

"STCU Partners"

Participation of Non-Parties in STCU Activities

Amendment June 2013

The initial GB decision and documentation to allow participation of Non-Parties in STCU Activities was approved by the 2nd GB on May 10, 1996. This Amendment serves to update as necessary this initial documentation (attached) as well address the issue of allowing entities from Non-Party countries to participate as well in STCU activities. No change is being recommended in procedures concerning Party Country Partners (government Partners), but procedures are being updated and expanded for commercial Partners from Party countries and entities from non-Party countries.

For the sake of clarity, the full set of documents originally approved is once again being submitted in their entirety to the Board (with changes and additions in bold type). Together they enumerate the principles, criteria and procedures under which the Governing Board would accept each Non-Party as a participant in the STCU and would approve specific project proposals from approved Non-Parties.

In all cases, these guidelines pertain to instances in which the Non-Party provides its own funding for specific projects employing eligible recipient scientists and engineers.

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1. Agreement and Statute Provisions Relevant to Non-Party Participants
Lists the sections of the STCU Agreement and the STCU Statute that provide for Non-Party participation in STCU activities
2. Principles for Participation of Non-Parties in STCU Activities
Sets forth the principles governing Non-Party participation
3. Procedures for Governing Board Approval of Non-Party Participation in STCU Activities
Describes the procedures by which a Non-Party is accepted by the Governing Board (a Non-Party must be accepted before it can fund projects through the STCU)
4. Conditions for Approval of Proposals from Non-Party Participants
*Lists the proposal approval conditions to which Non-Party participants would agree, as a condition for being able to use the STCU as a vehicle to fund projects employing scientists and engineers **from Ukraine, other CIS Countries, and Georgia.***
5. Procedures for Governing Board Approval of Projects and Activities Proposed by Non-Parties

Outlines procedures that the STCU would use to approve proposals that would be funded by Non-Parties

6. Criteria for Governing Board Approval of Projects

Enumerates criteria that would be used to approve projects that would be funded by Non-Parties

1. Agreement and Statute Provisions Relevant to Non-Party Participants

AGREEMENT: ARTICLE VII (A)

"Projects approved by the Governing Board may be financed or supported by the Center, or by governments, inter-governmental organizations, or non-governmental organizations, directly or through the Center. Such financing and support of approved projects shall be provided on terms and conditions specified by those providing it, which shall be consistent with this Agreement."

AGREEMENT: ARTICLE VIII

"If it is determined that the terms and conditions of a project have not been respected, the Center or a financing government or organization may, having informed the Board of its reasons, terminate the project and take appropriate steps in accordance with the terms of the project agreement."

AGREEMENT: ARTICLE X(l)(a), (b)

"Funds and property of the Center or any branch thereof, including interest arising from keeping funds in banks in Ukraine, are exempt from taxation or other charges imposed by the Government of Ukraine and any subdivision thereof;"

"Commodities, supplies, and other property provided or utilized in connection with the Center and its projects and activities may be imported into, exported from, or used in Ukraine free from any tariffs, dues, customs duties, import taxes, and other similar taxes or charges imposed by Ukraine."

AGREEMENT: ARTICLE X(ii)(a)

"The Center, governments, inter-governmental organizations, and non-governmental organizations shall have the right to move funds related to the Center and its projects or activities, other than the local currency in Ukraine, into or out of Ukraine without restriction, each in amounts not to exceed the total amount it moved into Ukraine."

STATUTE: ARTICLE X(A)

"...When an approved project is funded other than through the Center, the persons or institutions providing funding will conclude a project agreement with the recipient entity and with the Center, represented by the Executive Director; such project agreements will take fully into consideration the provisions specified in paragraph B of this Article X and be fully consistent with the provisions of the Agreement."

STATUTE: ARTICLE XI (D)

"...contributions made to the Center by persons, states that are not Parties to the Agreement, inter-governmental organizations, or non-governmental organizations may be maintained in a Center account established by the Executive Director, with the approval of the Board. Disbursement procedures for these funds shall be established by the Board."

2. Principles for Participation of Non-Parties in STCU Activities

- **Commitment to STCU's Objectives:** The STCU is an intergovernmental organization that develops, approves, finances, and monitors science and technology projects for peaceful purposes, **offering Scientists and Engineers** in Ukraine, **other CIS Countries, and Georgia**, the opportunity to redirect their talents to peaceful activities. All current and future activities of the STCU will be consistent with these objectives.

- **Accept all terms and conditions contained in the Agreement and Statute:** The STCU Agreement and Statute form the legal framework for the STCU's activities. All participants in STCU activities must accept the terms of the Agreement and the Statute. Some of the main principles of these are:

- The STCU is an intergovernmental organization. Its multilateral Governing Board is responsible for all financial and programmatic activities of the STCU. The Governing Board is the ultimate decision-making body of the STCU;

- Activities supported by the STCU may only have peaceful applications; and, -- Transparency and access to information about STCU activities is required of all projects under STCU sponsorship.

- *The STCU will not be held liable for nonperformance of a non-Party funding source.*

Any non-Party participant will be fully and solely responsible for the commitments they make. The STCU will not be held liable by third parties for nonperformance of a non-Party.

- STCU activities focus support on individuals and research teams, not on institutions.

The STCU aims to provide support to former Soviet scientists and engineers in Ukraine, **other CIS countries, and Georgia**. While projects or activities may require equipment or travel, the main focus of any activity should be on how to help these scientists and engineers redirect their skills to peaceful activities, not on re-equipping institutes.

- The STCU does not engage in commercial activities, but it does support projects that may create conditions that could result in commercial activities once the project is complete and the STCU's support ends. The following types of

activities are acceptable under STCU support:

-- **Basic Research** - In basic research, the objective is to gain more complete knowledge or understanding of the fundamental aspects of phenomena and of observable facts, without specific applications and products in mind.

-- **Applied Research** - In applied research, the objective is to gain knowledge or understanding necessary for determining the means by which a recognized need may be met.

-- **Development** - Systematic application of knowledge of research towards proof of technology or concept including development of non- specific application prototypes and processes.

-- **Demonstration** - Verification of the viability of research finding through development of prototypes, models, clinical trials, field tests, testing and evaluation, and other efforts.

- **Transparency/Openness**

The STCU's activities are conducted in a transparent and open manner. The Governing Board and the Secretariat, as the operational arm of the Governing Board, need to be fully informed about all activities taking place under the STCU's auspices. The STCU, however, fully recognizes the need to protect carefully any business confidential or proprietary information that is included in proposals, project reports, or other communications. The STCU encourages all participants in STCU activities to clearly indicate business confidential and proprietary information and will protect such information to the best of its ability.

- **Opportunity for joint funding**

The STCU encourages joint funding of activities.

- **Scientific/Technical excellence**

The STCU seeks projects that respond to its objectives and exhibit a high degree of scientific and technical excellence.

- **International Collaboration**

The STCU strongly supports the participation of international collaborators in STCU activities.

3. Procedures for Governing Board Approval of Non-Party Participation in STCU Activities

BACKGROUND:

The Preamble to the Agreement to Establish a Science and Technology Center in Ukraine and Article III (iii) and (iv) of that Agreement provide for broad participation in the STCU's activities:

STCU PREAMBLE:

"Realizing that the success of the Center will require strong support from governments, foundations, academic and scientific institutions, and other inter-governmental and non-governmental entities;"

AGREEMENT: ARTICLE III (iv) & (v)

"Establish appropriate forms of cooperation with governments, inter-governmental organizations, non-governmental organizations (which shall, for the purposes of this Agreement, include the private sector), and programs;"

"Receive funds or donations from governments, inter-governmental organizations, and non-governmental organizations;"

The procedures below describe the process by which non-Parties may be approved as participants in STCU activities.

PROCEDURES

1. Any Party to the STCU Agreement or the **STCU Executive Director** may propose a non-Party participant to the Board for consideration. This participant may be a government, inter-governmental organization or non-governmental organization (which includes the private sector, foundations, academic and scientific institutions). **Approved entities originating from Party Countries will be classified as STCU Partners, while those coming from non-Party Countries will be classified as STCU Associated Partners.**

2. When a Party, or the **Executive Director** proposes a non-Party participant, it will provide to the Board:

- Information on the participant's background, activities, and objectives;
- A statement from the participant that accepts the terms and conditions of the Agreement and Statute;
- A statement from the participant that accepts Principles for Non-Party Participation in funding STCU activities;
- Information on the participants estimated plans and areas of STCU

activity of special interest.

3. The Secretariat will circulate any information received on proposed non-Party participants immediately to the Governing Board for consideration.

4. The Governing Board's approval of non-party participants to become either Partners or Associated Partners will be done via a thirty day negative concurrence process.

4. Conditions for Approval of Proposals from Non-Party Participants

Administrative Support:

All non-Party funders will contribute to the STCU's administrative budget, as determined by the **Secretariat and as approved by the Board. The Administrative fee for Commercial Partners originating from Party States is set at 10 percent of total project value, and the fee for Associated Partners is set at 15 percent of project value. (Note-- in the case of existing Commercial partners who are subject to an administrative fee, all current projects will be grandfathered and continue to their termination under the existing fee schedule. This will include any extensions as long as the project continues with its current project number. The new fee schedule will take effect for any projects launched by current Commercial Partners six months after GB approval of this amendment. The fee schedule for new Partners and all Associated Partners will take effect upon approval of this amendment.)**

Any such fees can be waived at the discretion of the STCU Executive Director, subject to the approval of the Governing Board via the 30 day negative concurrence process.

Access for Auditing and Monitoring:

Article XVII of the STCU Statute defines Auditing and Monitoring of STCU projects. These procedures allow the STCU to verify that activities carried out under the auspices of the STCU are consistent with the STCU's objectives and with the project work plan and budget approved by STCU's Governing Board and incorporated in the project agreement. The Auditing and Monitoring process is initiated by advance notice to carry out on-site monitoring and audit of project activities. This process should not be confused with the normal interactions that would take place between Ukrainian institutes and their western collaborators, which may involve visits to Ukrainian institutes and project sites, but do not require the same notification process defined in Statute Article XVIII.

Article XVII (A) applies to funds provided to a project through the STCU. In this case, any auditing or monitoring will be carried out by the STCU or by a Party represented on the Board (or their representatives) with regard to projects it finances.

Article XVIII (B) applies to projects funded other than through the STCU and provides that projects be audited by the financing Party and/or their representatives, following the principles set forth in XVII (A).

Funders who are not Parties to the Agreement will have access to all records and reports pertaining to the project for audit purposes through the STCU. However, only the STCU or a financing Party may initiate an audit request under Article XVII. Non-Parties may express to the STCU Secretariat their desire to have their project included in the normal project monitoring activity of the Center as well as the universe of projects to be subjected to formal audit. Non-

Party funders will be encouraged to work closely with the STCU and Parties in the audit process and to share their observations and evaluations of the technical and financial management of the projects

Transparency

The STCU has an established process for protecting business confidential and proprietary information. The STCU, however, must have adequate information about all activities under its sponsorship to enable the Secretariat and the Governing Board to ascertain whether activities under the STCU's sponsorship are consistent with the STCU's objectives. In this respect, non-Party participants in STCU activities will regularly share with the Secretariat, as appropriate, reports, publications, or other materials developed as a result of their activities under the STCU. In particular, a final report that is suitable for open publication on any STCU activity will be made available.

The STCU also welcomes any observations by non-Party participants on the technical progress of a project or activity. Final evaluations of technical projects, however, will be based on a joint review with STCU staff.

Observance of STCU Practices and Standards

The STCU has developed a number of practices and standards that apply to agreement implementation for budget preparation, procurement, grant payments, and payment schedules. These should be observed by non-Party participants to the greatest extent possible, with deviations from established practices and standards being the exception, not the rule.

3-way Project Agreements

All non-Party participants in STCU projects will enter into agreements both with the Ukrainian institute(s) and the STCU. In addition, non-Party funders may execute a memorandum of agreement with the STCU defining the terms and conditions for the use of its funding.

5. Procedures for Governing Board Approval of Projects and Activities Proposed by Non-Parties

BACKGROUND:

The Preamble to the Agreement to Establish a Science and Technology Center in Ukraine, Article III (iv) and (v) of that Agreement, and Article VI(A) of the STCU Statute provide for the broad participation in the STCU's activities:

STCU PREAMBLE:

"Realizing that the success of the Center will require strong support from governments, foundations, academic and scientific institutions, and other inter-governmental and non-governmental entities;"

AGREEMENT: ARTICLE III (iv) & (v)

"Establish appropriate forms of cooperation with governments, inter-governmental organizations, non-governmental organizations (which shall, for the purposes of this Agreement, include the private sector), and programs;"

"Receive funds or donations from governments, inter-governmental organizations, and non-governmental organizations;"

STATUTE: ARTICLE VI (A)

"Any person, institution, or government may submit a proposal."

The procedures below describe the process by which non-Parties may present proposals for projects or activities for approval by the STCU Governing Board.

PROCEDURES:

1. A non-Party (government, inter-governmental organization, or non-governmental organization) that has been approved by the Board for participation in STCU activities submits a proposal to the STCU Secretariat. Project proposals may include the results of any independent technical review, as well as a description of that review process.
2. The Secretariat reviews proposals for completeness according to the STCU's Instructions (including any special conditions for small projects, recognition of independent technical review, etc).
3. The Secretariat forwards proposals to the Parties for review.
4. The Parties review the proposals **via a 30 day negative concurrence process**, using the established criteria for project eligibility and selection (including host government and institute concurrence).

5. The Board considers: 1) Whether a proposal meets STCU's eligibility and selection criteria; and 2) Funding.

6. The Board takes action through meeting or written procedure. Projects are: 1) Approved and funding is identified; 2) Deferred to future Board meetings for further consideration; or 3) Rejected.

6. Criteria for Governing Board Approval of Projects

The eligibility and selection criteria adopted by the Board that are included in the STCU Instructions for Proposal Preparation apply to all projects, regardless of the funding source:

Eligibility Criteria

Conformity with the STCU's objectives.

Proposals must correspond to the STCU's objectives listed in Article II(B) of the Agreement.

Host government and institution concurrence.

The project activities must be approved by the government(s) on whose territory(s) the work will be carried out. All proposals submitted without such approval will be sent by the STCU Secretariat to appropriate government offices prior to presenting the proposed project to the STCU's Governing Board for consideration.

The participating institution(s) must approve the project activities.

Auditing and Monitoring Assurance.

In accordance with Article VIII of the STCU Agreement, project recipients will give to the STCU and to each Party which wholly or partly finances a project the right of access to carry out on-site monitoring and audit of all activities of the project. Project agreements will specify the portions of facilities, equipment, documentation, information, data systems, materials, supplies, personnel, and services which will concern the project and therefore will be made accessible for monitoring and audit. (See also Conditions for Approval of Proposals from Non-Party Participants.)

Selection Criteria

Potential of the project to provide peaceful alternative research and development opportunities to weapons scientists and engineers in Ukraine, **other CIS Countries, and Georgia.**

- Scientific and technical excellence
- Quality of Management
- Financial Structure
- Assistance to Ukraine, **other CIS Countries, and Georgia** in its transition to a market economy
- International Collaboration