MG-03.0000

MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. GEOLOGICAL SURVEY OF THE DEPARTMENT OF THE INTERIOR OF THE UNITED STATES OF AMERICA AND THE MONGOLIAN ACADEMY OF SCIENCES OF MONGOLIA CONCERNING SCIENTIFIC AND TECHNICAL COOPERATION IN THE EARTH SCIENCES

ARTICLE I. SCOPE AND OBJECTIVES

1. The U.S. Geological Survey of the Department of the Interior of the United States of America (hereinafter "USGS") and the Mongolian Academy of Sciences of Mongolia (hereinafter "MAS") hereby agree to pursue scientific and technical cooperation in the earth sciences in accordance with this Memorandum of Understanding (hereinafter "Memorandum").

2. The purpose of this Memorandum is to provide a framework for the exchange of scientific and technical knowledge and the augmentation of scientific and technical capabilities of the USGS and MAS (hereinafter "Party" or "Parties") with respect to the earth sciences.

3. Each Party may, with the consent of the other Party and to the extent permitted by the laws and policies of each Government, invite other government entities to participate in activities undertaken pursuant to this Memorandum.

ARTICLE II. COOPERATIVE ACTIVITIES

1. Forms of cooperation under this Memorandum may consist of exchanges of technical information, visits, training, and cooperative research consistent with programs of the Parties. Specific areas of cooperation may include, but are not limited to, such areas of mutual interest as:

A. Earth-science investigations, including hazards, resources and environment;

B. Biology, biological investigations and technical developments;

C. Geospatial data applications;

D. Water resources and other hydrologic investigations; and

E. Information systems.

2. Activities under this Memorandum shall be undertaken in accordance with the laws, regulations, and procedures of each country.

ARTICLE III. AVAILABILITY OF RESOURCES

Cooperative activities under this Memorandum shall be subject to the availability of personnel, resources, and funds. This Memorandum shall not be construed to obligate any particular expenditure or commitment of resources or personnel. The Parties shall agree in accordance with Article VIII, below, upon specific Project Annexes in writing before the commencement of any activity pursuant to this Memorandum. Any assignment of Executive Branch personnel in Mongolia under this proposed Memorandum will be governed by NSDD38 procedures.

ARTICLE IV. FEE AND TAX EXEMPTION

In accordance with its laws and regulations, each Party shall work toward obtaining on behalf of the other Party relief from taxes, fees, customs, duties, and other charges (excluding fees for specific services rendered) levied with respect to:

A. All transfer, ownership, construction, renovation or maintenance of facilities or property by or on behalf of the other Party to implement this Memorandum.

B. The import, purchase, ownership, use or disposition (including export) of goods and services by or on behalf of the other Party in support of activities under this Memorandum; and

C. Personal property of personnel of the other Party or entities of that Party implementing provisions of this Memorandum.

In the event that any such taxes, fees, customs, duties, or other charges are nonetheless levied on such activities, facilities, property, equipment and related goods or services, such taxes, fees and customs duties shall be borne by the levying Party.

ARTICLE V. INTELLECTUAL PROPERTY AND SECURITY OBLIGATIONS

Provisions for the protection and distribution of intellectual property created or furnished in the course of cooperative activities under this Memorandum, shall be governed by Annex I of

this Memorandum. Provisions for the protection of classified information and unclassified export-controlled information and equipment are set forth in Annex II of this Memorandum.

ARTICLE VI. DISCLAIMER

Information transmitted by one Party to the other Party under this Memorandum shall be accurate to the best knowledge and belief of the transmitting Party, but the transmitting Party does not warrant the suitability of the information transmitted for any particular use or application by the receiving Party or by any third Party.

ARTICLE VII. PLANNING AND REVIEW OF ACTIVITIES

Each Party shall designate a principal representative who, at such times as are mutually agreed upon by the Parties, shall meet to review the activities under this Memorandum and develop proposals for future activities, as appropriate.

ARTICLE VIII. PROJECT ANNEXES

Any activity carried out under this Memorandum shall be agreed upon in advance by the Parties in writing. Whenever more than the exchange of technical information or visits of individuals is contemplated, such activity shall be described in an agreed Project Annex to this Memorandum, which shall set forth in terms appropriate to the activity, a work plan, staffing requirements, cost estimates, funding sources, and other undertakings, obligations, or conditions not included in this Memorandum. In the case of any inconsistency between the terms of this Memorandum and the terms of a Project Annex, the terms of this Memorandum shall control.

ARTICLE IX. ENTRY INTO FORCE AND TERMINATION

This Memorandum shall enter into force upon signature by both Parties and remains in force until terminated at any time by either Party upon (90) days prior written notice to the Party. Unless otherwise agreed, the termination of the MOU shall not affect the validity or duration of activities/projects under this MOU or the previous MOU between the USGS and the MAS. This Memorandum may be amended by written agreement of the Parties.

DONE at Reston, Virginia and Ulaanbaatar, in duplicate, in the English language.

FOR THE U.S. GEOLOGICAL SURVEY
OF THE DEPARTMENT OF INTERIOR
OF THE UNITED STATES OF AMERICA:

Signature

Charles G. Groat

Director

APRIL 2, 2003
Date

FOR THE MONGOLIAN ACADEMY
OF SCIENCES OF MONGOLIA:

Signature

Name T.Galbaatar

Title Vice President
Mongolian Academy of Sciences

June 24, 2003
Date

ANNEX I

INTELLECTUAL PROPERTY

Pursuant to Article V of this Memorandum of Understanding:

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Memorandum and relevant Project Annexes. The Parties agree to notify one another in a timely fashion of any inventions or copyrighted works arising under this Memorandum and to seek protection for such intellectual property in a timely fashion. Rights to such intellectual property shall be allocated as provided in this Annex.

I. SCOPE

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

B. For purposes of this Memorandum, "intellectual property" shall have the meaning found in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967.

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

D. Disputes concerning intellectual property arising under this Memorandum should be resolved through discussions between the concerned participating institutions or, if necessary, the Parties or their designees. Upon mutual agreement of the Parties, a dispute shall be submitted to an arbitral tribunal for 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 the United Nations Commission on International Trade Law (UNCITRAL) shall govern.

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

II. ALLOCATION OF RIGHTS

A. Each Party shall be entitled to a non-exclusive, irrevocable, royalty-free license in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, reports, and books directly arising from cooperation under this Memorandum. 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.

B. Rights to all forms of intellectual property, other than those rights described in Paragraph II.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 under the policies of the host institution. In addition, each visiting researcher named as an inventor shall be entitled to share in a portion of any royalties earned by the host institution from the licensing of such intellectual property.

2. (a) For intellectual property created during joint research, for example, when the Parties, participating institutions, or participating personnel have agreed in advance on the scope of work, each Party shall be entitled to obtain all rights and interests in its own country. Rights and interests in third countries will be determined in Project Annexes. If research is not designated as "joint research" in the relevant Project Annex, rights to intellectual property arising from the research will be allocated in accordance with paragraph II.B.(1) above. In addition, each person named as an inventor shall be entitled to share in a portion of any royalties earned by either institution from the licensing of the property.

(b) Not withstanding paragraph II.B.2(a) above, if a type of intellectual property is available under the laws of one Party but not the other Party, the Party whose laws provide for this type of protection shall be entitled to all rights and interests worldwide. Persons named as inventors or authors of the property shall nonetheless be entitled to royalties as provided in paragraph II.B.2(a).

III. BUSINESS-CONFIDENTIAL INFORMATION

In the event that information identified in a timely fashion as business-confidential is furnished or created under this Memorandum, each Party and its participants shall protect such information in accordance with applicable laws, regulations, and administrative practices. Information may be identified as "business-confidential" if a person having the information may derive an economic benefit from it or may obtain a competitive advantage over those who do not have it, the information is not generally known or publicly available from other sources, and the owner has not previously made the information available without imposing in a timely manner an obligation to keep it confidential.

ANNEX II

SECURITY OBLIGATIONS

I. PROTECTION OF SENSITIVE TECHNOLOGY

Both Parties agree that no information or equipment requiring protection in the interest of national defense or foreign relations and classified in accordance with its applicable national laws and regulations shall be provided under this Memorandum. In the event that information or equipment which is known or believed to require such protection is identified in the course of cooperative activities pursuant to this Memorandum, it shall be brought immediately to the attention of the appropriate officials and the Parties shall consult to identify appropriate security measures to be agreed upon by the Parties in writing and applied to this information and equipment and shall, if appropriate, amend this Memorandum to incorporate such measures.

II. TECHNOLOGY TRANSFER

The transfer of unclassified export-controlled information or equipment between the Parties shall be in accordance with the relevant laws and regulations of each Party. If either Party deems it necessary, detailed provisions for the prevention of unauthorized transfer or retransfer of such information or equipment shall be incorporated into the contracts or project annexes. Export controlled information shall be marked to identify it as export controlled and identify any restrictions on further use or transfer.