

AGREEMENT

on the privileges and immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project

The European Atomic Energy Community (hereinafter 'Euratom'), the Government of the People's Republic of China, the Government of the Republic of India, the Government of Japan, the Government of the Republic of Korea and the Government of the Russian Federation (hereinafter 'the Parties'),

WHEREAS Article 12 of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (hereinafter 'the ITER Agreement') requires the parties to that Agreement to give effect to privileges and immunities;

WHEREAS it is the purpose of this Agreement to define for the Parties to this Agreement the content and scope of such privileges and immunities in accordance with Article 12 of the ITER Agreement;

WHEREAS the Parties have confirmed their intention to conclude this Agreement on the occasion of the Ministerial Meeting for ITER in Brussels on 24 May 2006,

HAVE AGREED AS FOLLOWS:

Article 1

1. In accordance with Article 5 of the ITER Agreement, the ITER International Fusion Energy Organization (hereinafter 'the ITER Organization') shall have international legal personality, including the capacity to conclude agreements with States and/or international organizations.

2. The ITER Organization shall have legal personality and enjoy, in the territories of the Members, the legal capacity it requires, including to:

- (a) conclude contracts;
- (b) acquire, hold and dispose of property;
- (c) obtain licenses; and
- (d) institute legal proceedings.

Article 2

The buildings and premises of the ITER Organization shall be inviolable.

Article 3

The archives and documents of the ITER Organization shall be inviolable.

Article 4

1. The ITER Organization shall enjoy immunity from jurisdiction and execution except:

- (a) to the extent that it has expressly waived such immunity in a particular case;
- (b) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to, or operated on behalf of, the ITER Organization, or in respect of a motor traffic offence involving such a vehicle;
- (c) in respect of an enforcement of an arbitration award made under Article 23; and
- (d) in the event of an attachment of salary, enforced for a debt of a staff member of the ITER Organization, provided that such attachment results from a final and enforceable legal decision in accordance with the rules in force on the territory of enforcement.

2. The ITER Organization's property and assets, wherever situated, shall be immune from any form of requisition, confiscation, expropriation and sequestration except:

- (a) to the extent that it has expressly waived such immunity in a particular case;
- (b) in respect of a civil action provided for in paragraph 1(b); and
- (c) in respect of the enforcement of an arbitration award made under Article 23.

3. The ITER Organization shall also be immune from any form of administrative or provisional judicial constraint, except to the extent that it has expressly waived such immunity in a particular case and insofar as may be necessary in connection with or in respect of:

- (a) the prevention and investigation of accidents involving motor vehicles belonging to, or operated on behalf of, the ITER Organization; and
- (b) the enforcement of an arbitration award made under Article 23.

Article 5

1. Within the scope of its official activities, the ITER Organization, its property and income shall be exempt from direct taxes.

2. When goods or services, strictly necessary for the exercise of the official activities of the ITER Organization, are purchased or used by or on behalf of the ITER Organization, and when the price of such goods or services includes taxes or duties, appropriate measures shall, whenever possible, be taken by the Party to grant exemption from such taxes or duties or to provide for their reimbursement.

Article 6

1. Goods imported or exported by the ITER Organization, or on its behalf, for its official activities shall be exempt from all duties and taxes. Goods imported or exported by the ITER Organization for its official activities shall be exempt from prohibitions and restrictions on imports and exports except where such prohibitions or restrictions are consistent with the laws, regulations and policies referred to in Articles 14 and 20 of the ITER Agreement.

2. Goods which have benefited from the exemption provided for in Article 5 or imported under paragraph 1 shall not be sold or given away except in accordance with conditions laid down by the Parties which have granted exemptions.

Article 7

1. For the purposes of Articles 5 and 6, the official activities of the ITER Organization shall include its administrative activities, including its operations in connection with any social security scheme it establishes, and activities undertaken in pursuance of the purpose of the ITER Organization as defined in the ITER Agreement.

2. The provisions of Articles 5 and 6 shall not apply to taxes and duties that are no more than charges for public utility services.

Article 8

No exemption shall be granted under Articles 5 or 6 in respect of goods purchased or imported, or services provided for the personal benefit of the staff of the ITER Organization.

Article 9

Without prejudice to the laws, regulations and policies referred to in Articles 14 and 20 of the ITER Agreement, the circulation of publications and other information material sent by or to the ITER Organization shall not be restricted in any way.

Article 10

1. The ITER Organization may receive and hold any kind of funds, currency, cash or securities; it may dispose of them freely for any purpose provided for in the ITER Agreement and hold accounts in any currency to the extent required to meet its obligations.

2. In exercising its rights referred to in paragraph 1, the ITER Organization shall pay due regard to any representations by any of its Members insofar as it is considered that effect can be given to such representations without detriment to the interests of the ITER Organization.

Article 11

1. For its official communications and the transfer of all its documents, the ITER Organization shall enjoy treatment no less favourable than that accorded by each Party to other international organizations.

2. No censorship shall be applied to official communications of the ITER Organization by whatever means of communication.

Article 12

Parties shall take all appropriate measures to facilitate the entry into, stay in, or departure from their territories of staff of the ITER Organization.

Article 13

1. Representatives of the Parties shall, while exercising their functions as a representative and in the course of their journeys to and from the place of meeting convened by the ITER Organization, enjoy the following privileges and immunities:

- (a) immunity from arrest and detention, and from seizure of their personal luggage;

- (b) immunity from jurisdiction, even after the termination of their mission, in respect of acts, including words spoken and written, done by them in the exercise of their functions; this immunity shall not apply, however, in the case of a motor traffic offence committed by a Representative of a Party, nor in the case of damage caused by a motor vehicle belonging to or driven by him;
 - (c) inviolability for all their official papers and documents;
 - (d) the right to receive documents or correspondence by special courier or sealed bag;
 - (e) exemption for themselves and their spouses from measures restricting immigration and from aliens' registration formalities;
 - (f) the same facilities in the matter of currency and exchange control as are accorded to the representatives of foreign governments on temporary official missions;
 - (g) the same customs facilities as regards their personal luggage as are accorded to diplomatic agents.
- (d) the same facilities as regards exemption from measures restricting immigration and governing aliens' registration as are normally accorded to staff members of international organizations, and members of their families forming part of their households shall enjoy the same facilities;
 - (e) the same privileges in respect of exchange regulations comparably to those accorded to staff of international organizations;
 - (f) in time of international crisis, the same facilities as to repatriation as diplomatic agents, and the members of their families forming part of their households shall enjoy the same facilities;
 - (g) the right to import duty-free furniture and personal effects at the time of first taking up their post in the State concerned, and the right on the termination of their functions in that State to export free of duty their furniture and personal effects, subject, in both cases, to the conditions considered necessary by the State on whose territory the right is exercised.

2. Privileges and immunities are accorded to Representatives of a Party not for their personal advantage, but in order to ensure complete independence in the exercise of their functions in connection with the ITER Organization. In accordance with Article 12 of the ITER Agreement, each Party shall waive the immunity of its Representatives in any case where it considers that retaining it would impede the course of justice and that it can be waived without prejudicing the purposes for which it was accorded.

Article 14

The staff of the ITER Organization shall enjoy the following privileges and immunities:

- (a) immunity from jurisdiction, even after they have left the service of the ITER Organization, in respect of acts, including words spoken and written, done by them in the exercise of their functions; this immunity shall not apply, however, in the case of a motor traffic offence committed by a staff member of the ITER Organization, nor in the case of damage caused by a motor vehicle belonging to or driven by him;
 - (b) exemption in respect of all obligations in respect of military service;
 - (c) inviolability for all their official papers and documents;
- (a) immunity from jurisdiction, even after they have ceased to exercise their function of expert for the ITER Organization, in respect of acts, including words spoken and written, done by them in the exercise of their functions, this immunity shall not apply, however, in the case of a motor traffic offence committed by an expert, nor in the case of damage caused by a motor vehicle belonging to or driven by him;
 - (b) inviolability for all their official papers and documents;
 - (c) the same facilities as regards monetary and exchange regulations and as regards their personal luggage as are accorded to the officials of foreign governments on temporary official missions.

Article 15

In addition to the privileges and immunities provided for in Article 14, the Director-General of the ITER Organization and, when the office is vacant, the person appointed to act in his place, shall enjoy the privileges and immunities to which diplomatic agents of comparable rank are entitled.

Article 16

Experts, in the exercise of their functions in connection with the ITER Organization or in carrying out missions for the ITER Organization, shall enjoy the following privileges and immunities, to the extent that these are necessary for the exercise of their functions, including during journeys made in the exercise of their functions and in the course of such missions:

Article 17

1. The salaries and emoluments paid by the ITER Organization shall be exempt from income tax to the extent that they are subject to a tax for the benefit of the ITER Organization. The Parties shall retain the right to take these salaries and emoluments into account for the purpose of assessing the amount of taxation to be applied to income from other sources.

2. The provisions of paragraph 1 above shall not apply to annuities and pensions paid by the ITER Organization to its former Directors General and staff.

Article 18

Articles 14 and 17 shall apply to all categories of staff to which the Staff Regulations of the ITER Organization apply. The Council of the ITER Organization (hereinafter 'the Council') shall decide the categories of experts to which Article 16 shall apply. The names, titles and addresses of the staff and experts referred to in this Article shall be communicated from time to time to the Members of the ITER Organization.

Article 19

In the event that it establishes its own social security scheme, the ITER Organization, its Director-General and staff shall be exempt from all compulsory contributions to national social security bodies, subject to agreements concluded with the Parties and/or the Host State.

Article 20

No Party shall be obliged to accord the privileges and immunities referred to in Articles 13, 14b, d, e, f and g, 15, 16c and 19 to its own nationals or persons who, at the moment of taking up their posts as staff of the ITER Organization in that Party, are permanent residents thereof.

Article 21

1. The privileges and immunities provided for in this Agreement are not granted to the Director-General, staff and experts of the ITER Organization for their personal advantage. They are provided solely to ensure, in all circumstances, the unimpeded functioning of the ITER Organization and the complete independence of the persons to whom they are accorded.

2. In accordance with Article 12 of the ITER Agreement, the Council shall waive any relevant immunity in any case where the Council considers that retaining it would impede the course of justice and that such a waiver would not be contrary to the interests of the ITER Organization and its Members.

Article 22

The ITER Organization shall cooperate at all times with the competent authorities of the Parties and the Host State as defined in Article 1(2) of the ITER Agreement in order to facilitate the proper administration of justice, to ensure the observance of police regulations and regulations concerning public health and safety, licensing, environmental protection, labour inspection or other similar national legislation, and to prevent any abuse of the privileges and immunities provided for in this Agreement. The procedure for the cooperation referred to in this Article may be laid down in the Headquarters and the Field Team agreements or supplementary agreements.

Article 23

1. When concluding written contracts, other than those concluded in accordance with the Staff Regulations, the ITER Organization may provide for arbitration. The arbitration clause or the special arbitration agreement concluded to this end shall specify the law applicable and the State where the arbitrators sit.

2. The enforcement of the arbitration award shall be governed by the rules in force in the State on whose territory the award is to be executed.

Article 24

In accordance with the Treaty establishing Euratom, this Agreement shall apply to the territories covered by that Treaty. In accordance with that Treaty and other relevant agreements, it shall also apply to the Republic of Bulgaria, Romania and the Swiss Confederation, participating in the Euratom fusion programme as fully associated third States.

Article 25

1. This Agreement is subject to ratification, acceptance or approval in accordance with the procedures of each Signatory.

2. This Agreement shall enter into force thirty days after the deposit of instruments of ratification, acceptance or approval of this Agreement by the People's Republic of China, Euratom, the Republic of India, Japan, the Republic of Korea and the Russian Federation.

3. If this Agreement has not entered into force within one year after signature, a meeting of the Signatories shall be convened by the Depositary to decide what course of action shall be undertaken to facilitate its entering into force.

Article 26

1. Once the Council has adopted a decision in accordance with Article 23(1) of the ITER Agreement, the State or international organization concerned may accede to and become a Party to this Agreement.
2. Accession shall take effect on the date of deposit of the instrument of accession with the Depositary.

Article 27

This Agreement shall have the same duration as the ITER Agreement. The expiry of this Agreement shall not affect the immunity provided for in Article 13(1)(b), Article 14(a) and Article 16(a).

Article 28

Any issue arising among the Parties or between one or more Parties and the ITER Organization out of or in connection with this Agreement shall be settled by consultation, mediation or other procedures to be agreed, such as arbitration. The parties

concerned shall meet to discuss the nature of any such issue with a view to an early resolution.

Article 29

1. The Director General of the IAEA shall be the Depositary of this Agreement.
2. The original of this Agreement shall be deposited with the Depositary, who shall send certified copies thereof to the Signatories, and to the Secretary General of the United Nations for registration and publication pursuant to Article 102 of the Charter of the United Nations.
3. The Depositary shall notify all Signatory and acceding States and international organizations of:
 - (a) the date of deposit of each instrument of ratification, acceptance, approval or accession; and
 - (b) the date of entry into force of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Paris on 21 November 2006, in a single original, in the English language.

for the European Atomic Energy Community

for the Government of the Republic of India

for the Government of the Republic of Korea

for the Government of the People's Republic of China

for the Government of Japan

for the Government of the Russian Federation
