UC Santa Barbara) and the INSU Polynesia-Pacific Coral Reef Observatory (Observatoire des Récifs Coralliens de Polynésie et du Pacifique, CORAIL);
- Marine management area (PGEM) research program;
- Biodiversity science, biological surveys and inventories through the Biocode program.

(c) Promote exchange of views in supporting the formulation and execution of research, education, and outreach in French Polynesia;

(d) Facilitate interaction between officials, scientists and staff of the University of California, its campuses, and CNRS and EPHE through programs based at the Gump Station and CRIOBE; and

(e) Promote the development of facilities and infrastructure to support research, education, and outreach in French Polynesia.

3-METHODS

In order to pursue the objectives listed in paragraph 2 above, the Parties will:

- (a) Explore and develop a program of staff visits and exchanges between programs based in French Polynesia;

- (b) Examine the potential for joint research, education, and outreach in French Polynesia; and
- (c) Create opportunities for student exchange between French agencies and California Universities through common programs in French Polynesia.

Detailed proposals for a program of cooperation under paragraph 3 and in particular the activities referred to in sub-paragraphs (a), (b) and (c) of paragraph 3 will be considered by the Parties shortly after entry into effect of this MOU and thereafter on a regular basis.

4- INTELLECTUAL PROPERTY

The protection and allocation of intellectual property created or furnished in the course of cooperative activities under this MOU shall be governed out in specific agreements.

In case of difficulties during the negotiations, the Parties keep the opportunity to debate on the basis of Annex I on the Intellectual Property Rights which forms an integral part of the Agreement signed on October 22, 2008 between the Government of the United States of America and the Government of France).

5- SETTLEMENT OF DISPUTES

Any dispute arising from the interpretation or implementation of this MOU shall be resolved amicably and expeditiously by consultation or negotiation between the Parties.

Should an amicable settlement prove to be impossible, the plaintiff Party shall request a settlement before an arbitration court, which shall rule in accordance with the rules of the international law. Unless the Parties decide otherwise in writing, the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) shall apply.

6- LIABILITY

The Parties make no representation or warranties expressed or implied, regarding their performance under this MOU.

7- AMENDMENT AND REVIEW


Any amendment to or revision of the MOU shall be made in writing and shall come into effect on such date as agreed by the Parties.

8- COMMENCEMENT AND TERMINATION

This MOU shall be effective from the date of signing by the last of the Parties for a term of four (4) years. Either Party may terminate the MOU with ninety (90) days of written notice to the other Parties.

This Agreement may be renewed for periods of four (4) years by amendment.
Executed in three (3) original copies.

The University of California

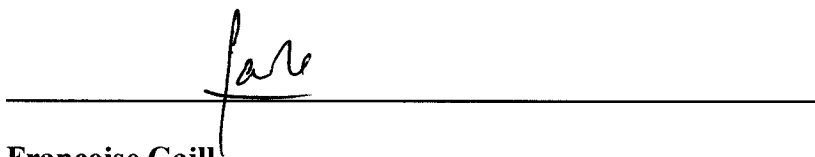


Steven V. W. Beckwith
Vice President for Research & Graduate Studies
Office of the President

Place: *Oakland, CA*
Date: *2/25/09*

The Centre National de la Recherche Scientifique

Arnold Migus
Director General



Françoise Gaill
Director of the Institut Ecologie et Environnement

Place: *Papeete*
Date: *2 mars 2009*

The Ecole Pratique des Hautes Etudes



Jean-Claude Waquet
President

Place: *Papeete*
Date: *2 mars 2009*

ANNEX I: INTELLECTUAL PROPERTY RIGHTS

(Annex on the Intellectual Property Rights which forms an integral part of the Agreement signed on October 22, 2008 between the Government of the United States of America and the Government of France).

Pursuant to Article 4 of this MOU;

I. General Obligation

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant implementing arrangements. Rights to such intellectual property shall be allocated as provided in this Annex.

II. Scope

A. This Annex is applicable to all cooperative activities undertaken pursuant to this Agreement, except as otherwise specifically agreed by the Parties or their designees.

B. For purposes of this Agreement, "intellectual property" shall have mean the subject matter in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967, and may include other subject matter as agreed by the Parties.

C. Each Party shall ensure through contracts or other legal means with its own participants, if necessary, that the other Party can obtain the rights to intellectual property allocated in accordance with the Annex. This Annex does not otherwise alter or prejudice the allocation between a Party and its nationals, which shall be determined by the Party's laws and practices.

D. Except as otherwise provided in this Agreement, disputes concerning intellectual property arising under this Agreement should be resolved through discussions between the concerned participating institutions or, if necessary, the Parties or their designees. Upon mutual agreement of the Parties, participants may submit their disputes to an arbitral tribunal for non-binding arbitration in accordance with the applicable rules of international law. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of UNCITRAL shall govern.

E. Termination or expiration of this Agreement shall not affect the rights or obligations under this Annex.

III - Allocation of rights

A. Each Party shall be entitled to a nonexclusive, irrevocable, royalty-free license in all countries to translate, reproduce, and publicly distribute reports directly created under this Agreement. All publicly distributed copies of a copyrighted work prepared under this provision shall indicate the names of the authors of the work unless an author explicitly declines to be named. Each Party or its participants shall have the right to review a translation prior to public distribution.

(1) Subject to the provisions of the joint technology management plan executed by the Parties (III.B.(2)(c)), each Party will have the unrestricted right to publish, disclose, disseminate and use, in whole and in part, any data or information developed by the Parties under this agreement or received in the performance of this agreement.

(2) The transfer of biological and tangible research materials between the Parties will be handled in accordance with the master Material Transfer Agreement executed between the Parties under the Biocode program.

B. Rights to all forms of intellectual property, other than those rights described in section III(A) above, shall be allocated as follows:

(1). Visiting researchers, for example, scientists visiting primarily in furtherance of their education, shall receive intellectual property rights, awards, bonuses and royalties in accordance with the policies of the host institution, but only to the degree that the forwarding institution is able to perform its obligations to government and other third-party supporters of research as said obligations have been undertaken by the forwarding institution. In addition, each visiting researcher named as creator shall be entitled to national treatment with regard to such awards, bonuses, and royalties, in accordance with the policies of the host institution. The forwarding institution reserves a royalty-free, non-exclusive and irrevocable right to use such invention rights for government or research and education purposes, as appropriate, and to authorize others to do so.

(2) (a). Any intellectual property created by persons employed at or sponsored by one Party under cooperative activities other than those covered by paragraph III.B.(1) (“concerned participants”) shall be owned by that Party. Intellectual property created by persons employed or sponsored by both Parties shall be jointly owned by both Parties. In addition, each creator shall be entitled to awards, bonuses, and royalties in accordance with the policies of the institution employing or sponsoring that person.

(b) Unless otherwise agreed by the Parties, each Party shall have a royalty-free, non-exclusive and irrevocable right to use such invention rights for government or research and education purposes, as appropriate, and to authorize others to do so.

(c) For the intellectual property jointly created in the performance of joint research under this agreement, the Parties shall jointly develop a joint technology management plan prior to the start of their cooperation, for example in research areas likely to lead rapidly to industrial applications, or within a reasonable time from the time a Party becomes aware of the creation of said intellectual property.

(i) “joint research” means research that is implemented with financial support from one or both Parties or their concerned participants and that involves collaboration by participants from both the United States of America and France and is designated joint research in writing by the Parties or their scientific and technological organizations and agencies, or in the cases where there is funding by one Party, by that Party and the participants in that project. If the research is not designated as joint research, the allocation of rights to intellectual property will be in accordance with Paragraph III.B.1 for visiting researchers, or Paragraph III.B.(2) (a) for all other research.

(ii) The joint technology management plan shall consider the relative contributions of the Parties and their concerned participants, the benefits of exclusive or non-exclusive licensing by territory or fields of use, requirements imposed by the Parties' domestic laws, and other factors deemed appropriate. If needed, the joint technology management plan shall be jointly modified or completed in a timely fashion, subject to the approval of both Parties or their concerned participants.

(iii). If the Parties or their concerned participants cannot reach an agreement on a joint technology management plan within a reasonable time not to exceed six months from the time a Party becomes aware of the creation of the intellectual property in question, each Party may designate one co-exclusive licensee to have world-wide rights to said intellectual property. Each Party shall notify the other Party two months prior to making a designation under this paragraph.

(3) The rights of a Party outside its territory shall be determined by mutual agreement in the joint technology management plan considering the relative contributions of the Parties and their concerned participants to the cooperative activities, the degree of commitment in obtaining legal protection and licensing of the intellectual property and such other factors deemed appropriate.

(4) If either Party or their concerned participants believe that a particular joint research project under this agreement is likely to lead to or has led to the creation of intellectual property not protected by the laws of the other Party, the concerned participating institutions, or if necessary, the Parties or their designees, shall

immediately hold discussions to determine the allocation of rights to the said intellectual property. Pending the resolution of the matter, the intellectual property shall not be commercially exploited except by mutual agreement between the Parties. Disputes regarding rights to any intellectual property not protected by the laws of a Party that has been created shall be resolved in accordance with the provision of Article II.D. Creators of intellectual property shall nonetheless be entitled to awards, bonuses and royalties as provided in paragraph III.B (2) (a).

(5) For each invention made under any cooperative activity, the Party employing or sponsoring the inventor(s) shall disclose the invention promptly to the other Party together with any documentation and information necessary to enable the other Party to establish any rights to which it may be entitled. Either 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 in the invention. Unless otherwise agreed in writing, the delay shall not exceed a period of three months from the date of disclosure by the inventing Party to the other Party.