



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.5.2006
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Proposal for a

COUNCIL DECISION

concerning the conclusion, by the Commission, of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project, of the Arrangement on Provisional Application of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation on the ITER Project and of the Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project

(presented by the Commission)

EXPLANATORY MEMORANDUM

Background and Introduction

1. Nuclear fusion offers the prospect of an almost limitless supply of clean energy for the long term. Following successful developments in recent years, fusion energy R&D has reached the point where effective progress towards the demonstration of the generation of sustainable energy from nuclear fusion can be envisaged. ITER, a major experimental facility which is aimed at demonstrating the scientific and technical feasibility of fusion power, is the crucial next step required to address the key objectives of the European fusion programme and other fusion programmes in the world.
2. The ITER project has, from its inception, been undertaken in a frame of international collaboration among the world's leading fusion programmes. Work conducted under the auspices of the International Atomic Energy Agency (IAEA) by the four Parties (EURATOM, Japan, Russian Federation and USA) to the Agreement on the cooperation in the Engineering Design Activities (EDA) for ITER has yielded a detailed, complete, and fully integrated engineering design of ITER, and all technical data necessary for future decisions on the construction of ITER. The overall results of the co-operation are set out in the Final Report of the ITER EDA.¹
3. Following the successful completion of the EDA, inter-governmental negotiations on the possible joint implementation of ITER started in November 2001 among four Participants – Canada, EURATOM, Japan and the Russian Federation. The original participants were joined by China and the United States of America in February 2003 and by Korea in June 2003. In December 2003, Canada withdrew from the negotiations. India joined in December 2005, bringing the number of Parties to the prospective Agreement to seven.
4. The European Commission has conducted negotiations for EURATOM in accordance with the directives given pursuant to Article 101, paragraph 2 of the EURATOM Treaty by Council Decision of 16 November 2000 and subsequently amended by Council Decisions of 27 May 2002, 26 November 2003 and 26 November 2004.
5. The negotiations on the selection of the ITER site had culminated by December 2003 in a stand-off between the European candidate site at Cadarache and the Japanese candidate site at Rokkasho, Japan. Following intensive technical discussions by the Commission with all other Parties and in accordance with the Council Directives, a consensus was finally reached at the Ministerial Meeting for ITER on 28 June 2005 in Moscow, where the Parties agreed that the ITER device and the Headquarters of the Organization would be situated in the European Union, i.e. in Cadarache. Instrumental to this resolution was a convergence of views between EURATOM and Japan on the relative roles of each as “Host” or “non-Host” Party and the corresponding arrangements between them according to which EURATOM and Japan would each make contributions of 46 bn ¥/339 mn € to joint broader approach activities in the territory of Japan. In addition EURATOM undertook to accord a

¹ IAEA ITER EDA Documentation Series No. 21.

special position to Japan in the implementation of ITER, for instance by supporting a Japanese nominee as Director General, by transferring responsibility to Japanese sources for a proportion of the contributions in kind that EURATOM was undertaking to provide to the project (equivalent to about 10% of the construction costs) and by accepting a greater proportionate representation of Japanese team members in relation to Japan's overall 10% contribution. The details for the European participation in the Broader Approach activities are set out in a specific bilateral Agreement between EURATOM and Japan that is to be proposed to Council at the same time as the ITER Agreement.

6. The Representatives of the seven Parties to the ITER negotiations adopted on 1 April 2006 the Final Report of Negotiations on the Joint Implementation of the ITER Project ("Final Report on ITER Negotiations"), which confirms the completion of the negotiation process, refers to statements of the willingness of each Party to proceed towards conclusion of the Agreement, and records the common understandings shared among the Parties at the conclusion of the negotiations and the draft Arrangement on the Provisional Application of the Agreement. On the same occasion, the Final Report of Negotiations on the Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project was adopted the Representatives of 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.
7. The substantive output from the process of negotiations includes:
 - 7.1. text of the Agreement on the establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (the ITER Agreement), including its Annexes on Information and Intellectual Property and on Site Support, for conclusion by the Parties to the negotiations;
 - 7.2. text of the Arrangement on the Provisional Application of the Agreement;
 - 7.3. text of the Agreement on the Privileges and Immunities of the ITER international Fusion Energy Organization for the joint Implementation of the ITER Project (the Agreement on Privileges and Immunities), for conclusion by EURATOM, China, India, Japan, Korea and Russia;
 - 7.4. agreed technical documents referred to in the ITER Agreement and common understandings that the Parties have stated their intention to apply during the implementation of the ITER Project:
 - a) Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions;
 - b) Cost Sharing for all Phases of the ITER Project;
 - c) Procurement Allocation;
 - d) Overall Project Schedule;
 - e) ITER Management and Procurement;

- f) Operations;
- 7.5. drafts of subsidiary documents to be adopted by the ITER Council upon entry into force of the Agreement and which the Parties endorse in their present state of development, while recognising that they may be further jointly refined or elaborated pending their adoption in the future:
- a) ITER Council Rules of Procedure;
 - b) Project Resource Management Regulations;
 - c) Staff Regulations;
 - d) Main Provisions of Headquarters Agreement;
 - e) Site Support Agreement;
- 7.6. the texts of joint Declarations by which the Parties affirm their political intentions with regard to the implementation of the ITER project and to the according of Privileges and Immunities to the prospective ITER Organization.

Explication of the ITER Agreement and Related Instruments

8. The ITER Agreement comprises a preamble, 29 substantive articles and two Annexes.
9. The preamble lists EURATOM, the People's Republic of China, the Government of the Republic of India, the Government of Japan, the Government of the Republic of Korea, the Government of the Russian Federation and the Government of the United States of America, the seven founding Parties of the ITER Agreement and Members of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (the ITER Organization). With regard to EURATOM, the ITER Agreement also applies to the Republic of Bulgaria, the Republic of Romania and the Swiss Confederation, participating in the EURATOM fusion programme as fully associated third States (Article 21 ITER Agreement).
10. The ITER Agreement establishes the ITER Organization (Article 1(1) ITER Agreement) and endows it with (i) international legal personality and (ii) the legal capacity it requires in the territories of its Members to conclude contracts, to acquire, hold and dispose of property, to obtain licenses and to institute legal proceedings (Article 5 ITER Agreement).
11. The headquarters of the ITER Organization is established at St Paul-lez-Durance, Bouches-du-Rhône, France, which is the administrative unit within which falls the site of Cadarache. Consequently, France is defined as "Host State" and EURATOM as "Host Party" (Article 1(2) ITER Agreement).
12. The purpose of the ITER Organization is to provide for and to promote cooperation among its Members on the ITER Project. The ITER Project is described as an international project that aims to demonstrate the scientific and technological feasibility of fusion energy for peaceful purposes (Article 2 ITER Agreement). To achieve this purpose, the main functions of the ITER Organization are (i) to

construct, operate, exploit and deactivate the ITER facilities and (ii) to encourage their exploitation by the laboratories, other institutions and personnel participating in the fusion energy research and development programmes of its Members (Article 3 ITER Agreement) (iii) to promote public understanding and acceptance of fusion energy. In the performance of its functions, the ITER Organization is to give due regard to maintaining good relations with local communities.

- 12.1. The functions of the ITER Organization allow for distinguishing the different project phases which are specified in the Common Understanding on Overall Project Schedule:² (i) the construction phase, (ii) the operation phase, (iii) the deactivation phase and (iv) the decommissioning phase. General principles regarding the operation phase are set out in the Common Understanding on Operations.³
- 12.2. In furtherance of its purpose and upon unanimous decision by the ITER Council, the ITER Organization may cooperate with other international organizations and institutions, non-Parties, and with organizations and institutions of non-Parties (Article 19 ITER Agreement).
13. The ITER Agreement provides for the following institutional and managerial structure of the ITER Organization:
 - 13.1. The Parties to the Agreement shall be the Members of the Organization.
 - 13.2. The Council, composed of representatives of the Members of the ITER Organization, is its principal organ. It is responsible for the promotion, overall direction and supervision of the activities of the ITER Organization. The Council may take decisions and make recommendations on any questions, matters or issues in accordance with the ITER Agreement (Articles 6(1) and 6(7) ITER Agreement).

In a number of specified cases, decisions of the Council require unanimity (Article 6(8) ITER Agreement). In all other cases the Members of the ITER Organization shall use their best efforts to achieve consensus. Failing consensus, the Council decides in accordance with the weighted voting system set out in the draft Council Rules of Procedure⁴ (Article 6(9) and 6(10) ITER Agreement). The voting system can be adopted and, if necessary, amended only by unanimous decision of the Council (Article 6(8) ITER Agreement). The voting system respects the relative contributions from the Members, without giving a predominant position to a single Member, as follows:

- ITER Construction Phase: EURATOM has 3 votes, each other Party has one vote; for their adoption, decisions require six or more votes in favour.
- ITER Operation Phase: EURATOM has 6 votes, Japan and US have each 3 votes, China, India, Korea and Russia have each 2 votes; for their adoption, decisions require 11 or more votes in favour, made by 4 or more Members of the ITER Organization.

² Attachment 2(d) to the Final Report on ITER Negotiations.

³ Attachment 2(f) to the Final Report on ITER Negotiations.

⁴ Attachment 2(j) to the Final Report on ITER Negotiations.

- Decisions on issues related to compliance with regulatory requirements of the Host State require the concurrence of the Host Party.
- 13.3. The Director-General is the chief executive officer and the legal representative of the ITER Organization. The Director-General shall take all measures necessary for the management of the ITER Organization, the execution of its activities, the implementation of its policies and the fulfilment of its purpose. The main management structure of the ITER Organization will be decided by the Council by unanimity on the proposal of the Director-General. The Director-General will, as the legal representative, also be responsible for nuclear safety under the terms and conditions to be decided by the French regulatory authorities when awarding the license to operate the ITER device.
- 13.4. Every two years, the Council will appoint an independent Management Assessor who shall assess the management of the activities of the ITER Organization. The purpose of the management assessment is to determine whether the management of the ITER Organization has been sound, in particular with respect to management effectiveness and efficiency in terms of scale of staff. The Director-General may also call for such assessments following consultation with the Council (Article 18 ITER Agreement).
14. The Director-General will be assisted by the Staff. The Staff comprises directly employed staff and seconded staff (Article 7(2) ITER Agreement).

Detailed conditions for the Staff, which include a staffing scheme and remuneration based on the model of the United Nations Organizations, are set out in the draft Staff Regulations⁵ that are to be adopted by the Council by unanimity upon proposal by the Director-General (Article 7(7) (b) and 7(8) ITER Agreement). The draft Staff Regulations foresee that:

- approximately 50% of the overall ITER staff should be directly employed;
 - positions for which regulatory aspects of the Host State give preference to continuing services shall be attributed to directly employed staff;
 - directly employed staff will have five years renewable contracts;
 - pension rights would be a defined contribution scheme;
 - medical insurance, and life and invalidity insurance are to be contracted out.
15. The resources of the ITER Organization consist of contributions in kind and financial contributions from the Members.
- 15.1. Each Member will provide its contributions to the ITER Organization through its Domestic Agency. The Domestic Agency responsible for providing the contributions of EURATOM will be a Joint Undertaking established in accordance with chapter V of Title II of the EURATOM Treaty.
- 15.2. The evaluation of the costs of the ITER project by project phases is set out in the Common Understanding “Value Estimates for ITER Phases”.⁶ The value estimates

⁵ Attachment 2(l) to the Final Report on ITER Negotiations.

⁶ Attachment 2(a) to the Final Report on ITER Negotiations.

for the ITER phases are based on evaluations carried out by the international ITER Joint Central Team under the ITER EDA Agreement.

- 15.3. The cost sharing between the Parties is set out in the Common Understanding “Cost Sharing for all Phases of the ITER Project”⁷. Concerning the construction phase, the Parties have agreed that EURATOM as the Host Party would bear 50% of the construction costs while each other Party would bear 10%. Within the EURATOM contribution the charge to the Community budget will not be greater than 40% of the construction costs. Within the general framework above it has been agreed that, in the first instance, (i) EURATOM will bear 5/11 of the construction costs and each other Party will bear 1/11 but that (ii), if required and subject to unanimous decision of the ITER Council, an additional amount which equals 1/10 of the value for the initially estimated construction costs will be shared between the Parties on the basis of the same cost sharing formula. For the phases of operation, deactivation and decommissioning it is foreseen that EURATOM will bear 34% of the total costs, Japan and the USA 13% each, and the other four Parties 10% each.

The community contribution made up to the end of 2006 will respect the reference amounts that appear in Annex II of the Council Decision concerning the sixth framework programme of EURATOM. From 2007 onwards this contribution should be compatible with the amounts to be adopted for subsequent framework Research programmes.

- 15.4. The resources for the construction phase will be provided predominantly (more than 80%) by contributions in kind, which includes secondments by the Members of qualified persons as staff of the ITER Organization. The supply of ITER components has been divided into about 90 procurement packages each described with detailed specifications and allocated to the prospective Members of the ITER Organization in the Common Understanding on Procurement Allocation.⁸ The procurement of the components to be provided in kind will be under the responsibility of the Member providing that component, acting through its Domestic Agency. It follows from the allocation of these components among all seven Members that there is a high degree of interdependency between the ITER Organization and its Members during the construction of the ITER facilities. In order to be able to assume its overall responsibility of the ITER Project, the ITER Organization will not only carry out its activities through its Headquarters in Cadarache but also establish Field Teams in the territory of each Member (Article 13 ITER Agreement). The Central Team will direct the project and assume responsibilities for the design, integration and assembly of the ITER Facilities and the preparation for their operation and exploitation. The Field Teams will oversee the procurements to be undertaken by the Member’s Domestic Agencies. They will ensure quality assurance and manage in consultation with the Domestic Agencies scheduling changes and other necessary adaptations of the contributions in kind. Guidelines for the management of the procurements are set out in the Common Understanding on ITER Management and Procurement.⁹

⁷ Attachment 2(b) to the Final Report on ITER Negotiations.

⁸ Attachment 2(c) to the Final Report on ITER Negotiations.

⁹ Attachment 2(e) to the Final Report on ITER Negotiations.

- 15.5. In order to ensure the sound financial management of the ITER Organization, the ITER Agreement foresees the unanimous adoption by the Council of Project Resource Management Regulations (Article 9 ITER Agreement), the draft of which has been elaborated by the Parties.¹⁰ It further foresees the establishment of a Financial Audit Board to undertake the audit of the annual accounts of the ITER Organization (Article 17 ITER Agreement).
16. The ITER Agreement contains a provision on Information and Intellectual Property and an Annex elaborating that provision. These are based on the principles of widest appropriate dissemination of generated information and intellectual property, and of equal treatment and non-discrimination among the Members of the ITER Organization.
17. The ITER Agreement contains specific provisions on site support by the Host Party EURATOM (Article 11 ITER Agreement and its Annex on Site Support) according to which EURATOM shall make available or cause to be made available to the ITER Organization the site support required for the implementation of the ITER Project. EURATOM may designate an entity to act on its behalf for the purpose of site support. It is foreseen that, on the basis of these provisions, the draft site support agreement¹¹ will be concluded between the ITER Organization and “the Agence ITER-France”, the latter entity acting on behalf of EURATOM for this purpose.
18. The ITER Organization, its Director-General and Staff, and the representatives of its Members in the Council shall enjoy in the territory of each Member such privileges and immunities as are necessary for the exercise of their functions (Article 12(1) and 12(2) ITER Agreement). As stated in the Joint Declaration of the Parties on Privileges and Immunities,¹² the USA will accord privileges and immunities to the ITER Organization through its International Organizations Immunities Act and other relevant domestic laws and regulations while the other founding Parties and any future Party will accord the privileges and immunities to the ITER Organization under the terms of the Agreement on Privileges and Immunities. A Headquarters Agreement and Field Team Agreements or Arrangements will be concluded between the ITER Organization and the Host State and the hosts of the Field Teams respectively to specify details of the application of privileges and immunities. Main provisions of the draft Headquarters Agreement have been developed by the Parties to the negotiations¹³ and will be further elaborated pending the establishment of the ITER Organization.

The ITER Agreement requires each Party to notify the Depositary once it has given effect to the Privileges and Immunities (Article 12(5) ITER Agreement). The Depositary will convene the first session of the ITER Council no later than three months after the entry into force of the ITER Agreement, provided that the notifications on the Privileges and Immunities have been received from all Parties (Article 6(2) ITER Agreement).

¹⁰ Attachment 2(k) to the Final Report on ITER Negotiations.

¹¹ Attachment 2(n) to the Final Report on ITER Negotiations.

¹² Attachment 2(h) to the Final Report on ITER Negotiations.

¹³ Attachment 2(m) to the Final Report on ITER Negotiations.

19. The ITER facilities will be an “Installation nucléaire de base” (INB) according to French law. The qualification as INB has consequences on safety and licensing aspects for the Host State. Consequently, the ITER Organization shall observe the applicable national laws and regulations of the Host State in the fields of public and occupational health and safety, nuclear safety, radiation protection, licensing, nuclear substances, environmental protection and protection from acts of malevolence (Article 14 ITER Agreement). The privileges and immunities conferred in Article 12 of the Agreement shall not diminish or affect the duty of the ITER Organization, the Director-General or the Staff to comply with the laws and regulations referred to in Article 14.
20. Article 15 of the Agreement sets out provisions for contractual and non-contractual liability of the ITER Organization. Membership of the ITER Organization shall not result in liability for Members for acts, omissions, or obligations of the ITER Organization. In the case that the costs of compensation for damage for which the ITER Organization is liable exceed funds available to the ITER Organization, all Members of the ITER Organization are to consult so as to enable the Organization to meet its liabilities.
21. The ITER Agreement foresees the establishment of a fund to provide for the decommissioning of the ITER facilities. The Members of the ITER Organization will contribute to the decommissioning fund in proportion to their share of the contributions to the operations phase of the ITER project. At the end of a five year de-activation phase, the ITER Organization will hand over to the Host State the decommissioning fund and the ITER facilities for their decommissioning, whereupon the Host State will take responsibility for the ITER facilities and their decommissioning (Article 16 ITER Agreement).
22. The fusion process does not involve fissionable materials and thus the Non-Proliferation Treaty does not apply. However some of the technologies used in the implementation of the ITER project could fall into within possible dual use categories. Therefore, the ITER Agreement contains a provision on peaceful uses and non-proliferation according to which any material, equipment or technology generated or received pursuant to it shall be used solely for peaceful purposes and the ITER Council shall interface with appropriate international fora and establish a policy supporting peaceful uses and non-proliferation. (Article 20 ITER Agreement).
23. The ITER Agreement and any amendment to it enter into force 30 days after the deposit of instruments of its ratification, acceptance or approval by the Parties (Article 22 and Article 28 ITER Agreement). The Depositary is the Director General of the IAEA who shall notify the signatory and acceding States and international organizations of the relevant notifications from the Parties and dates of entry into force, withdrawal or termination (Article 29 ITER Agreement).
24. The duration of the ITER Agreement is 35 years with the possibility of an extension for up to 10 years by unanimous decision of the ITER Council without the need of amending the ITER Agreement (Article 24 ITER Agreement). Such extension can be decided by the ITER Council only when it would not alter the nature of the activities of the ITER Organization or the framework for financial contributions of the Members. The ITER Council shall confirm the foreseen end of the Agreement at

least six years before the expiry and decided the arrangements for the de-activation phase and the dissolution of the Organization.

25. The ITER Agreement may be terminated by agreement of all Parties, allowing the necessary time for de-activation and ensuring the necessary funds for decommissioning (Article 24(6) ITER Agreement). Withdrawal by Members other than the Host Party from the ITER Agreement is only possible after the first ten years following its entry into force. The withdrawal does not affect the withdrawer's contribution to the construction costs of the ITER facilities (Article 26 ITER Agreement).
26. Subject to a unanimous decision of the ITER Council, the ITER Agreement is open to accession from any State or international organization (Article 23 ITER Agreement), under conditions to be determined by the ITER Council.
27. Article 25 of the ITER Agreement provides for mediation or other procedures to be agreed between the parties to any dispute as means of dispute settlement.
28. In order to be able to initiate the activities on the ITER project before the formal entry into force of the ITER Agreement, the Arrangement on Provisional Application of the ITER Agreement¹⁴ has been prepared for signature at the same time as the ITER Agreement.

Budgetary Implication

29. The contributions of EURATOM to the ITER Organization will be provided through the Joint Undertaking that is to be established under Title II, Chapter V of the EURATOM Treaty. The budgetary implications of the conclusion of the ITER Agreement will be embodied in the proposal for a Council Decision establishing the Joint Undertaking.¹⁵

Proposed Decision

30. It is proposed that
 - on the basis of Article 101, paragraph 2 of the EURATOM Treaty, the Council adopts the Decision attached hereto concerning the conclusion, by the Commission of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project, of the Arrangement on Provisional Application of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation on the ITER Project and of the Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project.

¹⁴ Attachment 2(i) to the Final Report on ITER Negotiations.

¹⁵ Commission proposal foreseen to be adopted in the first half of the year 2006.

Proposal for a

COUNCIL DECISION

concerning the conclusion, by the Commission, of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project, of the Arrangement on Provisional Application of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation on the ITER Project and of the Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the Council Decision 2002/668/Euratom¹⁶ adopting the sixth Framework Programme of the European Atomic Energy Community (Euratom) for research and training activities, also contributing to the creation of the European Research Area (2002-2006) and to the Council Decision 2002/837/Euratom¹⁷ adopting a specific programme (Euratom) for research and training in the field of nuclear energy (2002-2006),

Having regard to the proposal from the Commission,¹⁸

Whereas:

- (1) The Commission has, in accordance with the Council Directives of 16 November 2000 as amended by Council Decisions of 27 May 2002, 26 November 2003 and 26 November 2004, conducted negotiations with the Government of the People's Republic of China, the Government of Japan, the Government of the Republic of India, the Government of the Republic of Korea, the Government of the Russian Federation and the Government of the United States of America on an Agreement for the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project and an Arrangement on Provisional Application of the Agreement.
- (2) The Commission has, in accordance with the Council Directives, conducted negotiations with the Government of the People's Republic of China, the Government of Japan, the Government of the Republic of India, the Government of the Republic of Korea and the Government of the Russian Federation on an associated Agreement on

¹⁶ OJ L 232, 29.8.2002, p. 34

¹⁷ OJ L 294, 29.10.2002, p. 86

¹⁸ OJ C

the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project.

- (3) The Representatives of the seven parties to the ITER negotiations adopted on 1 April 2006 the Final Report of Negotiations on the Joint Implementation of the ITER Project which confirms the completion of the negotiation process, refers to statements of the willingness of each party to conclude the Agreement, records the common understandings shared among the Parties at the conclusion of the negotiations and the draft Arrangement on the Provisional Application of the Agreement. On the same occasion, the Final Report of Negotiations on the Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project was adopted by the Representatives of EURATOM, the Government of the People's Republic of China, the Government of Japan, the Government of the Republic of India, the Government of the Republic of Korea and the Government of the Russian Federation.
- (4) At the occasion of the Ministerial Meeting for ITER on 24 May 2006 in Brussels, the Representatives of the seven parties to the ITER negotiations signed the Joint Declaration on Implementation by which they confirmed their intentions to jointly implement ITER and to apply the Common Understandings referred to in the above-mentioned Final Report of Negotiations on the Joint Implementation of the ITER Project.
- (5) At the occasion of the Ministerial Meeting for ITER on 24 May 2006 in Brussels, the Representatives of the seven parties to the ITER negotiations signed a Joint Declaration on Privileges and Immunities by which the USA expresses its intention to accord privileges and immunities to the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project in accordance with the International Organisations Immunities Act of the USA and the other six parties to the negotiations express their intentions to accord the privileges and immunities to the ITER Organization under the terms of the Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project.
- (6) The conclusion, by the Commission, of the Agreement on the Establishment of the ITER International Fusion Energy Organisation for the Joint Implementation of the ITER Project, the Arrangement on Provisional Application of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation on the ITER Project and the Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

1. The conclusion by the Commission, for and on behalf of the European Atomic Energy Community, of the Agreement among the European Atomic Energy Community, 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, the Government of the Russian Federation and the Government of the United States of America on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (the ITER Agreement) is hereby approved.

2. The text of the ITER Agreement is annexed to this decision as Annex I.

Article 2

1. The conclusion by the Commission, for and on behalf of the European Atomic Energy Community, of the Arrangement among the European Atomic Energy Community, 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, the Government of the Russian Federation and the Government of the United States of America on the Provisional Application of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation on the ITER Project is hereby approved.
2. The text of the Arrangement on the Provisional Application of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation on the ITER Project is annexed to this decision as Annex II.

Article 3

1. The conclusion by the Commission, for and on behalf of the European Atomic Energy Community, of the Agreement among the European Atomic Energy Community, 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 on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project is hereby approved.
2. The text of the Agreement on the Privileges and Immunities of the ITER Fusion Energy Organization for the Joint Implementation of the ITER Project is annexed to this decision as Annex III.

Done at Brussels,

*For the Council
The President*

Annex I to Draft Council Decision

Draft Final
Agreement on the Establishment of the ITER International Fusion Energy Organization
for the Joint Implementation of the ITER Project

Table of Contents

Preamble	
Article 1	Establishment of the ITER International Fusion Energy Organization
Article 2	Purpose of the ITER Organization
Article 3	Functions of the ITER Organization
Article 4	Members of the ITER Organization
Article 5	Legal Personality
Article 6	Council
Article 7	The Director-General and the Staff
Article 8	Resources of the ITER Organization
Article 9	Project Resource Management Regulations
Article 10	Information and Intellectual Property
Article 11	Site Support
Article 12	Privileges and Immunities
Article 13	Field Teams
Article 14	Public Health, Safety, Licensing and Environmental Protection
Article 15	Liability
Article 16	Decommissioning
Article 17	Financial Audit
Article 18	Management Assessment
Article 19	International Cooperation
Article 20	Peaceful Uses and Non-Proliferation
Article 21	Application with regard to EURATOM
Article 22	Entry into force

Article 23	Accession
Article 24	Duration and Termination
Article 25	Settlement of Disputes
Article 26	Withdrawal
Article 27	Annexes
Article 28	Amendments
Article 29	Depositary

Preamble

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, the Government of the Russian Federation and the Government of the United States of America,

RECALLING that the successful completion of the ITER Engineering Design Activities under the auspices of the International Atomic Energy Agency (hereinafter “the IAEA”) has placed at the disposal of the Parties a detailed, complete and fully integrated engineering design of a research facility aimed to demonstrate the feasibility of fusion as an energy source;

EMPHASIZING the long term potential of fusion energy as a virtually limitless, environmentally acceptable and economically competitive source of energy;

CONVINCED that ITER is the next important step on the path to develop fusion energy and that now is the appropriate time to initiate the implementation of the ITER Project on the basis of progress of research and development in the field of fusion energy;

HAVING REGARD to the joint declaration by the Representatives of the Parties to the ITER negotiations, on the occasion of the ministerial meeting for ITER on 28 June 2005 in Moscow;

RECOGNIZING that the World Summit on Sustainable Development of 2002 called upon governments to promote increased research and development in the field of various energy technologies, including renewable energy, energy efficiency and advanced energy technologies;

EMPHASIZING the importance of the joint implementation of the ITER Project to demonstrate the scientific and technological feasibility of fusion energy for peaceful purposes and to stimulate the interest of young generations in fusion;

DETERMINED that the ITER Project’s overall programmatic objective will be pursued by the ITER International Fusion Energy Organization through a common international research programme organized around scientific and technological goals, developed and executed with participation of leading researchers from all Parties;

EMPHASIZING the importance of safe and reliable implementation of construction, operation, exploitation, de-activation and decommissioning of the ITER facilities with a view to demonstrating safety and promoting social acceptability of fusion as an energy source;

AFFIRMING the importance of genuine partnership in implementing this long term and large scale project for the purpose of fusion energy research and development;

RECOGNIZING that while scientific and technological benefits will be shared equally among the Parties for fusion energy research purposes, other benefits associated with the implementation of the Project will be shared on an equitable basis;

DESIRING to continue the fruitful cooperation with the IAEA in this endeavour;

HAVE AGREED AS FOLLOWS:

Article 1

Establishment of the ITER International Fusion Energy Organization

1. The ITER International Fusion Energy Organization (hereinafter “the ITER Organization”) is hereby established.
2. The headquarters of the ITER Organization (hereinafter “the Headquarters”) shall be at St Paul-lez-Durance, Bouches-du-Rhône, France. For the purposes of this Agreement, EURATOM shall be referred to as “the Host Party” and France as “the Host State”.

Article 2

Purpose of the ITER Organization

The purpose of the ITER Organization shall be to provide for and to promote cooperation among the Members referred to in Article 4 (hereinafter “the Members”) on the ITER Project, an international project that aims to demonstrate the scientific and technological feasibility of fusion energy for peaceful purposes, an essential feature of which would be achieving sustained fusion power generation.

Article 3

Functions of the ITER Organization

1. The ITER Organization shall:
 - a) construct, operate, exploit, and de-activate the ITER facilities in accordance with the technical objectives and the general design presented in the Final Report of the ITER Engineering Design Activities (ITER EDA Documentation Series No. 21) and such supplemental technical documents as may be adopted, as necessary, in accordance with this Agreement, and provide for the decommissioning of the ITER facilities;
 - b) encourage the exploitation of the ITER facilities by the laboratories, other institutions and personnel participating in the fusion energy research and development programmes of the Members;
 - c) promote public understanding and acceptance of fusion energy; and
 - d) undertake, in accordance with this Agreement, any other activities that are necessary to achieve its purpose.
2. In the performance of its functions, the ITER Organization shall give special regard to the maintenance of good relations with local communities.

Article 4

Members of the ITER Organization

The Parties to this Agreement shall be the Members of the ITER Organization.

Article 5

Legal Personality

1. 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 6

Council

1. The Council shall be the principal organ of the ITER Organization and shall be composed of Representatives of the Members. Each Member shall appoint up to four Representatives to the Council.
2. The Depositary referred to in Article 29 (hereinafter “the Depositary”) shall convene the first session of the Council no later than three months after the entry into force of this Agreement, provided that the notifications referred to in Article 12(5) have been received from all Parties.
3. The Council shall elect from among its members a Chair and a Vice-Chair who shall each serve for a term of one year and who may be re-elected up to three times for a maximum period of four years.
4. The Council shall adopt its Rules of Procedure by unanimity.
5. The Council shall meet twice a year, unless it decides otherwise. The Council may decide to hold an extraordinary session at the request of a Member or of the Director-General. Sessions of the Council shall take place at the Headquarters, unless the Council decides otherwise.
6. When appropriate, the Council may decide to hold a session at the ministerial level.

7. The Council shall be responsible, in accordance with this Agreement, for the promotion, overall direction and supervision of the activities of the ITER Organization in pursuit of its purpose. The Council may take decisions and make recommendations on any questions, matters or issues in accordance with this Agreement. In particular, the Council shall:
- a) decide on the appointment, replacement and extension of the term of office of the Director-General;
 - b) adopt and amend where necessary, on the proposal of the Director-General, the Staff Regulations and the Project Resource Management Regulations of the ITER Organization;
 - c) decide, on the proposal of the Director-General, the main management structure of the ITER Organization and complement of the Staff;
 - d) appoint senior Staff on the proposal of the Director-General;
 - e) appoint the members of the Financial Audit Board as referred to in Article 17;
 - f) decide, in accordance with Article 18, on the terms of reference for the undertaking of an assessment of the management of the ITER Organization and appoint a Management Assessor for that purpose;
 - g) decide, on the proposal of the Director-General, the total budget for the various phases of the ITER Project and allowable ranges for adjustment for the purpose of the annual updates referred to in subparagraph j), and approve the initial ITER Project Plan and Resource Estimates referred to in Article 9;
 - h) approve changes to the overall cost sharing;
 - i) approve, with the consent of the Members concerned, modifications to the procurement allocation without changing the overall cost sharing;
 - j) approve the annual updates of the ITER Project Plan and Resource Estimates and, correspondingly, approve the annual programme and adopt the annual budget of the ITER Organization;
 - k) approve the annual accounts of the ITER Organization;
 - l) adopt the annual reports;
 - m) adopt, as necessary, the supplemental technical documents referred to in Article 3 (1) (a);
 - n) establish such subsidiary bodies of the Council as may be necessary;
 - o) approve the conclusion of agreements or arrangements for international cooperation in accordance with Article 19;
 - p) decide on acquisition, sale and mortgaging of land and other titles of real property;

- q) adopt the rules on Intellectual Property management and the dissemination of information in accordance with Article 10 on the proposal of the Director-General;
 - r) approve, on the proposal of the Director-General, the details of setting up of Field Teams with consent of the Members concerned, in accordance with Article 13. The Council shall review, on a periodic basis, the continuation of any Field Teams established;
 - s) approve, on the proposal of the Director-General, agreements or arrangements governing relations between the ITER Organization and the Members or States on whose territory the Headquarters and Field Teams of the ITER Organization are located;
 - t) approve, on the proposal of the Director-General, efforts to promote collaboration among the relevant domestic fusion research programmes of the Members and between such programmes and the ITER Organization;
 - u) decide on the accession of States or international organizations to this Agreement in accordance with Article 23;
 - v) recommend to the Parties, in accordance with Article 28, amendments to this Agreement;
 - w) decide on the taking or granting of loans, provision of assurances and guarantees and furnishing collateral and security in respect thereto;
 - x) decide whether to propose material, equipment and technology for consideration by international export control fora for inclusion on their control lists, and establish a policy supporting peaceful uses and non-proliferation in accordance with Article 20;
 - y) approve compensation arrangements referred to in Article 15; and
 - z) decide on waivers of immunity in accordance with Article 12 (3) and have such other powers as may be necessary to fulfill the purpose and to carry out the functions of the ITER Organization, consistent with this Agreement.
8. The Council shall decide issues under subparagraphs a), b), c), g), h), o), u), v), w), x), y) and z) of paragraph 7, and on the weighted voting system referred to in paragraph 10, by unanimity.
9. On all issues other than as specified in paragraph 8, the Members shall use their best efforts to achieve consensus. Failing consensus, the Council shall decide the issue in accordance with the weighted voting system referred to in paragraph 10. Decisions on issues related to Article 14 shall require the concurrence of the Host Party.
10. The respective weights of the votes of the Members shall reflect their contributions to the ITER Organization. The weighted voting system, which shall include both the distribution of votes and the decision making rules, shall be set out in the Council Rules of Procedure.

Article 7

The Director-General and the Staff

1. The Director-General shall be the chief executive officer and the representative of the ITER Organization in the exercise of its legal capacity. The Director-General shall act in a manner consistent with this Agreement and decisions of the Council, and shall be responsible to the Council for the execution of his/her duties.
2. The Director-General shall be assisted by the Staff. The Staff shall consist of direct employees of the ITER Organization and personnel seconded by the Members.
3. The Director-General shall be appointed for a term of five years. The appointment of the Director-General may be extended once for an additional period of up to five years.
4. The Director-General shall take all measures necessary for the management of the ITER Organization, the execution of its activities, the implementation of its policies and the fulfillment of its purpose. In particular, the Director-General shall:
 - a) prepare and submit to the Council:
 - the total budget for the various phases of the ITER Project and allowable ranges for adjustment;
 - the ITER Project Plan and Resource Estimates and their annual updates;
 - the annual budget within the agreed total budget, including the annual contributions, and annual accounts;
 - proposals on senior Staff appointments and main management structure of the ITER Organization;
 - the Staff Regulations;
 - the Project Resource Management Regulations; and
 - the annual reports;
 - b) appoint, direct and supervise the Staff;
 - c) be responsible for safety and undertake all organizational measures needed to observe the laws and regulations referred to in Article 14;
 - d) undertake, where necessary in conjunction with the Host State, to obtain the permits and licenses required for the construction, operation and exploitation of the ITER facilities;

- e) promote collaboration among the relevant domestic fusion research programmes of the Members and between such programmes and the ITER Organization;
 - f) ensure the quality and fitness of components and systems procured for use by the ITER Organization;
 - g) submit to the Council, as necessary, the supplemental technical documents referred to in Article 3 (1) (a);
 - h) conclude, subject to prior approval of the Council, agreements or arrangements for international cooperation in accordance with Article 19 and supervise their implementation;
 - i) make arrangements for the sessions of the Council;
 - j) as requested by the Council, assist subsidiary bodies of the Council in the performance of their tasks; and
 - k) monitor and control the execution of the annual programmes with respect to timing, results and quality, and accept the completion of the tasks.
5. The Director-General shall attend meetings of the Council unless the Council decides otherwise.
6. Without prejudice to Article 14, the responsibilities of the Director-General and the Staff in respect of the ITER Organization shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any government or from any authority external to the ITER Organization. Each Member shall respect the international character of the responsibilities of the Director-General and the Staff, and shall not seek to influence them in the discharge of their duties.
7. The Staff shall support the Director-General in the performance of his/her duties and shall be under his/her management authority.
8. The Director-General shall appoint the Staff in accordance with the Staff Regulations.
9. The term of the appointment of each member of the Staff shall be up to five years.
10. The Staff of the ITER Organization shall consist of such qualified scientific, technical and administrative personnel as shall be required for the implementation of the activities of the ITER Organization.
11. The Staff shall be appointed on the basis of their qualifications, taking into account an adequate distribution of posts among the Members in relation to their contributions.
12. In accordance with this Agreement and the relevant regulations, the Members may second personnel and send visiting researchers to the ITER Organization.

Article 8

Resources of the ITER Organization

1. The resources of the ITER Organization shall comprise:
 - a) contributions in kind, as referred to in the document “Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions”, comprising: i) specific components, equipment, materials and other goods and services in accordance with the agreed technical specifications and ii) staff seconded by the Members;
 - b) financial contributions to the budget of the ITER Organization by the Members (hereinafter ‘contributions in cash’), as referred to in the document “Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions”;
 - c) additional resources received either in cash or in kind within limits and under terms approved by the Council.
2. The respective Members’ contributions over the duration of this Agreement shall be as referred to in the documents “Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions” and “Cost Sharing for all Phases of the ITER Project” and may be updated by unanimous decision of the Council.
3. The resources of the ITER Organization shall be solely used to promote the purpose and to exercise the functions of the ITER Organization in accordance with Articles 2 and 3.
4. Each Member shall provide its contributions to the ITER Organization through an appropriate legal entity, hereinafter “the Domestic Agency” of that Member, except where otherwise agreed by the Council. The approval of the Council shall not be required for Members to provide cash contributions directly to the ITER Organization.

Article 9

Project Resource Management Regulations

1. The purpose of the Project Resource Management Regulations is to ensure the sound financial management of the ITER Organization. These Regulations shall include, *inter alia*, the principal rules relating to:
 - a) the Financial Year;
 - b) the unit of account and the currency that the ITER Organization shall use for accounting, budget and resource evaluation purposes;
 - c) the presentation and structure of the ITER Project Plan and Resource Estimates;

- d) the procedure for the preparation and adoption of the annual budget, the implementation of the annual budget and internal financial control;
 - e) the contributions by the Members;
 - f) the awarding of contracts;
 - g) the management of contributions; and
 - h) the management of the decommissioning fund.
2. The Director-General shall prepare each year, and submit to the Council, an update of the ITER Project Plan and Resource Estimates.
3. The ITER Project Plan shall specify the plan for the execution of all functions of the ITER Organization and shall cover the duration of this Agreement. It shall:
- a) outline an overall plan including time schedule and major milestones, for the fulfilment of the purpose of the ITER Organization and summarise the progress of the ITER Project in relation to the overall plan;
 - b) present specific objectives and schedules of the programme of activities of the ITER Organization for the coming five years or for the period of construction, whichever will last longer; and
 - c) provide appropriate commentaries, including assessment of the risks to the ITER Project and descriptions of risk avoidance or mitigation measures.
4. The ITER Resource Estimates shall provide a comprehensive analysis of the resources already expended and required in the future to undertake the ITER Project Plan and of the plans for the provision of the resources.

Article 10

Information and Intellectual Property

1. Subject to this Agreement and the Annex on Information and Intellectual Property, the ITER Organization and the Members shall support the widest appropriate dissemination of information and intellectual property they generate in the execution of this Agreement. The implementation of this Article and the Annex on Information and Intellectual Property shall be equal and non-discriminatory for all Members and the ITER Organization.
2. In carrying out its activities, the ITER Organization shall ensure that any scientific results shall be published or otherwise made widely available after a reasonable period of time to allow for the obtaining of appropriate protection. Any copyright on works based on those results shall be owned by the ITER Organization unless otherwise provided in specific provisions of this Agreement and the Annex on Information and Intellectual Property.

3. When placing contracts for work to be performed pursuant to this Agreement, the ITER Organization and the Members shall include provisions in such contracts on any resulting intellectual property. These provisions shall address, *inter alia*, rights of access to, as well as disclosure and use of, such intellectual property, and shall be consistent with this Agreement and the Annex on Information and Intellectual Property.
4. Intellectual property generated or incorporated pursuant to this Agreement shall be treated in accordance with the provisions of the Annex on Information and Intellectual Property.

Article 11

Site Support

1. The Host Party shall make available or cause to be made available to the ITER Organization the site support required for the implementation of the ITER Project as summarized and under the terms outlined in the Annex on Site Support. The Host Party may designate an entity to act on its behalf for this purpose. Such designation shall not affect the obligations of the Host Party under this Article.
2. Subject to the approval of the Council, the details of and the procedures for cooperation on site support between the ITER Organization and the Host Party or its designated entity shall be covered by a Site Support Agreement to be concluded between them.

Article 12

Privileges and Immunities

1. The ITER Organization, its property and assets, shall enjoy in the territory of each Member such privileges and immunities as are necessary for the exercise of its functions.
2. The Director-General and the Staff of the ITER Organization and the representatives of the Members in the Council and subsidiary bodies, together with their alternates and experts, shall enjoy in the territory of each of the Members such privileges and immunities as are necessary for the exercise of their functions in connection with the ITER Organization.
3. The immunities provided for in paragraphs 1 and 2 shall be waived in any case where the authority competent to waive the immunity considers that such immunity would impede the course of justice and that waiver would not prejudice the purposes for which it was accorded and where, in the case of the ITER Organization, the Director-General, and the Staff, the Council determines that such a waiver would not be contrary to the interests of the ITER Organization and its Members.

4. The privileges and immunities conferred in accordance with this Agreement shall not diminish or affect the duty of the ITER Organization, the Director-General or the Staff to comply with the laws and regulations referred to in Article 14.
5. Each Party shall notify the Depository in writing upon having given effect to paragraphs 1 and 2.
6. The Depository shall notify the Parties when notifications have been received from all Parties in accordance with paragraph 5.
7. A Headquarters Agreement shall be concluded between the ITER Organization and the Host State.

Article 13

Field Teams

Each Member shall host a Field Team established and operated by the ITER Organization as required for the exercise of the ITER Organization's functions and the fulfillment of its purpose. A Field Team Agreement shall be concluded between the ITER Organization and each Member.

Article 14

Public Health, Safety, Licensing and Environmental Protection

The ITER Organization shall observe applicable national laws and regulations of the Host State in the fields of public and occupational health and safety, nuclear safety, radiation protection, licensing, nuclear substances, environmental protection and protection from acts of malevolence.

Article 15

Liability

1. The contractual liability of the ITER Organization shall be governed by the relevant contractual provisions, which shall be construed in accordance with the law applicable to the contract.
2. In the case of non-contractual liability, the ITER Organization shall compensate appropriately or provide other remedies for any damage caused by it, to such extent as the ITER Organization is subject to a legal liability under the relevant law, with the details of compensation arrangements to be approved by the Council. This paragraph shall not be construed as a waiver of immunity by the ITER Organization.
3. Any payment by the ITER Organization to compensate for the liability referred to in paragraphs 1 and 2 and any costs and expenses incurred in connection therewith shall be considered as 'operational cost' as defined in the Project Resource Management Regulations.

4. In case the costs of compensation for damage referred to in paragraph 2 exceed funds available to the ITER Organization in the annual budget for operations and/or through insurance, the Members shall consult, through the Council, so that the ITER Organization can compensate, according to paragraph 2 by seeking to increase the overall budget by unanimous decision of the Council in accordance with Article 6 (8).
5. Membership in the ITER Organization shall not result in liability for Members for acts, omissions, or obligations of the ITER Organization.
6. Nothing in this Agreement shall impair, or shall be construed as a waiver of, immunity that Members enjoy in the territory of other States or in their territory.

Article 16

Decommissioning

1. During the period of operation of ITER, the ITER Organization shall generate a Fund (hereinafter “the Fund”) to provide for the decommissioning of the ITER facilities. The modalities for the generation of the Fund, its estimation and updating, the conditions for changes and for its transfer to the Host State shall be set out in the Project Resource Management Regulations referred to in Article 9.
2. Following the final phase of experimental operations of ITER, the ITER Organization shall, within a period of five years, or shorter if agreed with the Host State, bring the ITER facilities into such conditions as are to be agreed and updated as necessary between the ITER Organization and the Host State, following which the ITER Organization shall hand over to the Host State the Fund and the ITER facilities for their decommissioning.
3. Following the acceptance by the Host State of the Fund together with the ITER facilities, the ITER Organization shall bear no responsibilities or liabilities for the ITER facilities, except when otherwise agreed between the ITER Organization and the Host State.
4. The respective rights and obligations of the ITER Organization and the Host State and the modalities of their interactions in respect of the decommissioning shall be set out in the Headquarters Agreement referred to in Article 12, under which the ITER Organization and the Host State shall, *inter alia*, agree that:
 - a) after the handing over of the ITER facilities, the Host State shall continue to be bound by the provisions of Article 20; and
 - b) the Host State shall make regular reports to all Members that have contributed to the Fund on the progress of the decommissioning and on the procedures and technologies that have been used or generated for the decommissioning.

Article 17

Financial Audit

1. A Financial Audit Board (hereinafter “the Board”) shall be established to undertake the audit of the annual accounts of the ITER Organization in accordance with this Article and the Project Resource Management Regulations.
2. Each Member shall be represented on the Board by one member. The members of the Board shall be appointed by the Council on the recommendation of the respective Members for a period of three years. The appointment may be extended once for an additional period of three years. The Council shall appoint from among the members the Chair of the Board, who shall serve for a period of two years.
3. The members of the Board shall be independent and shall not seek or take instructions from any Member or any other person and shall report only to the Council.
4. The purposes of the audit shall be to:
 - a) determine whether all income/expenditure has been received/incurred in a lawful and regular manner and has been accounted for;
 - b) determine whether the financial management has been sound;
 - c) provide a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the underlying transactions;
 - d) determine whether expenditures are in conformity with the budget; and
 - e) examine any matter having potential financial implications for the ITER Organization.
5. The audit shall be based on recognized international principles and standards for accounting.

Article 18

Management Assessment

1. Every two years, the Council shall appoint a Management Assessor who shall assess the management of the activities of the ITER Organization. The scope of the assessment shall be decided by the Council.
2. The Director-General may also call for such assessments following consultation with the Council.
3. The Management Assessor shall be independent and shall not seek or take instructions from any Member or any person and shall report only to the Council.

4. The purpose of the assessment shall be to determine whether the management of the ITER Organization has been sound, in particular with respect to management effectiveness and efficiency in terms of scale of staff.
5. The assessment shall be based on records of the ITER Organization. The Management Assessor shall be granted full access to personnel, books and records as he/she may deem appropriate for this purpose.
6. The ITER Organization shall ensure that the Management Assessor shall abide by its requirements relating to the treatment of sensitive and/or business confidential information, in particular its policies concerning Intellectual Property, Peaceful Uses and Non-Proliferation.

Article 19

International Cooperation

Consistent with this Agreement and upon a unanimous decision of the Council, the ITER Organization may, in furtherance of its purpose, cooperate with other international organizations and institutions, non-Parties, and with organizations and institutions of non-Parties, and conclude agreements or arrangements with them to this effect. The detailed arrangements for such cooperation shall be determined in each case by the Council.

Article 20

Peaceful Uses and Non-Proliferation

1. The ITER Organization and the Members shall use any material, equipment or technology generated or received pursuant to this Agreement solely for peaceful purposes. Nothing in this paragraph shall be interpreted as affecting the rights of the Members to use material, equipment or technology acquired or developed by them independent of this Agreement for their own purposes.
2. Material, equipment or technology received or generated pursuant to this Agreement by the ITER Organization and the Members shall not be transferred to any third party to be used to manufacture or otherwise to acquire nuclear weapons or other nuclear explosive devices or for any non-peaceful purposes.
3. The ITER Organization and the Members shall take appropriate measures to implement this Article in an efficient and transparent manner. To this end, the Council shall interface with appropriate international fora and establish a policy supporting peaceful uses and non-proliferation.
4. In order to support the success of the ITER Project and its non-proliferation policy, the Parties agree to consult on any issues associated with the implementation of this Article.
5. Nothing in this Agreement shall require the Members to transfer material, equipment or technology contrary to national export control or related laws and regulations.

6. Nothing in this Agreement shall affect the rights and obligations of the Parties that arise from other international agreements concerning non-proliferation of nuclear weapons or other nuclear explosive devices.

Article 21

Application with regard to EURATOM

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, the Republic of Romania and the Swiss Confederation, participating in the EURATOM fusion programme as fully associated third States.

Article 22

Entry into Force

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, the Russian Federation and the United States of America.
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 23

Accession

1. After the entry into force of this Agreement, any State or international organization may accede to and become a Party to this Agreement following a unanimous decision of the Council.
2. Any State or international organization that wishes to accede to this Agreement shall notify the Director-General, who shall inform the Members of this request at least six months before it is submitted to the Council for decision.
3. The Council shall determine the conditions of accession of any State or international organization.
4. Accession to this Agreement by a State or international organization shall take effect 30 days after the Depositary has received both the instrument of accession and the notification referred to in Article 12(5).

Article 24

Duration and Termination

1. This Agreement shall have an initial duration of 35 years. The last five years of this period, or shorter if agreed with the Host State, shall be dedicated to the de-activation of the ITER facilities.
2. The Council shall, at least eight years before the expiry of this Agreement, establish a Special Committee, chaired by the Director-General, that shall advise it on whether the duration of this Agreement should be extended having regard to the progress of the ITER Project. The Special Committee shall assess the technical and scientific state of the ITER facilities and reasons for the possible extension of this Agreement and, before recommending to extend this Agreement, the financial aspects in terms of required budget and impact on the de-activation and decommissioning costs. The Special Committee shall submit its report to the Council within one year after its establishment.
3. On the basis of the report, the Council shall decide by unanimity at least six years before the expiry whether to extend the duration of this Agreement.
4. The Council may not extend the duration of this Agreement for a period of more than ten years in total, nor may the Council extend this Agreement if such extension would alter the nature of the activities of the ITER Organization or the framework of financial contribution of the Members.
5. At least six years before the expiry of this Agreement, the Council shall confirm the foreseen end of this Agreement and decide the arrangements for the de-activation phase and the dissolution of the ITER Organization.
6. This Agreement may be terminated by agreement of all Parties, allowing the necessary time for de-activation and ensuring the necessary funds for decommissioning.

Article 25

Settlement of Disputes

1. 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.
2. If the parties concerned are unable to resolve their dispute in consultation, either party may request the Chair of the Council (or if the Chair has been elected from a Member that is a party to the dispute, a member of the Council representing a Member that is not a party to the dispute) to act as a mediator at a meeting to attempt to resolve the dispute. Such meeting shall be convened within thirty days following a request by a party for mediation and concluded within sixty days thereafter, immediately following which the mediator shall provide a report of the mediation,

which report shall be prepared in consultation with the Members other than the parties to the dispute with a recommendation for resolution of the dispute.

3. If the parties concerned are unable to resolve their dispute through consultations or mediation, they may agree to submit the dispute to an agreed form of dispute resolution in accordance with procedures to be agreed.

Article 26

Withdrawal

1. After this Agreement has been in force for ten years, any Party other than the Host Party may notify the Depository of its intention to withdraw.
2. Withdrawal shall not affect the withdrawing Party's contribution to the construction cost of the ITER facilities. If a Party withdraws during the period of operation of ITER, it shall also contribute its agreed share of the cost of decommissioning the ITER facilities.
3. Withdrawal shall not affect any continuing right, obligation, or legal situation of a Party created through the execution of this Agreement prior to its withdrawal.
4. The withdrawal shall take effect at the end of the Financial Year following the year the notification referred to in paragraph 1 is given.
5. The details of withdrawal shall be documented by the ITER Organization in consultation with the withdrawing Party.

Article 27

Annexes

The Annex on Information and Intellectual Property and the Annex on Site Support shall form an integral part of this Agreement.

Article 28

Amendments

1. Any Party may propose an amendment to this Agreement.
2. Proposed amendments shall be considered by the Council, for recommendation to the Parties by unanimity.
3. Amendments are subject to ratification, acceptance or approval in accordance with the procedures of each Party and shall enter into force thirty days after the deposit of the instruments of ratification, acceptance or approval by all Parties.

Article 29

Depositary

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;
 - b) the date of deposit of each notification received in accordance with Article 12 (5);
 - c) the date of entry into force of this Agreement and of amendments as provided for under Article 28;
 - d) any notification by a Party of its intention to withdraw from this Agreement; and
 - e) the termination of this Agreement.

Done at

Draft Final
Annex on Information and Intellectual Property

Article 1

Subject Matter and Definitions

- 1.1 This Annex covers the dissemination, exchange, use and protection of information and intellectual property pertaining to protectable subject matter, in the execution of this Agreement. Unless otherwise provided, the terms used in this Annex shall have the same meaning as in this Agreement.
- 1.2 **Information** shall mean published data, drawings, designs, computations, reports and other documents, documented data or methods of research and development, as well as the description of inventions and discoveries, whether or not protectable, which are not covered by the term Intellectual Property as defined in paragraph 1.3 below.
- 1.3 **Intellectual Property** shall have the meaning defined in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm on July 14, 1967. For the purposes of this Annex, Intellectual Property may include confidential information such as know-how or trade secrets provided that they are unpublished, and in written or otherwise documented form, and
- a) have been held in confidence by their owner,
 - b) are not generally known or available to the public from other sources, and/or are not generally available to the public in printed publications and/or other readable documents,
 - c) have not been made available by their owner to other parties without an obligation concerning confidentiality, and
 - d) are not available to the receiving party without an obligation concerning confidentiality.
- 1.4 **Background Intellectual Property** shall mean Intellectual Property that has been or is acquired, developed or produced, before the entry into force of this Agreement, or outside of the scope of this Agreement.
- 1.5 **Generated Intellectual Property** shall mean Intellectual Property that is generated or acquired with full ownership by a Member, acting through a Domestic Agency or Entity, or by the ITER Organization or jointly pursuant to and in the course of the performance of this Agreement.
- 1.6 **Improvements** shall mean any technological advancement to existing Intellectual Property, including derivative works.

- 1.7 **Entity** or **Entities** shall mean any entity with which a Domestic Agency or the ITER Organization has entered into a contract for the supply of goods or services for the purposes of this Agreement.

Article 2

General Provisions

- 2.1. Subject to the provisions of this Annex, the Members support the widest possible dissemination of Generated Intellectual Property.
- 2.2. Each Member shall ensure that the other Members and the ITER Organization can obtain the rights to Intellectual Property allocated in accordance with this Annex. Contracts placed by each Member or the ITER Organization with any Entity shall be consistent with the provisions of this Annex. In particular, appropriate public procurement procedures must be followed by all Members and the ITER Organization in order to ensure compliance with this Annex.

The ITER Organization shall properly identify in a timely manner the Background Intellectual Property of the contracting Entities with a view to obtaining for the ITER Organization and the Members access to this Background Intellectual Property in conformity with this Annex.

Each Member shall properly identify in a timely manner the Background Intellectual Property of the contracting Entities with a view to obtaining for the ITER Organization and the Members access to this Background Intellectual Property in conformity with this Annex.

Each Member and the ITER Organization shall ensure access for the ITER Organization and the other Members to inventions and other Intellectual Property generated or incorporated in the execution of the contracts provided that inventors' rights are respected, in conformity with this Annex.

- 2.3 This Annex does not alter or prejudice the allocation of rights between a Member and its nationals. Whether the rights concerning Intellectual Property shall be held by a Member or its nationals shall be determined as between themselves in accordance with their applicable laws and regulations.
- 2.4 If a Member generates or acquires full ownership of Intellectual Property in the course of the execution of this Agreement, the Member shall notify all other Members and the ITER Organization in a timely manner and provide details of such Intellectual Property.

Article 3

Dissemination of Information and Scientific Publications whether or not Copyrighted

Each Member shall be entitled, for non commercial uses, to translate, reproduce, and publicly distribute Information directly arising from the execution of 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.

Article 4

Intellectual Property Generated or Incorporated by a Member, a Domestic Agency or Entity

4.1. Generated Intellectual Property:

4.1.1 If protectable subject matter is generated by a Member, a Domestic Agency or Entity in the course of the execution of this Agreement, the Member, the Domestic Agency or Entity shall be entitled to acquire all rights, title and interest in all countries in and to such intellectual property according to applicable laws and regulations.

4.1.2 Any Member, acting through a Domestic Agency or Entity, which has generated Intellectual Property in the course of the execution of this Agreement shall grant on an equal and non-discriminatory basis an irrevocable, non-exclusive, royalty-free license to such Generated Intellectual Property to other Members and the ITER Organization, with the right of the ITER Organization to sub-license, and the right of the other Members to sub-license within their respective territory, for the purposes of publicly sponsored fusion research and development programmes.

4.1.3 Any Member, acting through a Domestic Agency or Entity, which has generated Intellectual Property in the course of the execution of this Agreement shall make available on an equal and non-discriminatory basis a non-exclusive license to such Generated Intellectual Property to the other Members for commercial fusion use, with the right to sub-license for such use by such Members' own domestic third parties within such Members' own territory on terms no less favorable than the basis upon which such Member licenses such Generated Intellectual Property to third parties within or outside such Member's own territory. As long as such terms have been offered such license shall not be denied. The above license may be revoked only in case the licensee does not fulfil its contractual obligations.

4.1.4 Any Member, acting through a Domestic Agency or Entity, which has generated Intellectual Property pursuant to this Agreement is encouraged to enter into commercial arrangements with the other Members, Domestic Agencies, Entities and third parties in order to allow use of Generated Intellectual Property in fields other than fusion.

4.1.5 Members, and their Domestic Agencies or Entities, that license or sub-license Generated or Background Intellectual Property pursuant to this Annex, will maintain records of any such licensing, which records will be available to other Members, such as through the ITER Organization.

4.2. Background Intellectual Property:

4.2.1. Background Intellectual Property shall remain the property of the party that owns this intellectual property.

4.2.2. Any Member, acting through a Domestic Agency or Entity, which has incorporated Background Intellectual Property, except confidential information such as know-how and trade secrets into the items provided to the ITER Organization which Background Intellectual Property is required:

- to construct, operate, use or integrate technology for research and development in relation to the ITER facilities,
- to maintain or repair the item provided, or
- when decided necessary by the Council, in advance of any public procurement,

shall grant on an equal and non-discriminatory basis an irrevocable, non-exclusive, royalty-free license to such Background Intellectual Property to other Members and to the ITER Organization, with the right of the ITER Organization to sub-license and the right of Members to sub-license to their research institutes and institutes of higher education within their respective territory for the purposes of publicly sponsored fusion research and development programmes.

4.2.3. (a) Any Member, acting through a Domestic Agency or Entity, which has incorporated background confidential information into the items provided to the ITER Organization which background confidential information is required:

- to construct, operate, use or integrate technology for research and development in relation to the ITER facilities,
- to maintain or repair the item,
- when decided necessary by the Council, in advance of any public procurement, or
- for safety, for quality assurance and quality control reasons as required by regulatory authorities,

shall ensure that the ITER Organization has an irrevocable, non-exclusive, royalty-free license available to use such background confidential information including manuals or instructional training materials for the construction, operation, maintenance and repair of the ITER facilities.

(b) When confidential information is made available to the ITER Organization, it must be clearly marked so, and transmitted pursuant to an arrangement for confidentiality. The recipient of such information shall use it only for purposes set forth in 4.2.3 (a) and shall preserve its confidentiality to the extent provided in that arrangement. Compensation for damages arising from the misuse of such background confidential information by the ITER Organization shall be paid by the ITER Organization.

4.2.4. Any Member, acting through a Domestic Agency or Entity, which has incorporated background confidential information such as know how or trade secrets into the items provided to the ITER Organization which background confidential information is required:

- to construct, operate, use or integrate technology for research and development in relation to the ITER facilities,
- to maintain or repair the item provided, or
- when decided necessary by the Council, in advance of any public procurement,

shall use its best efforts to either grant a commercial license to such background confidential information or supply the same items incorporating the background confidential information to the receiving party by means of private contracts with financial compensation for publicly sponsored fusion research and development programmes of a Member on terms no less favorable than the basis upon which such Member licenses such background confidential information or supplies the same items to third parties within or outside such Member's own territory. As long as such terms have been offered, such license or supply of such item shall not be denied. The license, if granted, may be revoked only in case the licensee does not fulfil its contractual obligations.

4.2.5. Any Member, acting through a Domestic Agency or Entity, which has incorporated Background Intellectual Property, including background confidential information, in the execution of this Agreement shall use its best efforts to make sure that the component incorporating the Background Intellectual Property is available on reasonable terms and conditions, or use its best efforts to grant on an equal and non-discriminatory basis a non-exclusive license to the other Members for commercial fusion use, with the right to sub-license for such use by such Members' own domestic third parties within such Members' own territory, on terms no less favorable than the basis upon which such Member licenses such Background Intellectual Property to third parties within or outside such Member's own territory. As long as such terms have been offered, such license shall not be denied. The above license may be revoked only in case the licensee does not fulfil its contractual obligations.

4.2.6. Any Member, acting through a Domestic Agency or Entity, is encouraged to make available for commercial purposes other than those set out in article 4.2.5. to the other Members, any Background Intellectual Property incorporated into the items provided to the ITER Organization which Background Intellectual Property was required:

- to construct, operate, use or integrate technology for research and development in relation to the ITER facilities,
- to maintain or repair the item provided, or
- when decided necessary by the Council, in advance of any public procurement.

Such Background Intellectual Property, if licensed by the owners to the Members, shall be licensed on an equal and non-discriminatory basis.

4.3. Licensing to Third Parties of Non-Members:

Any license on Generated Intellectual Property granted by the Members to third parties of non-Members shall be subject to the rules on licensing to third parties determined by the Council. Such rules shall be determined by unanimous decision of the Council.

Article 5

Intellectual Property Generated or Incorporated by the ITER Organization

5.1 Generated Intellectual Property:

5.1.1 Where intellectual property is generated by the ITER Organization, in the course of the execution of this Agreement, it shall be owned by the ITER Organization. The ITER Organization shall develop appropriate procedures for the recording, reporting and protection of the Intellectual Property.

5.1.2 Such intellectual property shall be licensed by the ITER Organization to the Members on an equal, non-discriminatory, irrevocable, non-exclusive, royalty-free basis, with the right of the Members to sub-license within their territory for the purpose of fusion research and development.

5.1.3 Generated Intellectual Property that has been developed or acquired by the ITER Organization in the course of the execution of this Agreement shall be licensed to the Members on an equal, non-discriminatory, non-exclusive basis for commercial use, with the right to sub-license for such use by such Members' own domestic third parties within such Members' own territory on terms no less favorable than the basis upon which the ITER Organization licenses such Generated Intellectual Property to third parties. As long as such terms have been offered, such license shall not be denied. The above license may be revoked only in case the licensee does not fulfil its contractual obligations.

5.2. Background Intellectual Property:

5.2.1. Provided that it has the pertinent rights, when the ITER Organization incorporates Background Intellectual Property which is required:

- to construct operate, use or integrate technology for research and development in relation to the ITER facilities,
- to create improvements and derivative works,
- to repair and maintain the ITER facilities, or
- when decided necessary by the Council, in advance of any public procurement,

the ITER Organization shall make the necessary arrangements in order to sub-license that Background Intellectual Property on an equal and non-discriminatory basis by an irrevocable, non-exclusive, royalty-free license to the Members, with the right of the Members to sub-license within their respective territory for the purpose of fusion research and development. The ITER Organization shall make its best efforts to acquire the pertinent rights.

5.2.2. For Background Intellectual Property, including background confidential information, incorporated by the ITER Organization in the course of the execution of this Agreement, the ITER Organization shall use its best efforts to make available on an equal and non-discriminatory basis a non-exclusive license to the Members for commercial fusion use, with the right to sub-license for such use by such Members' own domestic third parties within such Members' own territory on terms no less favorable than the basis upon which the ITER Organization licenses such Background Intellectual Property to third parties. As long as such terms have been offered, such license shall not be denied. The above license may be revoked only in case the licensee does not fulfil its contractual obligations.

5.2.3. The ITER Organization shall use its best efforts to make available to the Members any Background Intellectual Property, including background confidential information, for purposes other than those set out in article 5.2.2. Such Background Intellectual Property, if licensed by the ITER Organization to the Members, shall be licensed on an equal and non-discriminatory basis.

5.3 Licensing to third parties of a non-Member:

Any license granted by the ITER Organization to third parties of a non-Member shall be subject to the rules on licensing to third parties determined by the Council. Such rules shall be determined by unanimous decision of the Council.

Article 6

Intellectual Property Generated by the ITER Organization's Staff and other Researchers

6.1. Intellectual Property generated by directly employed and seconded staff of the ITER Organization shall be owned by the ITER Organization and treated in corresponding employment contracts or regulations consistent with the provisions set out herein.

6.2. Intellectual Property generated by visiting researchers who are participating in the activities of the ITER Organization through an arrangement with the ITER Organization for undertaking specific activities and who are directly involved in general programmes of the ITER Organization exploitation, shall be owned by the ITER Organization unless otherwise agreed by the Council.

6.3. Intellectual Property generated by visiting researchers not involved in general programmes of the ITER Organization exploitation shall be subject to an arrangement with the ITER Organization pursuant to conditions established by the Council.

Article 7

Protection of Intellectual Property

- 7.1. When a Member acquires or seeks protection for Generated Intellectual Property developed or acquired by that Member, such Member shall notify in a timely manner and provide details of such protection to all other Members and to the ITER Organization. If a Member decides not to exercise its right to seek protection for Generated Intellectual Property in any country or region, it shall notify the ITER Organization in a timely manner of its decision, and the ITER Organization may then seek to obtain such protection either directly or via the Members.
- 7.2. For Generated Intellectual Property developed or acquired by the ITER Organization, the Council shall adopt, as soon as practicable, appropriate procedures for the reporting, protection and recording of such Intellectual Property for example through the creation of a database to which the Members may have access.
- 7.3. In the event of a joint creation, the participating Members and/or the ITER Organization shall have the right to seek to obtain in co-ownership Intellectual Property in any State they choose.
- 7.4. There shall be co-ownership of Intellectual Property when created by two or more Members or by one or more Members together with the ITER Organization and when the features of such intellectual property are not capable of being separated for the purpose of applying for, obtaining and/or maintaining in force the protection of the relevant intellectual property right. In such a case the joint creators shall agree among themselves by means of a co-ownership arrangement on the allocation of and the terms of exercising the ownership of the said Intellectual Property.

Article 8

Decommissioning

- 8.1. For the decommissioning phase after the transfer of the facilities to the Host State, the Host Party shall provide to the other Members all relevant information, whether published or not, generated or used during the decommissioning of the ITER facilities.
- 8.2. Intellectual Property generated by the Host State during the decommissioning phase shall not be affected by this Annex.

Article 9

Termination and Withdrawal

- 9.1. The Council shall, as necessary, address any issues relating to the termination of this Agreement or the withdrawal of a Party in so far as they relate to Intellectual Property, that are not fully addressed in this Agreement.

- 9.2. The Intellectual Property rights conferred and obligations imposed upon the Members and the ITER Organization by the provisions of this Annex, in particular all granted licenses, shall subsist after the termination of this Agreement, or after the withdrawal of a Party.

Article 10

Royalties

Royalties received from the licensing of Intellectual Property by the ITER Organization shall be a resource of the ITER Organization.

Article 11

Settlement of Disputes

Any dispute arising out of or in connection with this Annex shall be settled in accordance with Article 25 of this Agreement.

Article 12

Awards to Inventors

The Council shall determine appropriate terms and conditions for the remuneration of the Staff when such Staff generates Intellectual Property.

Article 13

Liability

When negotiating license arrangements, the ITER Organization and the Members shall, as appropriate, include suitable provisions governing their respective liabilities, rights and obligations arising from the execution of those license arrangements.

Draft Final
Annex on Site Support

Article 1

Site Support Agreement

1. The Host Party shall make or cause to be made available to the ITER Organization land, facilities, buildings, goods and services in support of the site as summarized in this Annex. The Host Party may designate an entity to act on its behalf for this purpose.
2. The details of such support, as well as the procedures for cooperation between the ITER Organization and the Host Party or its designated entity (hereinafter "the Host"), shall be covered by an agreement (hereinafter "the Site Support Agreement") to be concluded between them.

Article 2

Duration of the Agreement

The Host shall provide the site support to the ITER Organization throughout the period from the establishment of the ITER Organization to the expiry or termination of this Agreement.

Article 3

Liaison Committee

The ITER Organization and the Host shall establish a liaison committee to ensure the effective provision of the support covered by this Annex under the terms of the Site Support Agreement.

Article 4

Land, Buildings, Facilities and Access

The Host shall at its own expense provide the ITER site under the conditions set out in the ITER Site Requirements and Site Design Assumptions as adopted in 2000 (hereinafter the "Reference Conditions") by the Council established under the Agreement among the European Atomic Energy Community, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America on Cooperation in the Engineering Design Activities for the International Thermonuclear Experimental Reactor (hereinafter "the ITER EDA") and other specific facilities and services as set out below:

- a) *Land* to be put at the disposal free of charge to the ITER Organization allowing for the construction, use and possible extension of all the ITER buildings and auxiliary services which are referred to in the Final Report of the ITER EDA;

- b) *Main services* to be supplied to the site boundary:- water, electricity, sewage and drainage, alarm systems;
- c) *Roads, Paths and Bridges*, including adaptations, as necessary, to the route between the Port Autonome de Marseille and the ITER site to provide access to the site boundary for the maximum size and weights of equipment to be delivered for the ITER Project and for Staff and visitors;
- d) *Transportation services* from the Port Autonome de Marseille or in case of air transport the Marignane airport to the ITER site of components contributed by the Parties;
- e) *Temporary accommodation* as required for the ITER Organization at or near the ITER site until the final buildings and facilities of the ITER Organization are ready for occupation;
- f) *Power supplies*:- installation and maintenance up to the site boundary of power supplies able to provide up to 500 MW for pulsed loads as well as a capability to draw from the grid 120 MW continuous electrical power without interruption because of connection maintenance;
- g) *Water cooling supply* to dissipate on average 450 MW (thermal) energy to the environment; and
- h) *Connection to computer network and telecommunication lines* with large capacity.

Article 5

Services

In addition to the items referred to in Article 4 of this Annex, the Host shall supply at its own expense or charged at proven cost, in accordance with the Site Support Agreement, such technical, administrative and general services as are required by the ITER Organization. Such services shall include, but are not limited to:

- a) support staff, in addition to Staff assigned from the Host to the ITER Organization under Article 8 of this Agreement;
- b) medical services facilities;
- c) emergency services;
- d) security-alarm system and its facilities;
- e) cafeteria;
- f) support to licensing process;
- g) support to safety management;
- h) support to language courses;

- i) services for the management and disposal of radioactive wastes arising from ITER operations;
- j) relocation and settlement support;
- k) bus service to and from work;
- l) recreation, social and welfare facilities;
- m) utility services and supplies;
- n) library and multi-media services;
- o) environmental monitoring, including radiation monitoring; and
- p) site services (waste disposal, cleaning and gardening).

Article 6

Education

The Host shall, at its own expense, establish an international school for the education of the children of Staff and provide pre-university education according to an international core curriculum to be developed in consultation with the educational authorities of the non-Host Parties, and shall facilitate the implementation of additional curricular elements specific to and supported by non-Host Parties. The non-Host Parties shall use their best efforts to assist the development of the school and the accreditation of its curriculum by their respective authorities.

Annex II to Draft Council Decision

Draft Final

Arrangement on Provisional Application of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project

Article 1

The Parties to this Arrangement are all signatories to the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation on the ITER Project (hereinafter referred to as “the ITER Agreement”) among the European Atomic Energy Community (hereinafter referred to as “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, the Government of the Russian Federation and the Government of the United States of America.

Article 2

In accordance with its terms, the ITER Agreement will enter into force thirty days after its deposit of instruments of ratification, acceptance or approval by the People’s Republic of China, EURATOM, Republic of India, Japan, the Republic of Korea, the Russian Federation and the United States of America.

Article 3

The Parties to this Arrangement desire to pursue co-operation as provided in the ITER Agreement to the fullest possible extent, pending completion by each of them of all domestic actions required prior to ratification, acceptance or approval of the ITER Agreement.

Article 4

The Parties to this Arrangement therefore undertake, to the fullest extent possible consistent with their domestic laws and regulations, to abide by the terms of the ITER Agreement until it enters into force.

Article 5

A Party may withdraw from this Arrangement upon 120 days’ written notice to the other Parties.

Article 6

This Arrangement will be effective upon signature.

Done at [Place] on [date].

Annex III to Draft Council Decision

**DRAFT FINAL
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.
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;
- 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.

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:

- 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 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, 14 b, d, e, f and g, 15, 16 c 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, the Republic of 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.

DONE AT [PLACE] ON [DATE]

**Final Report of Negotiations on the Joint Implementation of the ITER Project
Tokyo, 1 April 2006**

The seven delegations to negotiations on the joint implementation of the ITER Project, pleased to hear statements from all sides of willingness to conclude the negotiations, express their readiness to submit to their authorities the two attachments to this report, with a view to concluding the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project as soon as possible.

Final Report of Negotiations on the Joint Implementation of the ITER Project

Attachments

Attachment

1 ITER Agreement and Annexes

1_A Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project

1_B Annex on Information and Intellectual Property

1_C Annex on Site Support

2 Record of Negotiators' Common Understandings

2_A Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions

2_B Cost Sharing for all Phases of the ITER Project

2_C Common Understandings on Procurement Allocation

2_D Common Understanding on Overall Project Schedule

2_E Common Understandings on ITER Management and Procurement

2_F Common Understanding on Operations

2_G Joint Declaration by the Representatives of the Parties to the ITER Negotiations - Implementation

2_H Joint Declaration by the Representatives of the Parties to the ITER Negotiations – Privileges and Immunities

2_I Arrangement on Provisional Application of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project

2_J Draft ITER Council Rules of Procedure

2_K Draft Project Resource Management Regulations

2_L Draft Staff Regulations of the ITER International Fusion Energy Organisation

2_M Main Provisions of the Draft Headquarters Agreement

2_N Draft ITER Site Support Agreement

Attachment 1

ITER Agreement and Annexes

See Annex I to the Draft Proposal for a Council Decision

Attachment 2

Record of Negotiators' Common Understandings

At the conclusion of their work on the draft of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (the "ITER Agreement"), the seven delegations to ITER Negotiations shared the following common understandings:

1 Value Estimates and Cost Sharing among the Parties

The Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions and the Cost Sharing for all Phases of the ITER Project, referred to in Article 8 of the draft of the ITER Agreement are set out in Attachments 2_A and 2_B to this Record of Common Understandings.

2. Procurement Allocation

The initial allocation of responsibility among the Parties for procuring specific components, equipment materials and other goods and services, referred to in Article 8 of the draft of the ITER Agreement are set out in Attachment 2_C to this Record of Common Understandings.

3. Common Understandings on certain other aspects of the joint implementation of the ITER Project

The common understandings of the delegations on Overall Project Schedules, Management and Procurement, and Principles for Operation Programme are set out in Attachments 2_D, 2_E and 2_F of this Record of Common Understandings. The expression of the Parties' intent to apply these common understandings as well as those in 1) and 2) above is set out in Attachment 2_G of this Record of Common Understandings in the form of a proposed Joint Declaration of the Representatives of the Parties on Implementation.

4. Privileges and Immunities

The expression of the Parties' Common Understanding on the according of privileges and immunities to the ITER Organization under Article 12 of the draft of the ITER Agreement is set out in Attachment 2_H of this Record of Common Understandings in the form of a proposed Joint Declaration of the Representatives of the Parties on Privileges and Immunities.

5. Arrangements for Provisional Application

Draft proposals for an arrangement on Provisional Application of the ITER Agreement are set out in Attachment 2_I of this Record of Common Understandings.

6. Subsidiary Instruments

The Negotiators note that certain subsidiary documents will fall under the prerogative of the ITER Council as and when the Agreement will have entered into force. The preparation of

these documents already made in the frame of the ITER Negotiations will be jointly carried further forward, as necessary, as part of the organisational preparations provided for under the Terms of the Reference of the ITER Transitional Arrangements. The negotiators share the view that the following draft texts attached for completeness to this record of Common Understandings are considered to reflect the common views of the prospective Members of the ITER Organization, subject to the further elaboration and precision foreseen:

Draft ITER Council Rules of Procedure	Attachment 2_J
Draft Project Resource Management Regulations	Attachment 2_K
Draft Staff Regulations	Attachment 2_L
Draft Main Provisions of Headquarters Agreement	Attachment 2_M
Draft Site Support Agreement	Attachment 2_N

**Value Estimates for ITER Phases of Construction, Operation, Deactivation
and Decommissioning
and
Form of Party Contributions**

Value Estimates for ITER Phases¹

The table below provides a summary of the value estimates for the ITER phases, including references.

ITER Phases	Value in kIUA or MEuros²	Form of Contributions³ and References
Construction Phase	3577.7 kIUA Total	
1. Direct Capital	3020.7	Mainly in-kind for hardware and assembly/ test of Tokamak components Cash mainly for installation/test of non-Tokamak components <i>References:</i> ITER EDA Doc. Series 24 and N-12 ROM Attachment 5-2 on Procurement Allocation
2. Management and Support consisting of ITER Organization and staff (employees plus secondees) and infrastructure	477.0	Cash for employees, secondee allowance, infrastructure, etc. In-kind for secondees <i>Reference:</i> ITER EDA Doc. Series 24
3. R&D During Construction	80.0	Cash <i>Reference:</i> ITER EDA Doc. Series 24
Operation Phase	188.0 kIUA per Year	
1. Personnel	60.0	Cash for employees, etc. In-kind for secondees <i>Reference:</i> ITER EDA Doc. Series 24
2. Facility Operation (e.g. energy, fuel, maintenance, upgrades)	128.0	Cash and In-kind <i>Reference:</i> ITER EDA Doc. Series 24
Deactivation Phase	281 MEuros Total	Cash <i>Reference:</i> NSSG-8 Decommissioning Input Appendix D
Decommissioning Phase	530 MEuros Total	Cash <i>Reference:</i> N-12 ROM Attachment 8 on Project Resource Mgmt. Regs

¹ The value estimate for each ITER phase establishes the Parties' combined contributions to that phase of the ITER Project. The sharing of costs among the Parties is set out in the document "Cost Sharing for All Phases of the ITER Project" (Attachment 2_B).

² One kIUA equals one million US dollars (January 1989); Euro figures are at January 2001 values

³ In kind contributions are measured in kIUA. Cash contributions are to be in Euros. To establish the kIUA value of cash contributions, the Euros shall be de-escalated to Euros (January 1989) using proven inflation rates, and then converted to millions of dollars (January 1989) to yield kIUA.

Cost Sharing for all Phases of the ITER Project

There are four distinct phases in the ITER project:

Construction
Operation
Deactivation
Decommissioning

Value estimates for these phases are set out in the document: "Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions" (Attachment 2_A)

Construction Phase

Sharing of the estimated costs for the Construction Phase, expressed in both % of the sum of the contributions and in ITER units of value:

Host Party (EU),	45.46%	1626.23 kIUA
Each Non-Host Party	9.09%	325.245 kIUA

All Parties	100.0%	3577.70 kIUA

(Note that this Contribution for Construction is that Contribution provided by each Party as its share of the agreed total estimated Construction Cost as contained in the Final Design Report of the ITER EDA and adjustments for split procurements.)

If required, upon proposal by the Director General and subject to the approval by the Council, the Parties will also provide the following:

Host Party (EU),	45.46%	162.62 kIUA
Each Non-Host Party	9.09%	32.525 kIUA

All Parties	100.0%	357.77 kIUA

Total:

Host Party (EU),	45.46%	1788.85 kIUA
Each Non-Host Party	9.09%	357.77 kIUA

All Parties	100.0%	3935.47 kIUA

Operation Phase

Sharing of the estimated costs for the Operation Phase by the Parties, expressed both in % of the sum of contributions and in ITER units of value:

CN	10%	18.80 kIUA/year
EU	34%	63.92 kIUA/year
IN	10%	18.80 kIUA/year
JA	13%	24.44 kIUA/year
KO	10%	18.80 kIUA/year
RF	10%	18.80 kIUA/year
US	13%	24.44 kIUA/year

All Parties	100%	188.00 kIUA/year

Deactivation Phase

Sharing of the estimated costs for Deactivation by the Parties, expressed both in % of the sum of contributions and in MEuros:

CN	10%	28.10 MEuros
EU	34%	95.54 MEuros
IN	10%	28.10 MEuros
JA	13%	36.53 MEuros
KO	10%	28.10 MEuros
RF	10%	28.10 MEuros
US	13%	36.53 MEuros

All Parties	100%	281.00 MEuros

The sharing of estimated costs for Deactivation is proportionally the same as that for Operation because the Deactivation burden is determined by the outcome of the Operations period.

Decommissioning Phase

Sharing of the estimated costs for Decommissioning by the Parties, expressed both in % of the sum of contributions and in MEuros:

CN	10%	53.0 MEuros
EU	34%	180.2 MEuros
IN	10%	53.0 MEuros
JA	13%	68.9 MEuros
KO	10%	53.0 MEuros
RF	10%	53.0 MEuros
US	13%	68.9 MEuros

All Parties	100%	530.0 MEuros

Sharing of the estimated costs for Decommissioning is proportionally the same as that for Operation because the Decommissioning burden is determined by the outcome of the Operations period.

NOTE 1: 'Decommissioning' is understood to mean the actions dealing with the end-state of the ITER Facility following Operations with D-T fuels which will have activated the structure. It is for this reason that the Cost Sharing for Decommissioning is the same as that for Operation.

Should the ITER Facility be disassembled before it is activated, the costs of disassembly would be shared in proportion to the Cost Sharing for ITER Construction.

NOTE 2: The Parties will plan to provide their contributions to the costs of decommissioning by regular annual payments during the course of the ITER operations into a dedicated fund. In the case of a Party withdrawing from ITER after the start of operations, the Party is to contribute its share of the Decommissioning Fund to the extent that the decommissioning liability will have accrued by the date on which its withdrawal takes effect.

NOTE 3: The Host Party shall take responsibility for material increases in the costs of ITER construction resulting from any significant changes of regulations made by the competent authorities of the Host State after the date of the initial application for the license, except for those that result from changes in international regulatory standards that do not solely stem from Host Party regulations.

Common Understandings on Procurement Allocation

1. The Procurement Allocation amongst the seven Parties has been developed to enable the successful realization of ITER construction, according to the available resources and Overall Project Schedules. The allocation has been made aiming at:
 - a. Technically feasible and managerially rational sharing;
 - b. Reduction of project risks; and
 - c. Definition of clear responsibilities.
2. The Procurement Allocation (shown in Table attached) provides a comprehensive and technically satisfactory basis for assignment of fabrication responsibilities during the ITER construction by taking into account each Party's capabilities and priorities.
3. The sharing ratio of in-kind procurements by the seven Parties, EU, JA, CN, IN, KO, RF and US is about 4:2:1:1:1:1:1 respectively⁴.
4. Procurement packages that require strong design integration and/or on-site installation should be procured by the ITER Organization. Corresponding resources are assigned to Fund.
5. Detailed adjustments on Procurement Allocation and on costs of specific items may arise, while preserving the overall cost sharing by the Parties. In particular, detailed adjustments might take place as a result of the design review conducted by the ITER Organization and of the prequalification which will be needed for the critical procurement packages shared by multi-Parties.

Attachment : Summary Table of Procurement Allocation

⁴ The procurement allocation to JA includes procurements transferred from EU to JA under terms and conditions in the Joint Paper attached to Joint Declaration of the Ministerial Meeting for ITER, Moscow, 28th June 2005.

Summary Table of Procurement Allocation

PACKAGE		kiUA	ALLOCATION	REMARKS	
1.1 Magnet	Toroidal Field Magnet Windings	1A	85.2	EU=100%	1A for 10 TF (including 1 prototype) and 1B for 9 TF (including 2.5 kiUA for fabrication verification)
		1B	82.3	JA=100%	
	Toroidal Field Magnet Structures	2A	51.4	EU=10%, JA=90%	Fabrication of whole structures by JA and Pre-compression ring (0.6 kiUA) by EU. Final assembly of 10 TF coil cases by EU (10%)
		2B	47.7	JA=100%	
	Magnet Supports	2C	22.85	CN=100%	
	Poloidal Field Magnet 1 & 6	3A	13.6	EU=50%, RF=50%	PF1 by RF and PF6 by EU
	Poloidal Field Magnet 2 to 5	3B	33.6	EU=100%	
	Correction Coils	3C	2.6	CN=100%	
	Central Solenoid Magnet	4A+4B	39.6	US=100%	
	Feeders	5A	26.15	CN=100%	
	Feeders Sensors	5B	18.05	FUND=100%	
	Toroidal Field Magnet Conductors	6A	215	EU=20%, JA=25%, RF=20%, CN=7%, KO=20%, US=8%	See Note-1

	Central Solenoid Magnet Conductors	6B	90	JA=100%	
	Poloidal Field Magnet Conductors	6C	74.25	EU=13%, RF=18%, CN=69%	
1.5 Vacuum Vessel	Main Vessel, including Blanket Manifolds and Hydraulic Connectors	1A	124.2	EU=80%, KO=20%	See Note-2
	Shielding	1B	37.3	IN=100%	
	Equatorial Ports	2A	24.5	RF=24%, KO=76%	See Note-2
	Upper Ports	2B	22.1		
	Lower Ports	2C	31.91		
1.6 Blanket System	Blanket First Wall	1A	87.0	EU=30%, JA=10%, RF=20%, CN=10%, KO=10%, US=20%	See Note-1
	Blanket Shield	1B	58.0	EU=10%, RF=20%, CN=40%, KO=10%, US=20%	
	Diagnostic First Wall		8.5	FUND=100%	
	Port Limiters	2	7.4	US=100%	,
	Blanket Module Connections	3	10.0	RF=100%	

28.7 Divertor	Cassette Integration	1	11.2	EU=100%	See Note-1
	Outer Target	2A	28.5	JA=100%	
	Inner Target	2B	20.2	EU=100%	
	Dome	2C	15.0	RF=100%	
	Plasma-Facing Component Tests	2D	8.0	RF=100%	
2.2 Machine Assembly	Assembly Operations	1	50.3	FUND=100%	See Note-3
	Assembly Tooling 3-11	2A	22.0	KO=100%	
	Assembly Tooling 1-2,12-13	2B	20.4	FUND=100%	See Note-3
2.4 Cryostat	Cryostat Factory	1A	60.0	IN=100%	
	Cryostat Assembly	1B	17.0		
2.7 Thermal Shield	Thermal Shield		28.8	KO=100%	

3.1 Vacuum Pumping & Fuelling	Cryopumps	1	11.2	EU=88%, FUND=12%	
	Roughing Pumps	2	6.7	US=88%, FUND=12%	
	Leak Detection	3	5.0	EU=88%, FUND=12%	
	Standard Comp.	4	5.3	US=88%, FUND=12%	
	Pellet Injector	5	5.0	US=88%, FUND=12%	
	Gas Injector Valve Boxes + Glow Discharge Cleaning Conditioning System	6	7.7	CN=88%, FUND=12%	
2.3 Remote Handling Equipment	Blanket Remote Handling Equipment	1	27.9	JA=100%	
	Divertor Remote Handling Equipment	2	12.0	EU=100%	
	Transfer Cask System	3	16.4	EU=50% CN=50%	
	Viewing/Metrology Systems	4	6.8	EU=100%	
	Neutral Beam Remote Handling Equipment	5	6.0	EU=100%	
	Hot Cell Maintenance	6	44.3	FUND=100%	

	Equipment				
2.6 Cooling Water System	Blanket +Divertor	1A	33.7	US=100%	See Note-3
	Vacuum Vessel and Neutral Beam	1B	27.4		
	Piping Outside Vault	1C	12.5	FUND=100%	
	Heat Rejection and Component Cooling Water: Material and Transportation	2A'	38.5	IN=100%	
	Heat Rejection and Component Cooling Water: Engineering and On-site Assembly	2B'	36.2	FUND=100%	
3.2 Tritium Plant	Tokamak Exhaust Processing System	1	13.0	US=88%, FUND=12%	
	Storage & Delivery	2	14.5	KO=88%, FUND=12%	
	Hydrogen Isotopes Separation	3	6.2	EU=88%, FUND=12%	
	Atmosphere Detritiation	4	30.2	JA=50%, FUND=50%	
	Water Detritiation	5	14.5	EU=88%, FUND=12%	
	Tritium Analysis & Control	6	3.5	FUND=100%	

3.4 Cryoplant Cryo- distribution	Cryoplant	1	63.0	EU=50%, FUND=50%	
	Cryolines	2	17.6	IN=100%	
	Cryodistribution Components	3	16.2	IN=100%	
4.1 Pulsed Power Supply	High Voltage Substation Assembly	1A	6.0	EU=100%	
	High Voltage Substation Materials	1B	21.0	CN=100%	
	AC/DC Converters	2	82.2	CN=62%, KO=38%	
	Switch, Discharge Circuits	3	69.0	RF=100%	
4.1 Steady State Power Supply	Emergency	8A	5.7	EU=100%	
	Assembly	8B	14.3	EU=100%	
	Materials + Transportation	8C	20.0	EU=25%, US=75%	
6.2 Building	Concrete Buildings	1	323.5	EU=100%	
	Steel Frame Buildings	2	68.8	EU=100%	
6.3 Waste	Waste Treatment Storage	1	9.1	EU=100%	
6.4 Radiological Protection	Radiological Protection	1	4.2	EU=100%	

5.1 Ion Cyclotron Heating & Current Drive	Ion Cyclotron Antenna	1	4.5	EU=88%, FUND=12%	
	Main Transmission Line	2	4.8	US=88%, FUND=12%	
	Radio Frequency Power Sources	3	18.0	IN=100%	
	Power Supply	4	6.9	IN=100%	
5.2 Electron Cyclotron Heating & Current Drive	Equatorial Launcher	1A	7.3	JA=88%, FUND=12%	
	Upper Launcher	1B	8.9	EU=88%, FUND=12%	
	Transmission Line	2	17.9	US=88%, FUND=12%	
	Radio Frequency Power Sources	3	32.5	EU=31%, JA=31%, RF=31%, IN=8%	Startup system by IN
	Power Supply	4	13.9	EU=92%, IN=8%	Startup system by IN
5.3 Neutral Beam Heating & Current Drive	Assembly and Testing	1	3.8	EU=100%	
	Beam Source and High Voltage Bushing	2	9.5	EU=50%, JA=50%	
	Beamline Components	3	3.9	EU=50%, JA=50%	
	Pressure Vessel, Magnetic Shielding	4	11.9	EU=50%, JA=50%	
	Active Correction and Compensation Coils	5	6.1	EU=100%	

	Power Supply for Heating Neutral Beam	6	62.5	EU=38%, JA=62%	
	Diagnostic Neutral Beam	7	21.1	IN=100%	
5.5 Diagnostics	Magnetics	A	3.3	EU=25.0%, JA=14.2%, RF=13.5%, CN=3.3%, KO=3.3%, US=16%, IN=3.2%, FUND=21.5%	See Note-4
	Neutron Systems	B	10.1		
	Optical Systems	C	25.7		
	Bolometry	D	6.7		
	Spectroscopic	E	22.5		
	Microwave	F	17.7		
	Operational Systems	G	11.0		
	Standard Diagn.	N	40.5		
4.5 Command Control and Data Acquisition and Communication	Control and Data Acquisition		50	FUND=100%	
Total			3020.7	EU ~ 33%, JA ~ 16% , RF ~ 8%, CN ~8%, KO ~ 8%, US ~ 8%, IN ~ 8%, FUND ~ 11%	

Note-1: The paragraph 5 of Common Understandings on Procurement Allocation should be applied.

Note-2: Proper integration should be obtained through a Prime/Sub Contractor or Consortium arrangement due to the importance of the safety classification of the components.

Note-3: These packages were originally allocated to Non-common. Due to the increase of the number of Parties, it is allocated to Fund.

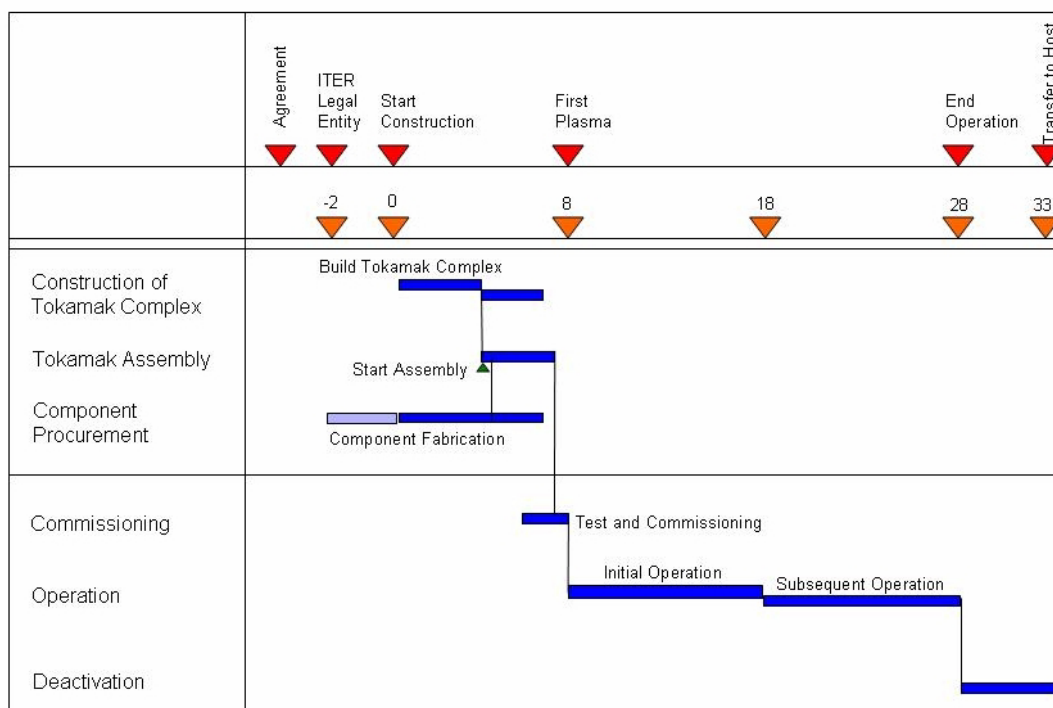
Note-4: Details of sharing will have to be defined by the ITER Organization.

Common Understanding on Overall Project Schedule

There are four distinct phases in the ITER Project and their durations are estimated to be as follows:

Construction Phase:	10 years
Operation Phase:	20 years
Deactivation Phase:	5 years
Decommissioning Phase:	Under Host State Responsibility

[Attachment (Extracted from "Summary of the ITER Final Design Report", ITER EDA Documentation Series No. 21, IAEA, 2001)]



Common Understandings on ITER Management and Procurement

ITER Management

1. The ITER project shall be managed to achieve ITER objectives within the planned value estimate and schedule and in compliance with regulatory requirements.
2. The roles and responsibilities of the ITER Organization and Domestic Agencies and the management and procurement systems for ITER construction are key to achieving the ITER objectives.
3. The ITER Organization shall have the overall responsibility to meet the project objectives and safety requirements.

It shall bear the final responsibility for the quality of all aspects of the ITER project and shall have the means necessary to exercise this responsibility, in particular to allow for verification of progress and quality in accordance with the French nuclear safety regulations. The ITER Organization shall establish the ITER Quality Assurance Programme including requirements pertaining to procurements.

It shall perform systems engineering and integration, control the cost and value utilizing earned value systems, manage risks, oversee the procurements, assemble/install/maintain and operate ITER and prepare for decommissioning.

It shall manage changes to the ITER configuration considering performance, risk, cost/value and schedule.

It shall develop and utilize an earned value management system (“ITER value of work performed” versus “ITER value of work scheduled”) that allows for monitoring and recording technical progress on all tasks, including in-kind contributions.

4. To provide the Organization with the contributions from that Party, each Domestic Agency shall establish internal project management and Quality Assurance systems meeting the Organization’s project management and Quality Assurance requirements to ensure full implementation and delivery of the Party’s contributions to the Organization. Each Domestic Agency shall ensure that each of its suppliers performs in full compliance with the Quality Assurance requirements set by the ITER Organization.
5. The nature of the contributions of the Parties, and correspondingly the specific roles of their Domestic Agencies, may evolve in the different phases in the interest of the project. Therefore, adaptations of management systems may be necessary.

ITER Procurement

1. ITER procurements during construction are to be accomplished by the Domestic Agencies and the ITER Organization for direct capital components and systems and their assembly and installation on the ITER site, for construction of ITER buildings and for infrastructure and services.
2. For all procurements, the ITER Organization shall be responsible for controlling and integrating the design, technical requirements and specifications; establishing and ensuring the schedules for delivery; managing overall assembly of ITER; establishing quality requirements for each procurement; and verifying capability of suppliers and monitoring their technical and schedule progress mainly through the use of Field Teams located in the territories of the Parties.
3. For each in-kind procurement, a Procurement Arrangement document will set out the Domestic Agency's and ITER Organization's respective roles and responsibilities that can vary depending upon the type of contract, complexity of the component and its interfaces. The Procurement Arrangement will be signed by the Domestic Agency and the ITER Organization and will include technical scope of work, Quality Assurance requirements, schedules, administrative matters such as financial responsibilities for changes, delays and lack of performance, and all other matters deemed necessary to accomplish the agreed work.
4. In a typical in-kind procurement, the Domestic Agency and ITER Organization will sign the Procurement Arrangement, and then the Domestic Agency will select the supplier and conduct the procurement. The ITER Organization will participate in the Domestic Agency process of determining potential suppliers, evaluating technical proposals and selecting the supplier, and the ITER Organization will monitor technical and schedule progress on the procurement.
5. In certain cases as agreed between a Domestic Agency and the Director General, an in-kind procurement may require direct technical control by the ITER Organization, wherein the involved Domestic Agency agrees to delegate all technical control activities to the ITER Organization and solely acts as a funding/contracting agency for the respective Party. In this case the contract signed between the Domestic Agency and the supplier shall specify the technical control role of the ITER Organization on matters such as overseeing the work, releasing progress payments and stopping work. The Domestic Agency shall compensate the ITER Organization for the additional resources needed in undertaking these activities.
6. In exceptional cases, if agreed between the Domestic Agency and the Director General, the procurement function for an in-kind component may be transferred from the Domestic Agency to the ITER Organization. In such a case the ITER Organization may issue and implement the contract with the supplier while the Domestic Agency's responsibilities could be limited to the call for tender process and provision of necessary funds to cover the contract cost, ITER Organization contract administration costs and other costs associated with the transfer of the procurement function, to be agreed between the Domestic Agency and the ITER Organization.

- 7 In exceptional cases, where the Domestic Agency of a Party encounters difficulty in providing one (or part) of its in-kind procurements in accordance with the relevant Procurement Arrangement, this Domestic Agency shall inform the Director General. The Director General and the Domestic Agency shall seek to develop an acceptable recovery plan for fulfilling its obligation. If such a plan is agreed, then the Procurement Arrangement will be revised accordingly. If, however, it is not possible to agree on an acceptable plan, then the Domestic Agency must provide the ITER Organization with the funds necessary to cover the costs of the realization of the procurement by the Organization. Such funds shall also cover the administrative and other costs for the Organization associated with the transfer of procurement responsibility. The funds shall be transferred by the Domestic Agency as soon as possible so as to enable the Organization to attempt to preserve the Overall Project Schedule.

8. Various types of changes are likely to occur during the procurement of ITER components. Some of these changes may be initiated by the ITER Organization, and other changes may be requested by the Domestic Agencies. The impact of each procurement change shall be accounted for by the ITER Organization and valued in ITER Units of Account (IUA). During the course of construction, the cumulative impact will be balanced within each Party or otherwise compensated as to be agreed by the ITER Council.

Common Understanding on Operations

General Principles Regarding Operations on scientific exploitation are developed. Those are:

1. ITER's overall programmatic objective to "demonstrate the scientific and technological feasibility of fusion energy" will be pursued by the ITER Organization through a common international research program organized around scientific and technological issues, developed and executed with participation of the best research personnel from all Parties.
2. Each party should be able to have broad scientific and technical participation in the common ITER Program to promote intellectual diversity and innovation. For this purpose,
 - It is anticipated that visiting scientists and engineers from each party will play an important role in the exploitation of ITER
 - Each Party will have remote access to ITER data, and remote participation in experiments will be facilitated.
3. Each party should be able to participate in accordance with its relative contributions, and is expected to participate in a balanced way between supporting the operation of ITER and exploiting its scientific and technological potential.

Other operation related topics such as preparation of operation during the construction phase, options for organizing the technical operation of the machine, etc. would be best discussed together with the DG nominee.

Draft Final

**Joint Declaration by the Representatives of the Parties to the ITER Negotiations,
on the occasion of the Ministerial Meeting for ITER,
Brussels, 24 May 2006**

Implementation

The Representatives of the European Atomic Energy Community (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, the Government of the Russian Federation and the Government of the United States of America,

Confirming their intention to jointly implement the ITER Project, through the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project;

Express their intent, in implementing the ITER Project, to apply the following Common Understandings referred to in the Final Report of the ITER Negotiators adopted in Tokyo on 1 April 2006:

Value Estimates for ITER Phases of Construction, Operation, Deactivation
and Decommissioning and Form of Party Contributions
Cost Sharing for all Phases of the ITER Project
Procurement Allocation
Overall Project Schedules
Management and Procurement
Principles for the Operation Programme

Signed at Brussels, on 24 May 2006

SIGNATURES

Draft Final
Joint Declaration by the Representatives of the Parties to the ITER Negotiations,
on the occasion of the Ministerial Meeting for ITER,
Brussels, 24 May 2006

Privileges and Immunities

The Representatives of the European Atomic Energy Community (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, the Government of the Russian Federation and the Government of the United States of America,

Emphasising their intention to jointly implement the ITER Project through the establishment of the ITER Organization;

Recognising the critical importance for the ITER Organization of privileges and immunities as necessary for its activities;

Noting that the prospective Agreement establishing the ITER Organization ("the ITER Agreement") provides for the ITER Organization to enjoy in the territory of each Member such privileges and immunities;

Share the following common understandings:

1. the privileges and immunities for the ITER Organization should be in effect as soon as practicable after the establishment of the ITER Organization;
2. China, EURATOM, India, Japan, Korea and the Russian Federation intend to accord the privileges and immunities to the ITER Organization under the terms of a separate agreement ("the Separate Agreement"), to be signed at the same time as the ITER Agreement;
3. the United States intends to accord privileges and immunities to the ITER Organization through its International Organizations Immunities Act and other relevant domestic law;
4. any future Party acceding to the ITER Agreement should be required to adhere to the Separate Agreement, before its accession to the ITER Agreement can take effect;
5. the ITER Council shall meet only after notifications have been received by the Depositary from all Parties in accordance with Article 12 of the ITER Agreement to confirm that they have given effect to the provisions of the ITER Agreement concerning privileges and immunities.

Signed at Brussels, on 24 May 2006

SIGNATURES

See Annex II of the Proposal for a Council Decision

DRAFT
ITER Council Rules of Procedure

I. COMPOSITION

Rule 1

The Council is composed of Representatives of Members of the ITER Organization. It shall meet either at delegate level or at ministerial level.

Each Member shall be represented by up to four Representatives. Participation as a Representative will be subject to production of credentials issued either by the Head of State or Government, or by the Minister of Foreign Affairs, or in the case of an international organization, by the competent authority of that organization. These shall be presented to the Chair of the Council not later than the opening day of the meeting.

The credentials of each Representative shall be examined by the Chair of the Council who shall report thereon to the meeting. A Representative shall continue to hold such position until such time as the Chair of the Council is notified of the termination of his⁵ appointment.

Rule 2

Each Member shall notify the Chair of the Council in writing of the names of any alternates of Representatives. The alternates shall continue to hold such positions for such time as set out in the notification.

Rule 3

The Representatives may be accompanied by advisers or experts. The names of advisers and experts shall be notified in writing to the Chair of the Council before they take part in the work of any meeting of the Council.

Rule 4

Before each meeting of the Council, the Secretary shall circulate a list of participants based on information received from the Members in accordance with Rules 1, 2 and 3 above.

⁵ "His" shall include "his/her" throughout

II. CHAIR OF THE COUNCIL

Rule 5

The Council shall elect from among its Representatives a chair (the “Chair”) and a vice-chair (the “Vice-Chair”) who shall each serve for a term of one year and who may be re-elected up to three times for a maximum period of four years.⁶

If the Chair is unable to fulfil his functions, the Vice-Chair shall act as the Chair. If both the Chair and the Vice-Chair are unable to fulfil their functions, the meeting shall be re-scheduled unless it is urgent, in which case the meeting of the Council will be chaired by a Representative elected by the Council for that meeting.

The Vice-Chair or the Representative elected in accordance with the second paragraph, acting as Chair, shall have the same powers and duties as the Chair.

Rule 6

Except when the Council meets at the ministerial level, the Chair shall conduct the discussions of the Council. He shall not have the capacity of a Representative. In the exercise of his functions he remains under the authority of the Council.

The Member of which a Representative exercises the functions of Chair may appoint an alternate to serve as Representative in his stead for the duration of his functions as Chair.

III. SECRETARY

Rule 7

The ITER Organization shall provide administrative services to the Council. The Council, in consultation with the Director-General, shall appoint a secretary (the “Secretary”), who shall be a member of the staff of the ITER Organization.

The Secretary shall perform his duties independently with a view solely to the interests of the Council and shall neither seek nor take instructions from any Member, organization or authority other than the Council, except that he shall remain subject to all of the rules and regulations of the ITER Organization and any other conditions of his employment contract.

Correspondence intended for the Council shall be sent to the Chair at the headquarters of the ITER Organization.

⁶ The arrangements for the first meeting, election of the Chair and the Vice-Chair, and effective date of appointment will be arranged by consultation among the signatories.

In addition to those functions specified in the ITER Agreement, the Secretary and support staff shall, under the direction of Council, prepare papers on any matter submitted to it by Council; receive, reproduce and distribute documents of the Council and its subsidiary bodies to Members; prepare and circulate summary records of meetings, decisions and any other relevant documentation to Members; maintain the archives of Council documents and related papers; and generally perform all other administrative work which the Council or its subsidiary bodies shall require.

IV. MEETINGS

Rule 8

The Council shall meet twice a year unless it decides otherwise. The meetings shall be held at the headquarters of the ITER Organization, unless the Council decides otherwise.

The Council shall at each meeting determine the date of the next meeting of the Council. When necessary the Chair may, in consultation with the Members and the Director-General, alter the date fixed for a meeting of the Council.

The Chair may convene an extraordinary meeting of the Council on a request from a Member or the Director-General.

Meetings of the Council shall not be held in public unless otherwise decided by the Council.

To deal with matters of particular confidentiality, the Council may meet in sessions restricted to Representatives only.

Rule 9

The provisional agenda for every meeting of the Council shall be drawn up by the Chair. It shall be communicated to the Members and the Director-General at least 25 calendar days before the date of the meeting. The provisional agenda shall consist of those items in respect of which a request for inclusion is received by the Chair at least 30 calendar days before the date scheduled for the meeting of the Council.

Documentation for consideration in connection with an item of the provisional agenda shall be transmitted by the Secretary to the Members at least 21 calendar days before the scheduled date of the meeting of the Council.

The agenda shall be adopted by the Council at the beginning of each meeting. In urgent cases the Council may decide to include on the agenda items for which the time limits laid down in the first paragraph of this rule have not been observed and/or to accept documentation for which the time limit laid down in the second paragraph above has not been observed.

In the case of an extraordinary meeting of the Council, a detailed description of the items to be discussed shall be circulated with the notice convening the meeting; all documents concerning the meeting shall be circulated at least ten calendar days before the date of the extraordinary meeting.

Written communications between the Chair, the Secretary and/or the Members may be in such form, including electronic form, as may be determined by Council.

Rule 10

The Council may meet at the ministerial level. After the first such meeting, Council meetings at the ministerial level shall be convened by the minister who chaired the previous Council meeting at the ministerial level, following consultation among the Members.

When the Council meets at the ministerial level, the draft agenda shall be drawn up by the Chair, after consultation with the Members. The other provisions of Rule 9 above are applicable *mutatis mutandis* to Council meetings at the ministerial level.

When the Council meets at the ministerial level, it shall elect a chair for the duration of the meeting. The provisions of Rules 5 and 6 relating to the functions of the Chair and the conduct of business shall be applicable *mutatis mutandis* throughout the meeting.

Rule 11

Between meetings of the Council, the Chair may transmit through the Secretary proposals in writing to the Members by the most rapid practical means, with a view to securing a decision on them within thirty calendar days. The proposed decision(s) shall be approved upon receipt of written agreement or written statements of no objection by all Members. If any Member does not reply within thirty days, that Member's consent to the proposal shall be assumed only where the Secretary has confirmed receipt of the proposal with the Member in question and subsequently confirmed this in writing to the Chair. Those decisions that require unanimity under Article 6 (8) of the ITER Agreement shall require affirmative written consent of all Members. The Secretary shall notify the Members of the results of the written procedure.

Rule 12

The Director-General shall attend the meetings of the Council. In exceptional cases, the Council may decide otherwise. The Director-General may submit to the Council, orally or in writing in accordance with Rule 9, statements on matters under consideration by the Council.

Rule 13

After consultation with the Members, the Chair may invite experts to address the Council to assist its deliberations.

V. FUNCTIONS OF THE CHAIR AND CONDUCT OF BUSINESS

Rule 14

The Chair shall, subject to the provisions of these Rules, preside over the proceedings of the Council and maintain order during its meetings. He shall declare the opening and closing of each meeting, direct the discussions and, if necessary, sum them up, ensure observance of these Rules, accord or withdraw the right to speak, decide points of order, put proposals to the vote and announce decisions. He may propose adjournment or closure of the debate, or adjournment or suspension of a meeting.

Rule 15

No one shall take the floor in the Council without first having obtained the Chair's permission. Subject to the provisions of Rule 16, the Chair shall call upon the speakers in the order in which they have asked to speak. The Chair may call to order a speaker whose remarks have no bearing on the subject at issue.

Rule 16

During the meeting, a Representative may make a point of order at any time. The Chair shall give an immediate ruling on this motion. Any Representative may appeal against the Chair's ruling, in which case the appeal shall be debated and decided by the Council in accordance with Article 6 (9) of the ITER Agreement. Representatives speaking on a point of order may not deal with the substance of the point at issue.

Priority over all other propositions or motions shall be given, in the following order, to motions for:

- (a) suspending the sitting,
- (b) closing the sitting,
- (c) adjourning the question under discussion,
- (d) closure of the debate on the question under discussion.

Rule 17

Decisions of the Council shall be made in accordance with Article 6 of the ITER Agreement, each Member speaking with a single voice. For matters other than those requiring unanimity, Members shall use their best efforts to reach consensus on all proposals. Failing consensus, the proposal shall be put to a vote. The proposal shall be submitted to the meeting of the Council in writing if a Member so requests. In such case the Chair shall not put the proposal to the meeting until Representatives are in possession of the text of the proposal.

Rule 18

Where the Council is required to decide by weighed voting in accordance with Article 6 of the ITER Agreement, the votes of the Members shall be weighted, during the Construction Phase of ITER, as follows:

China	1
EURATOM	3
Republic of India	1
Japan	1
Republic of Korea	1
Russian Federation	1
United States	1

For their adoption, decisions shall require six or more votes in favour.

During the Operation Phase, the votes of the Members shall be weighted as follows:

China	2
EURATOM	6
Republic of India	2
Japan	3
Republic of Korea	2
Russian Federation	2
United States	3

For their adoption, decisions shall require eleven or more votes in favour, made by four or more Members.

Decisions on issues related to compliance with regulatory requirements of the Host State, including requirements concerning public health and safety, licensing, and environmental protection, shall require the concurrence of the Host Party.

VI. LANGUAGES

Rule 19

Unless decided otherwise by the Council, the Council shall conduct its business in English.

VII. RECORD OF DECISIONS AND MINUTES

Rule 20

At the conclusion of each meeting, the Council shall approve its Record of Decisions on the basis of a draft prepared by the Secretary under the direction of the Chair.

After each meeting, the Secretary shall prepare the draft minutes giving the substance of the discussions and recording the conclusions reached. After approval by the Chair, the draft minutes shall be submitted to the Representatives within 30 days of the meeting.

Proposals for amendments to the draft minutes shall be sent by the Members to the Secretary in writing within three weeks after the date of their communication. Proposed amendments shall be circulated to the Representatives before the following meeting of the Council. Exceptionally, if all other Members agree, oral amendments may be proposed by a Representative.

At the beginning of each meeting the draft minutes of the previous meeting, after consideration of any amendments submitted, shall be approved by the Council.

Rule 21

The Council shall decide upon any press releases concerning its proceedings and conclusions.

VII. OBSERVERS

Rule 22

International Organizations, institutions of Members and non-member States, as well as individual experts may, by unanimous decision of the Council, be invited to be represented in a meeting or meetings of the Council or in the discussion of individual items on the agenda of a Council meeting. Such attendance shall in no way convey the right to participate in the decision making of the Council.

VIII. SUBSIDIARY BODIES

Rule 23

In accordance with Article 6 (7) (n) of the ITER Agreement, the Council may establish such subsidiary bodies as may be necessary for the purposes of the ITER Organization.

The establishment, membership and terms of reference of such bodies, and the cases in which they have powers of decision, shall be determined by the Council.

The chair or rapporteur of a subsidiary body who is not a Representative may be invited to attend meetings of the Council without the right to vote, and to participate in its discussions when business relating to the work of the subsidiary body is before the Council.

IX. FINAL PROVISIONS

Rule 24

These Rules of Procedure may be amended by unanimous decision of the Council.

Rule 25

In the event of any conflict between any provision of these rules and any provisions of the ITER Agreement, the ITER Agreement shall prevail.

DRAFT

PROJECT RESOURCE MANAGEMENT REGULATIONS

**CHAPTER I
GENERAL REGULATIONS**

Article I.1 Scope and Purpose of the Regulations

I.1 The following Regulations shall govern the administration of the resources of the Organization. Their purpose is to ensure the economical and sound management of the resources of the Organization in pursuit of its purpose.

Article I. 2 Resources of the Organization

I.2.1 The resources of the Organization shall comprise:

- a) specific components and items of equipment, consumable equipment and materials, other goods and services and seconded staff contributed by the Members, hereinafter referred to as "contributions in kind";
- b) financial contributions by the Members to the Budget of the Organization, including contributions made in respect of the Decommissioning Fund to be established under Article 16 of the Agreement, hereinafter referred to as "contributions in cash";
- c) additional resources received either in cash or in kind under terms approved by the Council.

I.2.2 All resources of the Organization shall be used to promote the purpose and to exercise the functions of the Organization as set out in Articles 2 and 3 of the Agreement. The Council shall determine the application of additional resources received under Article 1.2.1 c) above.

I.2.3 The agreed attributed values of contributions in kind shall be expressed in fixed value terms in [*N-12? ROM Attachments on Procurement Allocation*] which shall be updated by the Council as and when appropriate. The Council shall establish rules and procedures for determining the equivalent values of contributions in cash and for normalising current cash transactions in relation to the values of contributions in kind.

Article I.3 Cost Sharing

I.3 The Members shall contribute resources to the various phases of the ITER project in accordance with the overall cost sharing scheme subdivided between in-kind and in-cash contributions as set out in [the document referred to in Article 9.2 of the Agreement].

Article I.4 Domestic Agencies

I.4 Each Member shall designate an appropriate entity, hereinafter "Domestic Agency", in accordance with Article 9.4, of the Agreement, through which it shall provide its contributions to the ITER Organization except where otherwise agreed by the Council. Members may provide their cash contributions directly.

Article I.5 ITER Project Plan and Resource Estimates

I.5.1 The Director General shall prepare each year for submission to the Council before 31 March the ITER Project Plan and Resource Estimates.

I.5.2 The ITER Project Plan shall specify the plan for the execution of all functions of the Organization. It shall cover the entire duration of the Agreement and be regularly updated. It shall

- (a) outline an overall plan including time schedule and major milestones, for the fulfilment of the purpose of the Organization and summarise the progress of the Project in relation to the overall plan;
- (b) present specific objectives and schedules of the programme of activities of the Organization for the coming five years or for the period of construction, whichever will last longer;
- (c) provide appropriate commentaries including assessment of the risks to the project and descriptions of risk avoidance or mitigation measures.

I.5.3 The ITER Resource Estimates shall provide a comprehensive analysis of the resources already expended and required in the future to undertake the ITER Project Plan and of the plans for the provision of the resources. In particular they shall include:

- (a) overall estimates and schedules of the resources required for the entire duration of the Organization distinguishing between contributions-in-kind, contributions in cash and other provisions of resources, if any;
- (b) statements for past years and forecasts for each of the following five years or for the period of construction whichever will last longer:
 - 1. the accruals of earned value during procurement and delivery to the Organization from each of the Members of contributions in-kind;
 - 2. the Organization's past and estimated future cash expenditure and the accruals of earned value from expenditures by the Organisation;
 - 3. contributions in cash from each of the Members; and
 - 4. provisions of other resources, if any
- (c) appropriate commentaries on the data provided including information on changes that have occurred since the previous version

I.5.4 The total contribution in cash for each year in I.5.3 (b) above shall be shared between the Members in each year in proportion to each Member's share of the total requirements for contributions in cash to the applicable phases of the project, taking account of the Members' contributions in kind.

I.5.5 The Estimates shall include a complement of posts for directly employed and seconded staff for each of the following five years or for the period of construction whichever will last longer, which shall define the maximum staff strength of the Organization over that period.

I.5.6 The resource estimates shall be broken down by the major phases of the Organization's activities and shall be further sub-divided in relation to a work breakdown structure which the Council shall adopt and may modify from time to time.

I.5.7 Upon approval by the Council of the ITER Project Plan and Resource Estimates, the Director General shall forthwith transmit them to the Members.

I.5.8 The Director General shall report regularly to the Council and as otherwise directed by the Council on the progress of the project and on the utilisation of the Project resources in relation to the ITER Project Plan and Resource Estimates.

CHAPTER II

REGULATIONS APPLYING TO THE MANAGEMENT OF CONTRIBUTIONS IN KIND TO THE ORGANIZATION

Article II.1 - Allocation of Responsibilities to Contribute in Kind

II.1. The Council shall adopt and update regularly in accordance with the approved ITER Project Plan a comprehensive list of the specific contributions in kind that each Member should provide to the Organization. The list shall show the agreed attributed values and planned timescales, including delivery dates of the specific contributions.

Article II.2 - Regulation of Contributions in Kind

II.2.1 Each contribution in kind shall be the object of a Procurement Arrangement agreed between the Organization and the Domestic Agency of the Member concerned.

II.2.2 The Procurement Arrangement shall provide a detailed technical description of the contribution to be made including the technical specifications, schedules, milestones, risk assessments and deliverables, including criteria for their acceptance, and shall set out the arrangements by which the Director-General will be enabled to exercise technical authority over the performance of the work needed to provide the contribution. The Procurement Arrangement shall, in particular, specify:

- a) the attributed value of the contribution;
- b) the roles and responsibilities of the Organization and the Domestic Agency;
- c) the procedure for procurement including, as appropriate, the tender process, the evaluation of tenders, the selection of vendor and the award of contract;
- d) provisions for earned value management and risk management;
- e) the schedule and conditions for the acceptance of achievement of milestones and deliverables and the associated accrual of earned value;
- f) the application of Quality Assurance measures;
- g) provisions for interaction and monitoring procedures between the Organization, the Domestic Agency and the industry(ies), institutes, laboratories or other organizations concerned in supply of the deliverables.
- h) provisions for change controls in accordance with agreed project guidelines, including possible adjustments to the attributed value of the contribution or other related measures
- i) provisions for the acceptance of the final deliverable and transfer of ownership.
- j) special provisions, if any, for the Organization to issue and implement contract(s) as part of the contribution.

II.2.3 The General Terms and the procedures for the conclusion of Procurement Arrangements shall be determined by the Council.

II.2.4 Upon acceptance of a contribution in kind, the ownership shall be transferred to the Organization unless otherwise agreed between the Organization and the Domestic Agency.

II.2.5 In the case of seconded staff, the procurement arrangement shall take the form of a secondment agreement. The value attributed to seconded staff shall be set taking account of the costs of staff employed by the Organization in comparable positions and other direct costs that the Organization will incur in association with secondments.

Article II.3 Adjustments to Allocations

II.3.1 In exceptional circumstances, following consultation with the Director-General and subject to the approval of the ITER Council, a Member may:

- 1 undertake to make contributions in kind additional to those for which it had responsibility under Article II.1. Such contributions may reduce by an equivalent amount the Member's obligation to contribute in cash to the budget of the Organization;
- 2 renounce obligations to contribute in kind for which it had accepted responsibility under II.1 or II.3.1 above, in which case it shall accept the obligation to provide an additional contribution in cash sufficient to enable the Organization to procure the items so renounced;
- 3 in agreement with another Member or Members, transfer to or receive from such other Member or Members an obligation to provide a specific contribution in kind, in which case the changes in obligations of each Member shall be duly accounted for and appropriate measures taken to adjust the Members' obligations to accord with the cost sharing referred to in Article I.3.

II.3.2 The Director General may make representations to the Council concerning any such proposals, including requests, if necessary, to rectify the Budget in accordance with Article III.5 of these Regulations.

Article II.4 Adjustments for Design Changes

II.4.1 If, as a consequence of a change in design approved by the Council under Article 3a of the Agreement, the specification of a system or component within the responsibility of a Member changes and the Member expects a change in cost to the Member exceeding a cumulative threshold as shall be determined by Council, then the Member may request the Council to consider a remedy. It is the responsibility of the Member to demonstrate to the Council's satisfaction the cost impact of the change and that it cannot be otherwise accommodated. In the case that the change would lead to a reduction in cost the Director General, following consultations with the Member(s) concerned, may propose to the Council to reduce the attributed value accordingly.

II.4.2 In the case of a design change that occurs in the course of procurement of an ITER component, the impact of the change shall be accounted for by the ITER Organization, evaluated in the fixed value terms referred to in Article I.2.3. The cumulative impact of such changes during the course of any phase of ITER will be balanced within each Party or otherwise compensated as may be agreed by the ITER Council.

Article II.5 Implementing Measures for Contributions in Kind

II.5 On proposal by the Director-General, the Council shall establish the measures required for implementing the Regulations of this Chapter. These implementing measures will in particular include Guidelines for the management of procurements in kind, including:

- earned value management
- management of changes, including design, manufacturing process flow-sheet, quality assurance plan and project schedule
- risk management
- quality management
- determining the credit value of seconded staff.

CHAPTER III REGULATIONS APPLYING TO THE CASH RESOURCES OF THE ORGANIZATION

Article III.1 General Principles

III.1.1 The following Regulations shall govern the administration of the cash resources of the Organization regardless of the sources and applications of funds.

III.1.2 The annual budget of the Organization, hereinafter called “the Budget”, shall be the instrument which shall authorise annually and in advance the estimated expenditure and income of the Organization.

III.1.3 The Budget shall contain commitment appropriations, payment appropriations, and a statement of income. Commitment appropriations represent the upper limit of the legal obligations which can be met from the Budget. The payment appropriations represent the upper limit of payments to be made in the course of each financial year to cover the commitments entered into in the course of that same year or previous years. The Statement of Income shall equal the Payments Appropriations for the year.

III.1.4 The financial year shall correspond to the calendar year.

III.1.5 In these Regulations, the term ‘expenditure’ shall cover commitments and payments.

Article III.2 Budgetary Principles

III.2.1 All income and expenditure shall be credited or charged against an article in the Budget. No commitment or payment shall be entered into in excess of the allotted appropriations.

III.2.2 There shall be no offset of income against expenditure save for cash and trade discounts and adjustments of amounts paid or received in error.

III.2.3 The appropriations entered in the Budget shall be used in accordance with the principles of economy and sound financial management.

Article III.3 Currency

III.3.1 The Budget shall be drawn up in Euros.

Article III.4 Presentation and Adoption of the Budget

III.4.1 Based upon the approved ITER Resource Estimates, and the forecasts of cash expenditures and contributions in cash from the Members and expected additional

resources provided in cash to the organization under Article I.2.1 c), the Director-General shall prepare and submit to the Council by 31st October each year:

1. the Draft Budget for the following year,
2. the Interim Draft Budget for year following the Draft Budget year;
3. the Preliminary Draft Budget for year following the Interim Draft Budget Year.

III.4.2 The Draft Budget statements referred to in Article III.4.1 shall be sub-divided in accordance with the work break down structure used for the Project Resource Estimates as agreed from time to time by the Council. Further sub-divisions will be made as proposed by the Director-General. The Draft Budget statements shall be drawn up and detailed in accordance with the Implementing Measures provided for in Article III.20 and shall, in particular, show:

- (a) the new appropriations proposed for the Budget years by phases, and further sub-divisions;
- (b) under the same headings, the appropriations available for the current year including any carry-over, and estimated expenditure in the current year;
- (c) for each sub-division appropriate commentaries;
- (d) in an annex, the number of posts for each category of staff.

III.4.3 The Council shall adopt the Budget of the Organization normally at least one month before the start of the Budget year, and shall approve the statements of the Interim Draft Budget and of the Preliminary Draft Budgets for their respective Budget years.

III.4.4 Upon the adoption of the Budget and the approvals of the Interim Draft Budget and of the Preliminary Draft Budget, the Director General shall forthwith transmit to the Members the budgetary information as approved.

Article III.5 Supplementary Budgets

III.5.1 The Director-General may present draft supplementary or rectifying Budgets during the financial year, if and when necessary.

III.5.2 Such supplementary or rectifying Budgets shall be presented, adopted and notified to the Members in the same manner and through the same procedure as the Budget whose estimates they modify. They must be justified by reference to that Budget.

Article III.6 Unused Appropriations

III.6.1 Commitment appropriations not used by the end of the financial year shall remain valid for the purpose for which they were established.

III.6.2 At the end of the financial year those unspent payment appropriations which are needed to settle outstanding commitments shall be transferred to a special account to meet payments directly incurred in connection with these commitments. Should the payments made against a commitment be less than the payments appropriation transferred to the account to meet that commitment, the surplus shall be credited to income; should the payments made against a commitment exceed the payment appropriation transferred to the account to meet that commitment, the excess shall be paid from current appropriations.

Article III.7 Late adoption of the Budget

III.7.1 If the Budget is not adopted at the beginning of the financial year, the total commitment appropriations, sub-divided at a level as determined by Council, which may be entered into monthly shall be subject to a limit of one quarter of the commitment appropriations of the previous financial year, with the addition of one twelfth for each month past.

III.7.2 Payments shall be made, as they fall due, against current year commitments authorised under article III.7.1 above, and against commitments outstanding from prior years. However, all such payments shall be strictly in accordance with the terms of individual contracts, or when no contract terms are applicable, in accordance with normal commercial practice. To meet these payments the Members shall advance contributions in conformity with the financial regulations of their respective Designated Agencies.

Article III.8 Implementation of the Budget

III.8 Adoption of the Budget by the Council shall constitute an authorisation to the Director-General to issue to the Members the call for contributions in respect of the budget year and to enter into expenditure as from the start of the year in accordance with that budget, save for the following which shall be subject to prior approval by the Council:

- i contract award in excess of 500,000 Euros, following full competitive tender;
- ii contract award in excess of 100,000 Euros on single or limited tendering, except in cases of proven urgency, in which cases the Director shall immediately inform the Council of the circumstances and of the actions taken;
- iii proposals for expenditure on staff amenities in excess of 50,000 Euros;

In determining the values above, all relevant expenditure, except staff salaries, shall be aggregated, notwithstanding that the value of each individual contract within the proposal could be less than the approval limit.

Article III.9 Principles of Budget Implementation

III.9.1 The implementation of the Budget shall be carried out according to the principle of separation of authorising and accounting officers.

III.9.2 The authorising officer shall be the Director-General who alone shall have the power, without prejudice to any delegation of his powers decided by him/her, to enter into expenditure, to establish the sums due to be collected and issue receivable orders and payment orders. In entering into expenditure, the authorising officer shall take into account the advice of the accounting officer.

III.9.3 The accounting officer shall be responsible to the Director-General for the correct application of these Regulations. In particular he shall manage the Organization's financial resources; compile the budget statements; prepare annual and other periodical statements of account; check financial operations, accounts and commitments; check the

inventory of non-consumable items; prepare when required financial, cost and related data for the management of the Organization.

III.9.4 In accordance with Article 1.5.7 of these Regulations, the Director-General shall report to the Council and as otherwise directed by the Council on the implementation of the Budget.

Article III.10 Internal Audit

III.10.1 The Director-General shall establish an internal audit service under his own authority which shall undertake the audit of the legality and regularity of the implementation of the budget in accordance with present articles and shall examine whether the financial management of the Organization has been sound.

III.10.2 The internal audit service shall report directly to the Director-General.

III.10.3 The measures taken in respect of appointment and promotion, disciplinary action or transfer of the head of the internal audit service shall be subject to reasoned decisions to be forwarded for information, to the Council and the Financial Audit Board provided for in Article 18 of the Agreement.

III.10.4 The Director-General shall make available to the Financial Audit Board, on its request, the records established by the internal audit service.

Article III.11 Budget Transfers

III.11 The Director-General may decide upon transfers between articles of the budget at levels determined by the Council, provided such transfers do not lead to an increase or decrease by more than 10% of the total appropriations allocated to the articles in the initial Budget adopted by the Council and provided that he subsequently informs the Council. He may propose to the Council other transfers at higher levels of the work breakdown structure. The Council shall have one month to give its decision.

Article III.12 Members' contributions in cash

III.12.1 The contributions in cash of the Members in each year shall be as set out in the Budget for that year as adopted by Council.

III.12.2 The contributions shall be defined in Euros in accordance with Article III.3 of these Regulations. The Director-General shall, at the beginning of each financial year, notify the Members of the amount of their contributions. The Members' obligations to contribute shall be in Euros. By agreement between the Director-General and the Party concerned and where justified in the interests of the Organization, some part of the contribution may be made in the currency of the Member of equal value according to the currency exchange rates applying at the time of the contribution. Members shall make their contribution in accordance with and following the schedule to be set out in the Implementing Measures provided for in Article III.20.

III.12.3 If there should exist a temporary shortfall in cash, the Director-General may, subject to the approval of Council, ask the Members for advances on their contributions.

Article III.13 Authorisation of Financial Commitment

III.13.1 All measures which may give rise to a payment chargeable to the Budget must be preceded by a requisition for commitment. The requisition must indicate:

- the financial year to which the commitment is to be charged
- the line in the budget and if necessary the sub-division of the line
- the amount to pay and the currency
- the name and address of the recipient
- the objective of the commitment.

III.13.2 In tendering the advice foreseen by Article III.9.2 to the authorizing officer, the accounting officer shall confirm that:

- (a) the requisition is in order; and
- (b) the proposed commitment is within the limits of the appropriate chapter of the budget.

Article III.14 Authorisation of Payment

III.14.1 The accounting officer shall be responsible for the approval of payment upon receiving certifications specifying that the conditions for payment have been fulfilled.

III.14.2 The authorization of a payment is subject to the presentation of supporting documents and is intended to:

- verify the creditor's claim,
- determine or verify the existence and the amount of the debt,
- verify the conditions under which payment falls due.

III.14.3 The order of payment, signed by the accounting officer in accordance with Article III.14.2, together with its supporting documents, must give the information noted in Article III.13.

III.14.4 The accounting officer shall make the payment within the limits of the funds available. In the event of an error in fact, or if the validity of the discharge is contested or if the formalities set out in the present provisions are not observed, the accounting officer must withhold the payment.

Article III.15 Awarding of Contracts

III.15 The arrangement for awarding contracts for supplies, works or services, or hire contracts by the Organization are specified in the Annex, 'Awarding of Contracts', which shall form an integral part of the present Regulations. The objective of the procedures set out in that annex shall be to select the tenders giving the economically and technically

most efficient solution, it being noted that the Director General shall, in collaboration with the Members of the Organization, strive to achieve a distribution of contracts which reflects the international collaborative nature of the Project.

Article III.16 Inventory

III.16 Permanent records of moveable and immovable property belonging to the Organization shall be kept in accordance with the conditions laid down in the Implementing Measures provided for in Article III.20; the record for moveable property shall be in the form of a quantitative register of items satisfying the following conditions;

- (a) having a normal useful life in excess of two years;
- (b) retaining their separate identity during their life;
- (c) not being a consumable item;
- (d) having an original value of not less than 2000 Euros..

Article III.17 Not Used

Article III.18 Presenting and auditing of Accounts

III.18.1 The accounts shall be kept in Euros in accordance with normal standards of financial accounting, on the basis of the calendar year. They shall show all income and expenditure for the financial year. They shall be authenticated by supporting documents.

III.18.2 Entries shall be classified according to a nomenclature of budgetary items which makes a clear distinction between the balance sheet accounts and the accounts of budgetary expenditure and income. The detailed conditions for drawing up and operating the accounting plan shall be determined by the implementing measures provided for in Article III.20.

III.18.3 The accounts shall be closed at the end of the financial year to enable a balance sheet and the income and expenditure accounts to be drawn up.

III.18.4 The annual income and expenditure accounts shall be presented in the same form with the same sub-divisions as the Budget and shall be prefaced by a commentary of the financial management for the year in question.

III.18.5 The balance sheet shall show the assets and liabilities of the Organization as at 31 December of the financial year.

Article III.19 External Financial Audit

III.19.1 Within two months after the end of each financial year the Director-General shall submit the annual income and expenditure accounts and the balance sheet of the previous year to the Financial Audit Board. The audit shall be made in accordance with Article 18 of the Agreement; detailed procedures shall be set out in a document to be agreed between Council and the Financial Audit Board and attached to the Implementing Measures provided for in Article III.20 .

III.19.2 The Director-General shall present these accounts and balance sheet to the Council for consideration together with the report of the Financial Audit Board. Upon approval of the accounts and balance sheet the Council shall discharge the Director-General in respect of the implementation of the Budget.

Article III.20 Implementing Measures

III.20 On proposal by the Director-General, the Council shall establish the measures required for implementing this Chapter of the Regulations. These implementing measures will in particular include:

- (a) Systems of internal project and budgetary control coupled with appropriate sub-delegations of authority to enter into commitments and to authorize payments.
- (b) Recording of expenditure under a specific nomenclature of budgetary items and drawing up an operating accounting plan.
- (c) Accounting Rules and Procedures,
- (d) External Financial Audit procedures
- (e) Asset management, including:
 - Inventory recording and control
 - Control of cash and bank accounts including cheque signatories.
 - Where appropriate, receipts and issues of stock by the Stores;
 - Disposal of surplus or redundant stocks and equipment
 - Proprietary information.

Article III.21 Adjustments for inflation

All sums shown in these Regulations and the Annex thereto may be adjusted by the Council, on a proposal from the Director-General, to take into account changes in currency values.

Article III.22 Internal Taxation

In the event that a staff member is subject to national income taxation by a Party with respect to the salaries and emoluments actually paid to him or her by the ITER Organization, and provided that there is a tax reimbursement agreement in force between the ITER Organization and the Party concerned, the Director General of ITER is authorized to reimburse the staff member concerned the amount of those taxes to the extent that such amounts are reimbursed to the Organization by the Party concerned.

Annex to CHAPTER III
AWARDING OF CONTRACTS

The scope of the annex will include:

- The basis for drawing up contracts - eg currency, written contracts etc
- Standardised General Terms and Conditions
- Principles of tendering
- Tendering procedures
- Selection Criteria
- Exceptions - small scale/urgency/over-riding technical rationale
- Approval processes for normal/exceptional procedure - authorised levels for decision,
- Post-selection contract procedure
- Special provisions where the Organization is acting as principal for part of a Party's contribution in kind
- Contract Amendment procedures
-

CHAPTER IV

REGULATIONS APPLYING TO THE DECOMMISSIONING FUND

Article IV.1 Joint Establishment of Decommissioning Fund

IV. 1.1. The following regulations shall govern the administration of the fund for the decommissioning of the ITER facilities (the "Decommissioning Fund") to be established under Article 17 of the Agreement.

IV.1.2 The Organization shall ensure that the Decommissioning Fund is administered so as to maintain a clear segregation from the other financial operations of the Organization and shall take measures as necessary to safeguard the integrity of the Decommissioning Fund for its designated purpose.

Article IV.2 Requirements of Licensing Authority

IV.2. The establishment and management of the Decommissioning Fund shall be conducted in accordance with the Host State's applicable licensing regulations and requirements.

Article IV.3 Scope and Amount of the Decommissioning Fund

IV.3.1 The Decommissioning Fund shall be established with the objective to achieve, by the time of the handover of the ITER facilities to the Host State or its designated organization, an agreed amount (the "planned final value") to provide for the decommissioning of the ITER facilities.

IV.3.2 The initial planned final value of the Decommissioning Fund shall be adopted by the Council in the currency of the Host State in association with a reference technical characterisation of the expected condition of the ITER facilities at the date of its handover to the Host State or its designated organization.

Article IV.4 Accumulation of the Decommissioning Fund

IV.4.1 The Members shall contribute jointly, through the Budget of the Organization, to the accumulation of the Decommissioning Fund throughout the Operation Phase, by regular annual payments at levels set from time to time by the Council sufficient to

provide for an accumulation of the Decommissioning Fund, including accrued earnings, consistent with attaining the planned final value at the date of transfer of the ITER facilities.

IV 4.2 Members shall contribute to the Decommissioning Fund in proportion to their share of the contributions to the Operation Phase of ITER.

IV 4.3 Agreements made between the Organization and other International Organizations and institutions and Governments, Organizations and institutions of non-Parties ("non-Members"), for co-operation under Article 20 of the Agreement shall include, as appropriate, terms requiring the non-Members to contribute to the Decommissioning Fund. In such cases the Members' contributions to the Decommissioning Fund shall be adjusted accordingly.

Article IV.5 Management of the Decommissioning Fund

IV.5.1 The Decommissioning Fund shall be controlled by the Organization which may, by decision of Council, appoint a separate entity to undertake its day to day management, in compliance with the requirements of Host State's regulatory authority.

IV.5.2 The management arrangements shall be such as to ensure traceability and certification of adequacy in relation to the planned final value and availability for transfer to the Host State or its designated organization at the due date. In particular, the Council shall review annually:

1. the policies and plans for the management of the Decommissioning Fund, including investment policies, until its transfer to the Host State or its designated organization;
2. the annual accounts of the Decommissioning Fund;
3. the Members' annual contributions to the Decommissioning Fund;

IV.5.3 The Decommissioning Fund shall be audited in accordance with the applicable provisions of the Agreement.

IV 5.4 Every three years, or more frequently as it may see fit, the Council shall commission a review by an independent financial expert of the expected adequacy of the Decommissioning Fund in relation to its planned final value.

Article IV.6 Accessions and Withdrawals

IV.6.1 In the event of accession to the Agreement under Article 24 of the Agreement, the terms of accession by the new Member shall provide for it to contribute to the Decommissioning Fund from the date of its accession on an equitable basis.

IV 6.2 In the event of withdrawal from the Agreement by any of the Parties under Article 27 of the Agreement, the terms of withdrawal shall provide for the withdrawing Party to provide its share of the Decommissioning Fund to the extent that the decommissioning liabilities will have accrued up to the date at which its withdrawal takes effect.

IV 7 Changes in the planned final value of the Decommissioning Fund

IV.7.1 The planned final value of the Decommissioning Fund shall be adjusted regularly by the Council to compensate for the effects of inflation. The contributions of the Members shall be adjusted accordingly.

IV.7.2 The Director General shall report regularly on the physical condition of the ITER facilities and on the progress of the programme in relation to the reference technical characterisation and shall bring to the attention of the Council any proposed developments of the ITER programme that might have a material impact on the reference technical characterisation of the ITER facilities.

IV.7.3 Before the facilities and the fund are transferred to the Host State, changes in the fund value, are to be born:

a) by all Parties (sharing as specified according to the Agreement) if they arise from:

1. changes in the proposed ITER Programme which are expected to materially affect the reference characterisation;
2. changes in the design of the ITER device which are expected to materially affect the reference characterisation;
3. changes in the reference characterisation arising from new radiological information or unanticipated events,
4. changes in the project time-scale;
5. changes in international regulatory standards as concerns decommissioning and radio-active waste management of nuclear installations; or,
6. any other changes imposed by the Organization.

b) by the Host State if they arise from:

1. changes in national regulations of the Host State and their application – excluding those specified in item (5) above – as concerns decommissioning and radio-active waste management of nuclear installations;
2. changes in estimates of unit costs for waste disposal or decommissioning activities used to establish the value of the Decommissioning Fund – excluding those arising from changes specified in item (1-6) above; or,
3. Any other changes imposed by the Host State.

Article IV.8 Transfer of the Decommissioning Fund

IV.8.1 The Decommissioning Fund shall be transferred from the Organization to the Host State or its designated Agency at a date, within five years of the definitive cessation by the Organization of ITER Operations, to be mutually agreed in the context of the transfer of the ITER facilities to the Host State or its designated Agency.

IV 8. 2 The terms of transfer of the Decommissioning Fund shall be the specified in the Headquarters Agreement referred to in Article 13 of the Agreement.

IV 8.3 By mutual agreement between the Organization and the Host State, the Organization may make or authorise to be made specific payments from the Decommissioning Fund before the date of final transfer. Such prior payments shall reduce accordingly the planned final value of the Decommissioning Fund.

IV 9. Take Back Provisions

By prior agreement with the Organization, Members may request the return, in accordance with the Host State's regulations, of particular components supplied by themselves. The costs associated with such return shall be borne by the Members concerned who shall also accept the decommissioning and radioactive waste management liabilities associated with the component concerned. Any member taking back components could be credited for corresponding transportation and disposal cost that had been estimated for the Decommissioning Fund planned final value.

DRAFT
STAFF* REGULATIONS OF THE ITER INTERNATIONAL FUSION ENERGY
ORGANISATION

CHAPTER I - INTRODUCTION

PREAMBLE (PURPOSE and SCOPE)

Article 1

1.1 These Regulations define the status, rights and duties and responsibilities of the members of staff of the ITER International Fusion Energy Organisation, hereinafter referred to as 'the Organisation'.

1.2 The staff of the Organisation comprises natural persons that:

- i) have an employment contract with the Organization (directly employed staff);
- ii) are made available through a secondment agreement to the Organization (seconded staff);

1.3 In accordance with Article 8, 3 a) of the Agreement, the Director-General shall establish and maintain a list of job descriptions for the posts in i) and ii) above, under principles of categorisation to be agreed by the Council on proposal of the Director-General. These principles shall respect the following conditions:

- a) Staff shall be selected according to their skills;
- b) Posts for which regulatory aspects of the host give preference to continuing services shall be attributed to directly employed staff;
- c) Posts other than the posts described in 1.3 b) above can be filled by either directly employed staff or seconded staff;
- d) The percentage of directly employed professional** staff should be approximately 50% of the total professional staff employed.

*General support staff does not fall under the categories in the Basic Salary Tables. It is foreseen that they would be externally contracted and that these regulations do not apply to them.

**The category of staff corresponds to the IAEA grading system

1.4 Amendments to these regulations may be proposed by the Director-General for approval by the Council.

GENERAL PROVISIONS

Article 2

Duties and Responsibilities of all staff members

2.1 Authority

Staff members shall be subject to the authority of the Director-General and responsible to him for the performance of their duties.

2.2 Obligations

In accepting appointment to the staff of the Organisation each member of the staff shall undertake to exercise in all loyalty, discretion and conscience the functions entrusted to him as a member of the staff of the Organisation, to discharge these functions with the interests of the Organisation only in view, and not to seek or accept instructions in regard to the performance of his duties from any government or from any authority other than the Organisation.

2.3 Conduct

Staff members shall conduct themselves at all times in a manner compatible with their status as representatives of the Organisation. They shall abstain from any action or activity that may in any way undermine the dignity of their position or the good name of the Organisation.

2.4 Conflict of interests

A staff member shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests.

Any staff member to whom it falls, in the performance of his duties, to deal with a matter referred to above shall immediately inform the Director-General through his hierarchy. The Director-General shall take appropriate measures, and may in particular relieve the staff member from responsibility in this matter.

2.5 Financial responsibility and duty to compensate

Staff members of the Organization may be required to reimburse the Organisation, either partly or in full, any financial loss suffered by it owing to their gross negligence, or because they have deliberately violated any regulation or procedure approved by the Council or the Director-General.

2.6 Security

Staff shall, on taking up appointment to the Organisation, acquaint themselves with the Organisation's security regulations. They shall sign a declaration whereby they acknowledge their disciplinary and financial responsibility in the event of non-compliance with those regulations.

Article 3

Status of Staff members

3.1 Privileges and immunities

The privileges and immunities conferred on staff members are accorded in the interests of the Organisation and not for their personal convenience.

3.2 Assistance and compensation

The Organisation shall provide assistance to staff members who, by reason of their current appointment or duties at the Organisation, and through no fault of their own, are subject to threats, insults, defamation or attack. Compensation for any material damage sustained may be granted provided that:

- the staff members have not wilfully or through negligence provoked the damage in question;
- no redress has been obtained;
- staff members make over to the Organisation any claims they may have against a third Party, in particular insurance companies.

All decisions in this matter that could involve action or payments by the Organisation shall be taken by the Director-General, who has a discretionary power in assessing the circumstances of the case, what form the assistance should take and what compensation, if any, should be granted.

3.3 Intellectual Property rights

All rights, including title, copyright and patent rights, in any work carried out by a staff member in the performance of his official duties, shall be handled in accordance with the Annex on Information and Intellectual Property.

3.4 External activities

Regarding outside organisations and persons, staff members shall obtain the prior approval of the Director-General according to established guidelines if they wish to:

- make any public statement, in particular to any public information body, concerning the Organisation's activities,
- give lectures or engage in teaching activities directly connected with their work at the Organisation,

- accept fees or remuneration for the aforesaid activities,
- accept material advantages associated with decorations or honours.

3.5 Public or political office

- (a) Staff members who for personal reasons wish to stand for public or political office shall inform the Director-General of this intention.
- (b) Any directly employed staff member who stands for public or political office that may be considered not compatible with the normal execution of his functions of duties for the Organisation shall be entitled to unpaid leave for a maximum period of 3 months.
- (c) If the staff member is elected or appointed to an office that would compromise his ability to fulfil his obligations to the Organisation, the staff member shall request termination of his contract. Such termination shall not carry any entitlement to loss-of-job indemnity.
- (d) If he does not accept the public or political office, the directly employed staff member shall be entitled to resume his appointment in the same position he held at the time his unpaid leave began.
- (e) Time spent on unpaid leave shall not count towards seniority or pension rights of the directly employed staff member.

CHAPTER II – DIRECTLY EMPLOYED STAFF

APPOINTMENT AND CONTRACTS FOR DIRECTLY EMPLOYED STAFF

Article 4

Appointment

4.1 Offers of employment shall be made by the Director-General, except in respect of the post of Director-General in accordance with Article 8.10 of the ITER Agreement. The Organisation shall be responsible for publishing vacant posts.

4.2 Not used

4.3 Candidates closely related by blood or marriage to a staff member will not be employed in positions in which one is subordinate to the other.

4.4 Appointment of directly employed staff members shall be limited to nationals of the Parties nominated through the Domestic Agencies. However, in duly justified cases the Director General may grant an exception upon approval by the Council.

4.5 The Director-General shall set down and issue to all the parties the requirements for each post including closing dates, as established under Article 1.3 and the procedures for verifying candidates' capacities in relation to the requirements. The Domestic Agencies then respond with nominations of candidates for consideration by the ITER Organization. Selection boards shall be chosen by the Director-General from among the staff of the Organisation, to which he may add external examiners. After its examination of the candidates the selection board shall submit recommendations to the Director-General.

4.6 Directly employed staff members shall be appointed at the lowest step of the grade of the post for which they are selected. However, the Director-General may grant a higher step where this is justified by the staff member's exceptional professional experience.

4.7 The travel and accommodation costs of candidates invited to the Organisation for interview or examination shall be met on the same conditions as those applying to staff members travelling on duty.

Article 5

Age Limit for Employment

[not used]

Article 6

Medical examinations

6.1 Appointment of staff members shall be subject to a statement from a doctor approved by the Organisation certifying that the candidate is fit for the stated duties of his post.

6.2 Staff members shall be required to undergo appropriate medical examination

periodically as necessary. Such an examination shall take place at least every two years.

6.3 The doctor approved by the Organisation shall provide expert advice to the Director-General on the unsuitability of any staff member to continue to occupy his post.

6.4 If the results of an annual or other medical examination show that a staff member is no longer able to carry out his duties, his contract shall be terminated with six months' notice as of the day on which his entitlement to invalidity benefits is confirmed in accordance with the insurance scheme as set out in Article 33.

Article 7

Contract and length of contracts

7.1 Contracts of Employment

Apart from specific provisions applicable to the Director-General, contracts of employment given by the Organisation shall be for up to five years. The Director-General may renew the employment for up to five years at a time. The Director-General shall have the power to renew the contract of directly employed staff. The Member from which the staff, whose contract is to be renewed, originates may request consultation with the Director-General before the renewal would become effective.

7.2 Probationary period

The first six months of initial contracts shall be a probationary period beginning on the date of entry into service. During that period, contracts may be terminated, without any right to loss-of-job indemnity, with one month's notice given by the Organisation or the staff member. At least two weeks before the end of the probationary period the staff member shall receive notice in writing that his contract is confirmed or terminated. The probationary period shall form an integral part of the period of the initial contract. It shall count towards seniority and pension rights.

7.3 Termination of contracts

In the situations provided for in Annex I, contracts may be terminated by the Organisation or the staff member himself:

(a) By the Organisation,

(i) with six months' notice:

- as a result of the suppression of the budget post occupied by the staff member,
- through a change in the nature or functions pertaining to the post,
- because of the professional inadequacy of the staff member, taking also into consideration the reports, according to Article 23, or

– through physical unfitness of the staff member that has occurred while serving.

(ii) with a maximum of one month's notice, following any disciplinary procedures that have established a misdemeanour or responsibility of the staff member.

(b) By the staff member, with three months' notice for any personal reasons that he is not required to state.

7.4 Compensation for loss of jobs

Other than for disciplinary reasons, the termination of a contract by the Organisation shall entail the entitlement to pension rights according to the conditions of the pension scheme established under Article 31 of these Regulations accompanied by the payment of a loss-of-job indemnity under the conditions set out in Annex I. For staff members whose contracts have been terminated for reasons of physical unfitness in accordance with Article 6.4 above, invalidity benefits shall be granted under the conditions laid down in the insurance scheme contract.

The termination of a contract by a staff member shall not entitle him to loss-of-job indemnity but shall entail his pension rights under the pension scheme.

7.5 Reduced notice of termination

If the interests of the Organisation so require, the period of notice stipulated at paragraph 3(a) above may be reduced; in that case the staff member concerned shall be entitled to the payment of an additional sum representing the salary and allowances that he would have received if the actual date of expiry of his contract had coincided with the end of a six-month period of notice.

These provisions shall not apply in the case of termination for disciplinary reasons.

SALARIES AND ALLOWANCES FOR DIRECTLY EMPLOYED STAFF

Article 8

General provisions

8.1 The remuneration paid to members of the staff of the Organisation shall include basic salary, post adjustment, and family and social allowances. Contributions and deductions shall be made from these emoluments in respect of internal tax, the pension scheme and social welfare.

8.2 Staff members' current accounts shall be paid monthly and shall be credited with the amount due during the last working week of the month.

8.3 Changes in staff members' personal circumstances that may have financial consequences shall be taken into account for the remuneration of the month during which changes are notified to the Organisation administrative section;

8.4 All over-payments shall be reimbursed by the staff member to the Organisation.

8.5 For the places of employment outside the headquarters, the remuneration of staff shall, after the compulsory deductions set out in these Staff Regulations, be weighted at a rate depending on living conditions in the various places of employment. The weighting shall be adopted by the Council and shall reflect the purchase power in the various places of employment.

8.6 The Council shall each year adjust the remunerations of the staff based on an assessment of the change in the cost of living. This assessment shall be based on statistical data prepared by relevant statistical offices.

Article 9

Basic Salary

Basic salaries are determined for each grade and step as provided for in the ITER Basic Salary Table adopted by the Council.

Article 10

Post adjustment

A post adjustment shall be applied to the monthly salary set out in Article 9. The amount of post adjustment for each level and step shall be determined for the headquarter station by applying the multiplier of the post adjustment classification for the headquarter station as defined in the ITER Salary Table to 1 per cent of the corresponding net base salary rates;

Article 11

Family and social allowances

The following allowances shall be added to basic salary monthly unless otherwise stated.

11.1 Household allowance

This allowance:

- (a) shall be paid to any staff member who is married or who is widowed, divorced, legally separated or single and who has at least one dependant within the meaning of Annex II to these Regulations;

(b) shall be equal to 6 % of net basic salary;

(c) in the case of a married staff member who has no dependants but whose spouse is gainfully employed, the allowance payable shall be the difference between the basic salary for grade [B ..] plus the allowance to which the staff member would be entitled in theory, and the earned income of the spouse. If the latter amount is equal to or greater than the former, no allowance shall be payable;

(d) shall not be paid to a married staff member whose spouse is a member of an international organisation and has a higher basic salary than the staff member.

11.2 Children's and other dependants' allowance

This allowance:

(a) shall be paid to staff members who mainly and continuously maintain either a legally recognised child or another member of their family by virtue of a legal or judicial obligation, or a child who has lost both parents and for whom they have assumed responsibility;

(b) shall be a fixed rate of 1,730 Euros per year for each dependant, to be paid in monthly installments;

(c) where both spouses work for international organisations, shall be paid to whichever of them is in receipt of household allowance or equivalent.

Definitions and the conditions under which this allowance is granted are set out in Annex II.

11.3 Education allowance

Staff members who are entitled to household allowance, and whose dependant children, as defined in Annex II are in full-time primary, secondary or higher education, shall be entitled to an annual education allowance. The allowance shall be equal to twice the amount of the dependant child's allowance, and shall be payable for each child in one sum at the beginning of the school year. The staff member concerned shall provide to the Organisation supporting evidence of registration for full time education at the beginning of each school or academic year.

11.4 Handicapped children's and other dependants' allowance

(a) An allowance for handicapped children or dependants shall be paid to staff members who are primarily and continuously responsible for their care. The child or dependant must fulfil the criteria and conditions set out in Annex II.

(b) The details of allocation and payment of the allowance are given in Annex III.

Article 12

Not used

Article 13

Installation allowance

13.1 An installation allowance shall be payable to staff members whose place of residence at the time they were offered appointment with the Organisation was more than 100 kilometres from their duty station.

13.2 The amount of the allowance shall be two month's basic salary.

13.3 Installation allowance shall be paid to the staff member after he assumes his duties at the Organisation together with his first salary payment.

13.4 Staff members shall be required to reimburse half the installation allowance if they leave their appointment of their own accord before they have completed two years of service. The Director-General may authorise an exception to the provisions governing this reimbursement where their strict application might cause special hardship.

Article 14

Internal Tax

An internal tax at the rates and under the conditions specified in Annex IX of these Staff Regulations shall be applied to the basic monthly salaries set out in Article 9, excluding post adjustments. With respect to the internal tax funds collected by the ITER Organization, they shall be used for the budgetary accounts for salaries, related benefits and infrastructure.

The internal tax shall be collected by the ITER Organisation by withholding it from payments. No part of the internal tax so collected shall be refunded because of cessation of employment during the calendar year.

In the case of a person who is not employed by the ITER Organization for the whole of a calendar year or in cases where there is a change in the annual rate of payments made to a staff member, the rate of internal tax shall be governed by the annual rate of each such payment made to him or her.

Article 15

Not Used

TRAVEL COSTS

Article 16

Installation and departure

16.1 On taking up their appointments, staff members shall be entitled to reimbursement of travel costs for the journey from their previous place of duty to the location of the Organisation, in respect of themselves and members of their family living with them.

16.2 The same entitlement shall apply when staff members leave the service of the Organisation and return to the place where they were in post before joining the Organisation.

16.3 Reimbursement shall be made in accordance with the provisions of Annex IV, Section I of these Regulations.

Article 17

Removal expenses

17.1 Staff members shall be entitled to reimbursement of the costs of removal from their previous place of duty to the location of the Organisation.
The same entitlement shall apply when staff members leave the service of the Organisation and return to the country where they were in post before joining the Organisation.

17.2 Reimbursement shall be made in accordance with the provisions of Annex IV, Section I of these Regulations.

Article 18

Travel on duty

Members of the staff of the Organisation shall be entitled to reimbursement of expenses incurred in connection with travel on official duty ordered by the Director-General.

Reimbursement shall concern travel costs proper plus accommodation and associated costs in the places to which staff members are sent. The conditions, rates and other details of reimbursement are set out in Annex V.

WORKING CONDITIONS

Article 19

Hours of work

19.1 The working hours of reference for staff members shall be 40 hours per week, to be completed in accordance with a general schedule set by the Director-General.

19.2 Flexible working hours may be agreed by the Director-General in accordance with staff members' personal circumstances or the constraints of their particular work.

19.3 Overtime

Overtime worked by staff members outside the normal working hours including weekends and night work shall entitle them to time off in lieu or overtime pay. However, only overtime worked with the prior agreement of the relevant head of division/department shall be regarded as overtime. Every effort shall be made to keep overtime to a minimum.

Overtime worked shall entitle the staff concerned:

- (i) to time off in lieu; or
- (ii) where such time off cannot be granted owing to the requirements of the service, to overtime pay calculated at the rate of [133 %]⁷ of basic salary.

19.4 Night work

Night work hours shall be defined by the Director-General.

Hours of night work not exceeding the number set out in Article 19.1 above shall give entitlement to additional remuneration at the rate of [50 %] of basic salary.

Overtime worked at night shall be paid at the rate of [150 %] of overtime worked by day.

19.5 Overtime or night work by professional staff and higher categories shall carry no right to compensation or remuneration.

Article 20

Public holidays

The list of public holidays shall be drawn up by the Director-General on the basis of the official list of public holidays published in the [Official Journal] of the Host State.

These public holidays shall not be deducted from staff members' annual leave entitlement.

If one of these days falls on a Saturday or Sunday, the Director-General may designate another day in lieu.

Article 21

⁷ Information given in these and all further brackets shall be further defined by the Director-General before adoption of these regulations by the Council.

Leave

21.1 Annual leave

(a) Entitlement

Staff members shall be entitled to paid annual leave at the rate of [2 working days for each month of service] completed. This entitlement shall apply each calendar year.

Staff members recruited between 1 April and 30 July shall be entitled to an advance of 15 days' leave from their annual entitlement if the leave is to be taken after the latter date.

If on 31 December a staff member has, owing to the exigencies of his work, an unexpended period of leave due, the Director-General or his delegate may authorise the carrying forward of all or part of the unexpended leave to the following year. Any entitlement carried forward but not taken by 31 March shall be cancelled.

(b) Administrative procedure

Staff members wishing to take leave within their entitlement as defined in (a), must obtain the prior authorisation of the Director-General.

A record of leave taken is kept by the Organisation's administrative section.

The procedure to be followed shall be set out in an internal memorandum signed by the Director-General.

(c) Leave unexpended on departure of staff members

Leave unexpended at the time staff members depart from the Organisation shall be cancelled. However, if the Director-General certifies in writing that, owing to the exigencies of work, it was impossible for a staff member to take all his leave, the staff member shall be entitled to a payment of [one thirtieth of his monthly net basic salary for each day of leave so accumulated.]

21.2 Unpaid leave

If requested by a staff member, the Director-General may grant additional, unpaid leave up to a [limit of 15 consecutive days].

This does not affect rights conferred according to Articles 31 to 33 of these Regulations.

However, the full deductions in respect of insurance and pension according to Article 31 to 33 of these Regulations will be made as if the staff member had been paid normally for the period of unpaid leave.

21.3 Sick leave, maternity leave and other special leave

Special leave shall be granted, in addition to annual leave, for illness, maternity or exceptional circumstances.

Details and the procedures to be followed are given in Annex VI.

Article 22

Home leave

22.1 Staff members who are entitled to expatriation allowance shall be eligible for home leave once every two years, except for those staff members who, when appointed, held solely the nationality of the country of employment.

22.2 Staff members who take home leave shall be entitled, in accordance with the procedures laid down in Article 18, to payment of the return travel expenses for themselves, their children and, if they receive a household allowance, for their spouses, but not to a daily allowance for the travelling time.

22.3 Where a husband and wife are both employed by the Organisation and where both are entitled to home leave their dependant children and, if appropriate, the person accompanying those children, shall be entitled to payment of travel expenses only once every two years; where the parents have their homes in two different countries, expenses may be reimbursed for either of those countries.

22.4 Staff members who do not take their home leave shall have no entitlement to compensation.

22.5 Home leave shall be granted on the following conditions:

(i) the person concerned must undertake in writing not to resign from the Organisation in the six months following the end of the period to which the entitlement to home leave relates (regardless of the date on which that leave is actually taken);

(ii) the head of division/department must certify that he will in all probability require the services of the staff member during the period referred to in point (i).

The Director-General may decide to derogate from the provisions in point (i) and point (ii) if he considers that their strict application would expose the staff member concerned to an injustice or to particular difficulties.

Article 22a

Special leave

(a) Staff members recalled to serve in the armed forces for a period of training shall be entitled to special paid leave of a maximum of two weeks a year or four weeks every two years. Periods of recall which extend beyond these limits shall be deducted from staff members' annual leave.

(b) If staff members receive financial compensation from the national authority which recalled them, the amount of such compensation shall be deducted from their salary.

REPORTS AND PROMOTIONS

Article 23

Reporting

23.1 The work of all staff members, apart from the Director-General, shall be evaluated once a year, at the latest by 15 December.

Reports shall comment on the relative proficiency of staff members and shall provide the opportunity to congratulate staff members or, on the contrary, warn them of shortcomings with a view to an improvement in their service.

23.2 Reports shall include, but not be limited to, the following criteria:

- (a) diligence and punctuality,
- (b) quality and speed of execution of work,
- (c) initiative,
- (d) achievement of objectives,
- (e) attention to safety.

The entire evaluation shall be summarised on an annual report form. The evaluation and its summary shall be kept in the staff member's personnel file.

23.3 The Director-General shall designate the staff members responsible for reporting on personnel wholly or partly subordinate to them.

23.4 The employee is permitted to comment on the evaluation for inclusion in his personnel record. The detailed reporting procedure shall be established by the Director-General.

23.5 An annual report is an administrative measure for internal use, against which there can be no appeal to any external body.

Article 24

Promotion within post of Directly Employed Staff

24.1 When the reporting procedure is concluded, the Director-General shall convene a Promotions Board, chaired by himself who shall review proposals for promotion put forward by the Reporting officers. The [Head of Administration and Personnel] shall attend all meetings of the Promotions Board.

24.2 On the basis of advice from the [Head of Administration and Personnel] and of the Promotion Board, the Director-General shall decide upon the staff to be promoted in compliance with the budget authorisations.

Article 25

Exceptional Promotion and Bonus

An exceptionally good report may justify exceptional promotion to a higher step or even grade, provided that the budgeted post allows such promotion, or the award of a financial bonus. The maximum amount of the bonus which may be awarded shall be fixed by the Director at the beginning of each calendar year.

DISCIPLINARY MEASURES

Article 26

Definitions

26. Any failure by a staff member or former staff member to comply with his obligations under the Staff Regulations, whether intentionally or through negligence on his part, shall make him liable to simple, financial or statutory disciplinary action, notwithstanding the compensation he may be required to make by virtue of Article 2(4) and Article 27 of these Regulations.

(a) Simple disciplinary measures shall include:

- oral warning;
- written censure.

(b) Financial measures shall include:

- withholding of an annual salary increment.

(c) Statutory measures shall include:

- temporary suspension from duties entailing the withholding of emoluments in whole or in part;
- removal from post, involving termination of contract, possibly accompanied by total or partial forfeiture of loss-of-job indemnity, and possibly accompanied by reduction or temporary suspension of benefits under the pension scheme.

Disciplinary measures shall be decided by the Director-General; simple disciplinary measures may be decided by the [Head of Administration and Personnel], acting on behalf of the Director-General, except where a meeting of the Disciplinary Board is convened.

26.2 If a charge of serious misconduct is made against a staff member, and the Director-General considers that the charge is prima facie well founded, and that the staff member's continuance in office pending an investigation would prejudice the Organisation, the staff member concerned may be immediately suspended from his functions pending investigation, with or without pay at the discretion of the Director-General.

Article 27

Not used

Article 28

Notification of complaints

When a proposal is made that a disciplinary measure under Article 26 be taken against any staff member, he shall be notified in writing within two clear days after the request for disciplinary action has been lodged with the [Director or the Head of Administration and Personnel]. Such notification shall be accompanied by the documents relating to the ground of the complaint against him, together with all reports written on him.

Article 29

Disciplinary Board

Within five working days of his being notified as provided by Article 28, the staff member concerned may make a request in writing that his case be examined by a Disciplinary Board, which shall be convened by the Director-General within five days. The Disciplinary Board shall meet during the week following the date of issue of the convocation.

The composition and procedures of the Disciplinary Board are given in Annex VII. The opinion of the Disciplinary Board shall not be binding upon the Director-General.

APPEALS AND APPEALS BOARD

Article 30

Appeals

Serving or former staff members, or their heirs and assigns, may appeal against decisions made by the Director-General. Such appeals, or procedures arising from them, shall not stay the execution of the decisions being complained of.

30.1 Internal administrative appeals

An internal administrative appeal is a procedure whereby a staff member who considers that he has suffered an infringement of his rights as laid down in these Regulations submits a reasoned request to the Director-General to reverse the decision that he considers has infringed those rights.

The Director-General shall acknowledge this appeal and reply within five clear days of receipt of the request.

In the event of a negative reply, the staff member may request mediation. Such mediation is not obligatory.

30.2 Mediation

The mediator shall be a qualified, independent legal expert appointed by the Director-General and approved by the Council for a renewable period of three years.

He shall be provided by the Director-General and the staff member concerned with all documents he considers necessary for an examination of the case.

He shall submit his conclusions within 15 days of the date on which he has been apprised of the case.

These conclusions shall not be binding on either the Director-General or the staff member.

The costs of mediation shall be borne by the Organisation; 50 % of the costs shall be borne by the staff member if it is he who refuses to accept the findings.

30.3 Contentious appeals

Having exhausted the possibilities of the first resort (an internal administrative appeal), staff members shall be at liberty to seek a settlement before the Organisation's Appeals Board.

The composition, operation and specific procedures of that body are given in Annex VIII.

30.4 Decisions of the Appeals Board

Decisions of the Appeals Board shall be binding on both parties. There shall be no appeal from them.

(a) The Board may annul, or confirm, the decisions complained of.

(b) The Board may incidentally order the Organisation to compensate any material damage sustained by the staff member starting from the day the annulled decision began to have effect.

(c) It may further rule that the Organisation shall reimburse, within limits to be fixed by the Board, justified expenses incurred by the claimant, as well as expenses relating to transport and subsistence incurred by witnesses who have been heard. These expenses shall be calculated on the basis of Article 18 and Annex V of these Regulations.

PENSION SCHEME

Article 31

Pensions

31.1 The Organization shall contract out for a conservatively managed defined-contribution pension scheme.

31.2. The pension scheme shall be configured to allow payment to the staff members as either a lump-sum payment, or as an annuity, to be paid by the pension contractor to the staff member upon end of the staff member's employment.

31.3. The pension scheme shall also be configured to allow the beneficiary, in the event of the staff member's death, to receive the accumulated pension as either a lump sum or annuity.

31.4 A monthly contribution equal to [7.5%] of base salary shall be deducted from staff members' emoluments and shall be complemented by a contribution from the ITER Organization of [the same] amount to be paid into this scheme.

Article 32

Medical Insurance

32.1 The Organization shall contract out for a medical insurance scheme.

32.2 Contributions to the medical insurance scheme shall comprise monthly deductions from staff members' emoluments and contributions from the Organization [share to be determined]. The amount deducted shall be determined, before the beginning of the year for the following 12 months.

Article 33

Life and Invalidity Insurance

33.1 The Organization shall contract out for a life and invalidity insurance scheme.

33.2 Contributions to the life and invalidity insurance scheme shall comprise monthly deductions from staff members' emoluments and contributions from the Organization [share to be determined]. The amount deducted shall be determined, before the beginning of the year for the following 12 months.

Article 34

Not used

Article 35

Not used

Article 36

Not used

CHAPTER III - PROVISIONS APPLICABLE TO SECONDED STAFF

Article 37

Statutory provisions

37.1 Secoded staff shall be subject to the provisions of Articles 1, 2, 3, 4, 18, 19, 20, 23, 39 and the present article, and Articles 16 and 17 if there is no such reimbursement by the employer or by the seconding entity.

37.2 Secoded staff shall be made available through a secondment agreement signed between the Organisation and the Domestic Agency. Such staff shall remain in the employment of an entity that has been designated by the Domestic Agency. Secondments shall be limited to nationals of the Parties.

37.3 The secondment agreement concluded between the Organisation and the Domestic Agency shall set out the function, responsibilities, working conditions, disciplinary procedures, and period of time of the secondment.

37.4 The reports specified in Article 23 shall be submitted to the Domestic Agency. Within each secondment agreement it shall be agreed that the evaluation reports provided by the ITER Organization according to Article 23 will be used in the determination of remuneration for the seconded staff, in accordance with the procedures of the seconding organization. The consequences of these determinations will be reported annually to the Director-General.

37.5 The secondee shall receive a monthly secondment allowance* from the Organisation. The amount of the allowance shall be defined by the Council on proposal by the Director-General. The allowance shall be updated on a regular basis to take into account the changing local cost of living at the place of secondment.

* Explanation to be added

Article 38

Not used.

CHAPTER V – STAFF REPRESENTATION

Article 39

Representation of staff

(a) A general meeting of all members of the staff, held annually, shall, in accordance with a procedure approved by the Director, elect a Staff Committee to act as the staff's representative body.

(b) The Staff Committee shall:

1. defend the professional interests of all staff of the Organisation;

2. make proposals for improving the well-being of the staff;
3. make suggestions regarding social, cultural and sporting activities for the staff;
4. represent all staff members vis-à-vis staff associations of other international organisations.

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ANNEX I

INDEMNITY FOR LOSS OF JOB

1. Circumstances in which the indemnity is awarded

An indemnity for loss of job may be awarded to a directly employed staff member whose contract is terminated for one of the following reasons:

- (a) suppression of the budgeted post before the end of his contract;
- (b) changes in the duties of the budgeted post occupied by the staff member of such a nature that he no longer possesses the required qualifications;
- (c) the withdrawal from the Party of which the staff member is a national;

The indemnity shall not be due if:

- (f) the staff member has obtained another post at the same grade at the Organisation;
- (g) the staff member has obtained a new appointment in another international organisation;
- (h) the staff member, as a public employee of a Member, has obtained re-integration and remuneration in his national administration within 30 days following the termination of his contract by the Organisation;
- (i) the staff member's contract has been terminated as a result of a disciplinary procedure.

2. Payment of the indemnity to staff members having served less than 10 years at the Organisation

Provided that their current contract has not come to an end, such staff members shall be entitled to an indemnity amounting to 50 % of their monthly remuneration multiplied by the number of months remaining up to the expiry of the term of their contract, up to a maximum of 12 months' remuneration.

3. Payment of the indemnity to staff members having served more than 10 years at the Organisation

Such staff members shall be entitled to an indemnity equal to 100 % of their monthly remuneration per year of service at the Organisation, up to a maximum of 24 months. The amount of the indemnity shall not represent a number of months which exceeds the period that the staff member would have to serve before reaching the age limit specified in Article 5 of these Regulations.

ANNEX II

CHILDREN AND OTHER DEPENDANTS

1. Dependant children

(a) A legitimate, legally recognised natural or adopted child deemed to be a dependant of a staff member is a child whose continuous maintenance and education are ensured by that staff member, and who lives continuously with the family, in the same locality that the staff member is in post or in the locality where the other parent lives.

(b) The staff member concerned must submit to the administrative section copies of documents legally certifying that the child is dependent on him for material support.

(c) A child shall not be considered a dependant of the staff member:

- when it attains the age of 26;
- when, before reaching that age, it is in receipt of a salary, income or fees in its own right;
- where the staff member or spouse caring for the child receives, under his or her national laws or regulations, or those of the host country, an allowance of the same nature;

(d) The administrative section shall be entitled to demand that official or notarial documents that it deems necessary to establish a right to the corresponding allowances be produced.

2. Other dependants

(a) A person other than a dependant child as defined in paragraph 1 may be considered a staff member's dependant on the following conditions:

- he is a parent or other close relative by blood or marriage;
- he lives continuously with the staff member or his spouse, or is regularly admitted to an institution giving specialist medical care;
- the person concerned does not have adequate resources of his own to support himself.

(b) The staff member concerned must provide the Organisation with valid evidence that the person is dependent on him for material support.

(c) The Organisation shall be entitled to demand that official or notarial documents that it deems necessary to establish a right to the associated allowances be produced.

ANNEX III

HANDICAPPED DEPENDANTS

1. A dependant is deemed to be handicapped if it is established by medical evidence that he is suffering from a serious and permanent disability necessitating either special care or supervision not provided free of charge or special education or training.
2. The decision to pay the allowance shall be made by the Director-General upon presentation of a medical certificate certifying the level of disability of the dependant. The Director-General may before taking his decision consult a qualified medical practitioner to obtain a second opinion.
3. The criterion for entitlement to the provisions of these Regulations shall be the serious and continuing impairment of the physical or mental activities.

Dependant persons may thus be deemed to be handicapped where they suffer from:

- serious or chronic affection of the central or autonomic nervous system, however caused, such as diseases of the brain, myopathy and autonomic paralysis;
- serious affection of the locomotor system;
- serious affection of one or more sensory systems;
- chronic and disabling mental illness.

The above list shall not be deemed to be exhaustive. It is given by way of indication only, and shall not be taken as a basis for assessing the degree of disability or incapacity.

4. The amount of the allowance shall be equal to the amount of the allowance for a dependant child, and shall be additional thereto.
5. In the event that the staff member concerned or his household is entitled to a similar allowance under a national or international scheme, the amount of the allowance payable by the Organisation shall be the amount by which the rate payable under these Regulations exceeds the amount payable under the national or international scheme.

ANNEX IV

TRAVEL COSTS AND REMOVAL EXPENSES

SECTION I - Travel costs of staff members and their families between their place of residence and duty station

1. Staff members whose place of residence is more than 100 km from their duty station shall be entitled, subject to the provisions of Article 22 of these Regulations, to reimbursement of the actual costs of travel:

- (a) on taking up their appointment, for travel from their place of residence to their duty station;
- (b) on transfer from the duty station where they were appointed to another duty station more than 100 km away;
- (c) on leaving their appointment:
 - either for travel from their duty station to their place of residence at the time they were appointed;
 - or, for travel from their duty station to a place of residence other than that mentioned above, provided that the expenditure to be reimbursed is not greater.

2. Reimbursement of the travel costs mentioned in paragraph 1 shall be totally or partially refused in the following cases:

- (a) where entitlement has not been established at the time a staff member takes up his appointment;
- (b) if all or part of the expenditure in question has been paid by a government or other body;
- (c) where a staff member leaves his appointment, if the journey does not take place within a period of three months starting from the date the staff member's duties cease, or if the application for reimbursement has not been received by the administrative section within 30 days of the journey;
- (d) when the staff member's duties cease, if the person concerned has resigned before completing twelve months' service at the Organisation.

3. Staff members who satisfy the conditions listed in paragraphs 1 and 2, and who receive household allowance, shall also be entitled to:

- (a) reimbursement of travel costs actually incurred by their spouse and dependant children when they join the staff member at his duty station;
- (b) reimbursement of travel costs actually incurred by their spouse and dependant children when they move from one duty station to another duty station situated over 100 km away, if the duration of the transfer is unspecified but exceeds two months;
- (c) reimbursement of travel costs actually incurred by their spouse and dependant children when their duties cease, except that the reimbursement may be refused if the staff member resigns before having completed twelve months' service at the

Organisation.

4. Spouses and dependant children shall be deemed to be of the same grade as the staff member concerned.

SECTION II - Removal expenses

1. Staff members whose place of residence is more than 100 km from their duty station shall be entitled to the reimbursement of expenses actually incurred for the removal of their household effects on the following occasions:

- (a) on taking up their appointment;
- (b) on transfer of indefinite duration exceeding two months from one duty station to another duty station that is over 100 km away;
- (c) when leaving the Organisation, except that the reimbursement may be refused if the staff member resigns before having completed twelve months' service at the Organisation.

2. Reimbursement of expenses incurred for removal of household effects, including packing, shall be made up to the following limits:

- (a) For staff members entitled to household allowance:

6000 kg or 40 m³

Plus 750 kg or 5 m³ per child residing with the staff member.

- (b) For staff members not entitled to household allowance:

4000kg or 27 m³

To claim expenses under the provisions of this Section, staff members must submit to the Head of Administration and Personnel, for prior approval, at least two estimates of removal expenses, from different companies, together with an inventory of their household effects. Reimbursement shall be made only within the limits of the entitlement and on the basis of the lower estimate.

3. Staff members may only claim reimbursement under this Section if the expenditure in question is not reimbursable by a government or other authority.

ANNEX V

OFFICIAL DUTY EXPENSES

Staff members travelling on official the Organisation duty shall be entitled to reimbursement of all of their travel costs and to a daily allowance to cover subsistence when away from their place of duty in accordance with the provisions of Article 18 of these Regulations.

Section I - Means of transport

Travel by staff members on duty shall be performed by the most economic means available, subject to the derogations provided for in this Section.

Air and rail travel are considered to be the normal means of transport. The Director-General may, however, authorise staff members on official duty to use a private or official car, in particular when a doctor certifies that they cannot travel by air for medical reasons, and that travel by rail is either not possible, too long or too expensive.

If a staff member travelling on official duty chooses, and is authorised, to travel by means other than the most economic available, the following rules shall apply:

- he shall be entitled only to reimbursement of the cost of the journey by the most economic means of transport;
- he shall be entitled to subsistence allowance only for the length of time he would have taken had his journey been made by the most economic means available;
- working time taken by him in consequence of such travel in excess of the time which would have been taken had he travelled by the most economic means available will count against his annual leave entitlement.

1. Air travel

Except where authorised by the Director-General, all travel shall be in "economy" class or the equivalent.

2. Rail travel

- (a) All staff shall be entitled to first class travel;
- (b) for journeys by rail involving night travel of a minimum duration of six hours, staff members shall be entitled to reimbursement of the costs of sleeping berths, but not of sleeping compartments; if the latter are used, staff members shall be entitled to reimbursement of the costs of 1st sleeping berths;

3. Road journeys - use of private cars

- (a) Staff members may be authorised to travel by private car in the interests of the Organisation. In such cases, they shall be entitled to an allowance per kilometre calculated on the basis of the quickest usual route. The allowance shall be calculated on the basis of the rate applying in the country where the Organisation is located, irrespective of the country or countries where the travel takes place. The rates in use shall be promulgated in

an administrative memorandum.

(b) If the staff member concerned has been authorised to carry other members of the Organisation, he shall be paid an additional allowance per kilometre equal to 10 % of the rate of the kilometric allowance for each passenger; if the route followed involves special charges (such as tolls, or transport of the car by ship or car ferry), such charges shall be reimbursed on production of supporting vouchers, except for any costs of air travel.

(c) Staff members using their own cars must show beforehand that they hold an insurance policy covering third party risks and risks to passengers in particular.

(d) In the event of an accident, the Organisation will not refund the cost of any damage to property.

Section II - **Subsistence allowance for staff members travelling on official duty**

1. Staff members travelling on official duty shall be entitled to subsistence allowance at the rates decided each year by the Council.

However, the Director-General may authorise:

(a) special rates for countries where the cost of living is higher or lower than the normal rates;

(b) the payment of subsistence allowance at a higher rate than that to which staff members would normally be entitled if this will facilitate the transaction of official business;

(c) the payment of an allowance if sick leave has to be granted during the mission, except where the mission is being carried out in the place where the staff member lives.

2. Subsistence allowance shall be calculated as follows:

(a) staff members shall be entitled to one day's subsistence allowance for each complete 24-hour period of duty(4);

(b) no subsistence allowance shall be payable for periods of less than 4 hours;

(c) where the period of duty is 4 hours or more but less than 8 hours, the staff member shall be entitled to one-quarter of the daily allowance. He shall likewise be entitled to one-quarter of the daily allowance in respect of any period of 4 hours or more but less than 8 hours in excess of any complete period of 24 hours;

(d) where the period of duty is 8 hours or more without hotel accommodation, the staff member shall be entitled to one-half of the daily allowance. He shall likewise be entitled to one-half of the daily allowance in respect of any period of 8 hours or more but less than 24 hours in excess of any complete period of 24 hours;

(e) where the mission necessarily involves hotel accommodation, the staff member

concerned may be paid the full daily allowance;

(f) a notional period shall be added to the actual journey time for the purpose of calculating subsistence allowance to allow for travelling time to the main station or airport. This period shall be as follows:

- 2 hours for train journeys;
- 3 hours for air travel.

3. Reduced subsistence allowance

The allowance shall be reduced:

(a) when the journey involves meals or overnight accommodation: by 15 % for each main meal and by 50 % for overnight accommodation provided in the fare;

(b) by three-tenths if a staff member travels by night ferry, sleeping berth or compartment, by rail or air, for the period covered by the travel;

(c) by three-tenths if a staff member travels on official duty to the town of his official home when his family is still in residence there;

(d) by three-quarters when accommodation is provided by an external body.

4. Additions to subsistence allowance

The allowance shall be deemed to cover all the expenses liable to be incurred by a staff member travelling on duty, except the expenses listed below, for which additional reimbursement may be claimed:

(a) visa fees and similar charges arising directly from travel on official duty;

(b) excess luggage charges authorised expressly by the Director-General;

(c) postal, telegraphic and long-distance telephone charges incurred for official purposes;

(d) hospitality expenses incurred by staff members in conformity with conditions laid down by the Director-General;

(e) taxi fares, provided the Director-General has given his prior approval and evidence of the expenditure is produced;

If in certain circumstances the expenditure on accommodation exceeds 60 % of the daily subsistence allowance the Organisation may reimburse the excess amount partially or totally on presentation of vouchers and sufficient proof that additional expenditure was unavoidable. This reimbursement may not exceed 30 % of the daily subsistence allowance.

ANNEX VI

SICK LEAVE, MATERNITY LEAVE AND OTHER SPECIAL LEAVE

1. Absence for health reasons and sick leave

- (a) Staff members absent owing to sickness or accident for more than three consecutive days shall be required to produce a medical certificate within three days of ceasing work.
- (b) Absences occasioned by sickness or accident that last no more than three days and for which no medical certificate is provided may, if they exceed nine working days in any one calendar year, entail a corresponding reduction in the annual leave due to the staff member concerned or a corresponding reduction in his emoluments if he has already taken his annual leave in full.
- (c) Staff members absent owing to sickness or accident shall be entitled, on production of a medical certificate, to sick leave with full pay and allowances for a maximum period of thirteen consecutive weeks.
- (d) Continuous absence due to sickness or accident exceeding thirteen consecutive weeks may be regarded by the Director-General as grounds for termination of contract.
- (e) Frequent recurrence of short periods of illness may be regarded by the Director-General as grounds for termination of contract.
- (f) The Director-General may at any time require the staff member concerned to undergo a medical examination.

2. Infectious diseases, vaccination and accidents

- (a) Any staff member contracting an infectious disease must absent himself from duty and report the circumstances immediately to the Head of Administration and Personnel. If an infectious disease is reported among the family or intimate friends of a staff member, the latter must immediately inform the Head of Administration and Personnel and conform to such health precautions as may be prescribed by that officer. All staff members who have been in contact with a person who has contracted an infectious disease and are as a result obliged to absent themselves from duty shall be entitled to all of their emoluments; such absence shall not be deducted from either their sick leave or annual leave entitlements.
- (b) Staff members shall submit to any preventive vaccinations or inoculations that may be required.
- (c) All accidents to staff members, whether incurred at work or outside the Organisation, however trifling they may appear at the time, must be reported immediately by the staff member to the Head of Administration and Personnel, together with the names and addresses of any witnesses.

3. Special leave, marriage leave and maternity leave

(a) Special leave with full or part pay, not exceeding eight working days per year, or without pay, may be granted by the Director-General for exceptional or urgent private reasons.

(b) Special leave of six days with full pay shall be granted on the occasion of the marriage of a staff member.

(c) Maternity leave on full pay, and not to be charged against sick or annual leave, shall be granted to staff members on production of an appropriate medical certificate. Maternity leave shall be for sixteen weeks, beginning six weeks before the expected date of birth. If the birth occurs after the expected date, the leave shall be extended until the expiry of ten weeks following the birth.

ANNEX VII

COMPOSITION AND PROCEDURES OF DISCIPLINARY BOARDS

1. Composition of the Disciplinary Board

The Disciplinary Board shall consist of:

- (a) a grade A staff member nominated by the Director-General, other than the Head of Administration and Personnel or the person to whom the staff member concerned is responsible, as Chairman;
- (b) a staff member nominated by the Director, that is the hierarchical responsible for the staff member to whom the case applies;
- (c) a staff member of the same grade as the staff member concerned and nominated by him;
- (d) the Director of, acting as legal adviser, without the right to vote.

2. Procedure

- (a) The Disciplinary Board shall take note of all the documents relevant to the consideration of the case. It shall, if he so requests, hear the interested party. The interested party may have the assistance of, or be represented by, a staff member. The Disciplinary Board shall also hear any person it deems advisable to summon.
- (b) The Disciplinary Board shall act in private. Its members shall not divulge any information which may have come to their knowledge during the proceedings, or any particulars of the proceedings.
- (c) The Disciplinary Board shall give its reasoned opinion to the Director-General. That opinion shall include a recommendation as to whether a sanction is appropriate, and if so the severity of that sanction.

ANNEX VIII

APPEALS BOARD

A. Jurisdiction

The Appeals Board shall have authority to settle disputes arising out of violations of these Regulations or of the contracts provided for in Article 7. To that end it shall have jurisdiction with regard to appeals brought by serving or former staff members, or by their heirs and assigns, against a decision of the Director-General.

B. Composition and status

(a) The Appeals Board shall be composed of a Chairman and two members. They may be replaced by deputies. The Chairman or one of the members and one of their deputies must have legal qualifications.

(b) The Chairman, his deputy, the members and their deputies shall be appointed by the Board of the Organisation, for a period of two years, from outside the staff of the Organisation. If any of these is at any time unable to serve, a new appointment shall be made for the unexpired term.

(c) No meeting of the Appeals Board is in order unless the Chairman, or his deputy, and two members, or their deputies, are present.

(d) The members of the Board shall be fully independent in the exercise of their duties.

(e) The emoluments of the Chairman, members and deputies shall be fixed by the Council of the Organisation.

(f) The Appeals Board shall establish its own rules subject to the provisions of this Annex.

C. Secretariat of the Board

(a) The Secretary of the Board shall be appointed by the Director-General and shall be a member of the staff of the Organisation.

(b) In the exercise of his duties, the Secretary of the Board shall act as a registrar and shall be subject only to the authority of the Board.

D. Appeals

(a) Appeals submitted to the Board shall only be admissible if the appellant has previously failed to obtain satisfaction through an internal administrative appeal to the Director-General.

(b) The appellant shall have a period of twenty days from notification of the decision complained of or the date of rejection of the mediator's findings in which to submit a written request that such decision be withdrawn or modified by the Appeals Board. That request shall be addressed to the Organisation's Head of Administration and Personnel, who shall acknowledge receipt of it and initiate the procedure for convening the Board.

(c) Appeals must be lodged with the Secretariat of the Appeals Board within two months of the date of notification of the decision complained of. Nevertheless, in exceptional cases, in particular where pensions are concerned, the Appeals Board may admit appeals lodged within one year of the date of notification of the decision complained of.

(d) Appeals must be in writing; they must state all grounds of appeal put forward by the appellant and supporting documentary evidence must be produced at the same time.

(e) Appeals shall not stay the execution of the decisions complained of.

E. Preliminary procedure

(a) Appeals shall be transmitted immediately to the Director-General, who must make his comments thereon in writing. A copy of these comments shall, within one month from the date of lodging the appeal, be communicated to the Secretary of the Board, and to the appellant, who within twenty days may make a reply in writing, a copy of which shall be communicated immediately to the Director-General by the Secretary of the Board.

(b) Appeals, together with the memorandums and the documentary evidence in support, the comments of the Director-General and the appellant's reply, if any, shall be communicated to the members of the Board by its Secretariat within three months of the lodging of the appeal and at least fifteen days before the date of the meeting at which they are to be considered.

F. Convening of the Board

The Appeals Board shall be convened by its Chairman. It shall in principle consider appeals submitted to it within four months of the date on which they were lodged.

G. Meetings of the Board

(a) The meetings of the Appeals Board shall be held in private (unless the Board decides otherwise). The Board shall deliberate in secret.

(b) The Director-General or his representative, together with the appellant, shall attend the proceedings and may make oral statements in support of the grounds adduced in their memorandums.

(c) The Appeals Board may require the production of any document that it deems useful for the consideration of the appeal before it. Documents so produced must also be

communicated to the Director-General and the appellant.

(d) The Board shall hear the parties and such witnesses as it deems may usefully depose in the proceedings. Any staff member called as a witness must appear before the Board and may not refuse to give the required information.

(e) Persons attending a meeting of the Board shall in no case divulge any facts coming to their notice or any opinions expressed during the proceedings.

H. Decisions of the Board

(a) In exceptional circumstances, the Board may make an interim order staying the execution of the measure complained of, pending a final decision in accordance with following paragraphs.

(b) Decisions shall be taken by majority vote. They must be rendered in writing and must state the grounds on which they are based. There shall be no appeal from them, and they shall be enforceable for both parties within one clear day of their notification.

(c) The Board may, however, be requested to rectify a clerical or accidental mistake in a decision rendered. Requests for rectification must be submitted within six months of the date when the mistake was noted

ITER BASIC SALARY TABL, SALARY SCALE FOR THE PROFESSIONAL AND HIGHER CATEGORIES*
SHOWING (Base: January 2005):
ANNUAL GROSS SALARIES AND NET EQUIVALENTS AFTER APPLICATION OF INTERNAL TAX (in Euro)

Level	STEPS														
	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII	XIV	XV
USG Gross	152,707														
Net D	102,878														
Net S	92,585														
ASG Gross	138,966														
Net D	94,359														
Net S	85,445														
D-2 Gross	114,136	116,621	119,106	121,592	124,077	126,562									
Net D	78,965	80,505	82,046	83,587	85,128	86,669									
Net S	72,543	73,844	75,139	76,431	77,718	79,001									
D-1 Gross	104,032	106,214	108,395	110,577	112,759	114,940	117,123	119,305	121,486						
Net D	72,700	74,053	75,405	76,758	78,111	79,463	80,816	82,169	83,521						
Net S	67,198	68,374	69,547	70,717	71,885	73,050	74,212	75,372	76,529						
P-5 Gross	85,512	87,370	89,225	91,080	92,938	94,793	96,650	98,506	100,363	102,219	104,074	105,931	107,788		
Net D	61,217	62,369	63,520	64,670	65,821	66,972	68,123	69,274	70,425	71,576	72,726	73,877	75,029		
Net S	56,871	57,894	58,913	59,932	60,949	61,964	62,978	63,989	64,999	66,007	67,013	68,018	69,021		
P-4 Gross	69,307	70,989	72,693	74,483	76,275	78,066	79,858	81,649	83,441	85,230	87,022	88,813	90,605	92,396	94,188
Net D	51,048	52,159	53,270	54,380	55,491	56,601	57,712	58,822	59,933	61,043	62,154	63,264	64,375	65,485	66,596
Net S	47,538	48,549	49,559	50,568	51,576	52,582	53,589	54,594	55,597	56,600	57,602	58,603	59,603	60,602	61,601
P-3 Gross	56,097	57,653	59,214	60,768	62,328	63,885	65,441	67,001	68,559	70,116	71,675	73,286	74,947	76,603	78,262
Net D	42,330	43,357	44,387	45,413	46,443	47,470	48,497	49,526	50,555	51,582	52,611	53,638	54,667	55,694	56,722
Net S	39,512	40,457	41,404	42,349	43,296	44,240	45,185	46,132	47,076	48,022	48,964	49,907	50,848	51,790	52,733
P-2 Gross	45,394	46,673	47,948	49,316	50,709	52,101	53,495	54,886	56,281	57,675	59,067	60,462			
Net D	35,095	36,016	36,935	37,854	38,774	39,693	40,613	41,531	42,451	43,372	44,290	45,211			
Net S	32,918	33,753	34,585	35,418	36,251	37,085	37,932	38,776	39,625	40,470	41,315	42,163			
P-1 Gross	35,237	36,464	37,690	38,920	40,146	41,373	42,601	43,829	45,054	46,283					
Net D	27,782	28,666	29,549	30,434	31,317	32,200	33,085	33,969	34,851	35,735					
Net S	26,207	27,021	27,836	28,650	29,464	30,277	31,093	31,896	32,697	33,498					

Net D = Rate applicable to staff members with a dependent spouse or child.

Net S = Rate applicable to staff members with no dependent spouse or child.

ITER BASIC SALARY TABLE

**II, SALARY SCALE FOR THE SPEZIALIZED TECHNICAL SUPPORT STAFF* SHOWING (Base January 2005):
ANNUAL GROSS SALARIES AND NET EQUIVALENTS AFTER APPLICATION OF INTERNAL TAX (in Euro)**

Grade		Step											
		I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII
G-1	Gross	26,126	27,051	27,975	28,9	29,825	30,749	31,674	32,599	33,523	34,448	35,373	36,297
	Net	20,933	21,645	22,357	23,069	23,781	24,493	25,205	25,917	26,629	27,341	28,053	28,765
G-2	Gross	29,1	30,126	31,152	32,178	33,204	34,23	35,256	36,282	37,308	38,334	39,36	40,386
	Net	23,223	24,013	24,803	25,593	26,383	27,173	27,963	28,753	29,543	30,333	31,123	31,913
G-3	Gross	32,404	33,542	34,679	35,817	36,955	38,092	39,23	40,368	41,534	42,718	43,901	45,085
	Net	25,767	26,643	27,519	28,395	29,271	30,147	31,023	31,899	32,775	33,651	34,527	35,403
G-4	Gross	36,066	37,329	38,591	39,853	41,128	42,442	43,755	45,069	46,382	47,696	49,009	50,323
	Net	28,587	29,559	30,531	31,503	32,475	33,447	34,419	35,391	36,363	37,335	38,307	39,279
G-5	Gross	40,131	41,561	43,018	44,474	45,931	47,388	48,845	50,301	51,758	53,215	54,672	56,128
	Net	31,717	32,795	33,873	34,951	36,029	37,107	38,185	39,263	40,341	41,419	42,497	43,575
G-6	Gross	44,796	46,412	48,028	49,645	51,261	52,877	54,493	56,109	57,726	59,342	60,958	62,674
	Net	35,189	36,385	37,581	38,777	39,973	41,169	42,365	43,561	44,757	45,953	47,149	48,345
G-7	Gross	50,001	51,795	53,588	55,381	57,174	58,968	60,761	62,652	64,575	66,499	68,422	70,345
	Net	39,041	40,368	41,695	43,022	44,349	45,676	47,003	48,33	49,657	50,984	52,311	53,638

III. Post Adjustment Multiplier: The Post Adjustment Multiplier for the Headquarter is set at 47.9.

* The grades correspond to the IAEA grading system.

ANNEX IX
Internal Tax

- I. The internal tax shall be calculated at the following rates for Professional Staff members:

- A. Internal tax rates for staff members with dependants:

<i>Taxable payments (Euro)</i>	<i>Internal tax rates for those with a dependent spouse or dependent child (percentage)</i>
First 24,118 per year	18
Next 24,118 per year	28
Next 24,118 per year	34
Remaining taxable payments	38

- B. Internal tax for staff members without dependants:

Internal tax amounts for those with neither a dependent spouse nor a dependent child would be equal to the differences between the gross salaries at different grades and steps and the corresponding net salaries at the single rate;

- II The internal tax shall be calculated at the following rates for Specialized Technical Support Staff members:

<i>Total taxable payments (Euro)</i>	<i>Internal Tax Rate (percentage)</i>
First 20,399.50 per year	19
Next 20,399.50 per year	23
Next 20,399.50 per year	26
Remaining taxable payments	31

MAIN PROVISIONS OF THE DRAFT HEADQUARTERS AGREEMENT⁸

PRIVILEGES AND IMMUNITIES

Article 1 - General

For the pursuit of its official activities within the territory of France, the ITER Organisation shall enjoy the privileges and immunities defined in Annex Y to the agreement or in any relevant Complementary Agreement in force between France and the ITER Organisation in accordance with the provisions for its implementation set out in this Part of Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (hereinafter referred to as “the ITER Agreement”).

Article 2 – not used

Article 3 - Exemption from taxation

1. The ITER Organisation, its property and its assets shall, within the limits of its official activities, be exempt from all direct taxation and duties levied by the State, Regions, Provinces and Municipalities.
2. In respect of purchases, services and transactions effected in pursuance of its official objectives, the ITER Organisation shall, for the purposes of registration and mortgage duties, enjoy the same exemptions and concessions as those granted to French administrations, including stamp duty on deeds, contracts and formalities necessary to the grant of the use of the site on which ITER has been established and on those necessary to the attainment of its objectives.
3. With regard to value-added tax, the ITER Organisation shall be exempt from paying such tax on substantial⁹ purchases of goods and services and on imports of goods connected with the pursuance of its official objectives and the discharge of its functions. For the purposes of this Agreement, "substantial purchases" means purchases of goods or services of a value exceeding xxx or such higher value as may be fixed as a general rule by the relevant French authorities.

⁸ To be verified and checked against other HQ Agreements by the Parties.

⁹ To consider whether the concept of “substantial” purchases could be dropped.

4. The ITER Organisation shall also be exempt from consumer tax and related surcharges on electricity consumed within ITER except for private circuits. Refunds may be granted in lieu of exemption from payment.

5. The exemptions and concessions stipulated in this Article shall not apply to charges for services rendered to the ITER Organisation.

6. For tax purposes, official activities conducted at ITER shall be deemed to fall within the legal/property sphere of the ITER Organisation.

Article 4 - Vehicles of the ITER Organisation

The ITER Organisation shall be exempt from taxes and any other duty, as also from all prohibitions and restrictions, in respect of the import of vehicles for the ITER Organisation "official use" and of spare parts for them. The ITER Organisation shall also be exempt from motor vehicle tax in respect of such vehicles, which shall be registered in a special series. Fuel and lubricants for those vehicles may be imported free of customs duties and of taxes on their manufacture, within quantitative limits to be established by mutual agreement between the French Finance Administration and the ITER Organisation.

Article 5 - Import and export of goods

(a) The ITER Organisation shall be exempt from customs duties and all other taxes, prohibitions and restrictions on goods of any kind imported or exported by it in the course of its official activities, save for health and plant-health provisions. Notwithstanding the foregoing, the ITER Organisation shall not request exemption from customs duties or any other tax on imported goods of a value less than xxx or any greater value that may be fixed as a general rule by the relevant French authorities.

(b) Goods imported, exported or transferred in accordance with Article 6 **and Article IX paragraph 2**~~[does not exist anymore]~~ of Annex Y to the ITER Agreement may, if transported as hand luggage, be declared for import and export in accordance with special agreements to be concluded between the ITER Organisation and the French authorities providing, in particular, for the use of the labels and forms normally employed for diplomatic baggage.

Article 6 - Goods and materials of the ITER Organisation

1. Goods and materials imported or exported by the ITER Organisation, in its name, or on its behalf, which are necessary for its installation or its running, shall be allowed into France exempt from taxes and all other import and export duties, as also from all prohibitions and restrictions on import and export except for prohibitions to do with health or plant-health.

2. France and the ITER Organisation shall take the necessary measures to facilitate practical implementation of the provisions of paragraph 1 of this Article, in particular so as to ensure that the transfer of goods and services between Headquarters and the Field Centres of the ITER Organisation, as well as between ITER and its contractors, is effected as efficiently as possible.

Article 7- Disposal of goods

Goods imported exempt from duties and taxes under the terms of Articles **18 and 20 of this Agreement** *[Does not exist]* shall not be sold or given away to a third party unless the prior agreement of the French authorities has been obtained and the applicable duties, taxes and contributions paid. Where such duties, taxes and contributions are calculated on the basis of the value of the goods, the value at the time of disposal and the rates in force at that time shall apply.

Article 8 - Representatives and experts

1. The term “representatives of Members” in Article 14 of Annex Y to the ITER Agreement shall be deemed to include all representatives and alternates attending meetings of the Council and of its subordinate bodies. It is clearly understood that if the Chairman and Vice-Chairman of the Council, the Chairman and Vice-Chairmen of the subordinate bodies cease to act as “representatives of Members”, they shall remain covered by the provisions of Article 14 of Annex Y to the ITER Agreement.

2. France shall use its best efforts to facilitate the unimpeded entry into and exit from France of experts within the meaning of Article 17 of Annex Y to the ITER Agreement and of **scientists¹⁰ within the meaning of xxx of the JIA** and to provide, upon request, assistance during their stay in France.

Article 9 - Director General

1. Pursuant to Article 15 of Annex Y to the ITER Agreement, the Director-General of the ITER Organisation shall, while discharging his functions in France, enjoy the privileges and immunities to which the head of a diplomatic mission is entitled under the provisions of the Vienna Convention on diplomatic relations.

2. Application of paragraph 1 of this Article shall in no way affect the provisions of paragraph 1 of Article 18 of Annex Y to the ITER Agreement.

Article 10 - Staff Members of the ITER Organisation¹¹

¹⁰ Scientists should be defined in the relevant article of the JIA or Related Instrument

¹¹ To verify practice with French authorities.

1. Staff members of the ITER Organisation who discharge their functions in France shall enjoy the privileges and immunities specified in Article 16 of Annex Y to the ITER Agreement; it is agreed, in particular, that:

(a) they shall not require work permits or residence permits, nor be subject to regulations on the registration of aliens, provided they hold the personal identity card referred to in (b) below; the same applies to members of their families and their domestic staff;

(b) they, members of their families and their domestic staff shall obtain from the relevant French authorities a special personal identity card certifying their connection with the ITER Organisation and their entitlement to the privileges and immunities specified in Annex Y to the ITER Agreement and in this Agreement;

(c) they may import, free of duty and without prohibition or restriction, from the country of their last residence or from the country of which they are nationals, on the basis of first installation and for a period of one year from the date of taking up duties with the ITER Organisation, their furniture and personal effects, including one motor vehicle for the staff member and one for the staff member's spouse, acquired under the market conditions of that country, which vehicles shall be registered in a special series;

(d) they may export, without prohibition or restriction, during a period of one year from the date of ceasing duty with the ITER Organisation, their furniture and personal effects, including motor vehicles, in their use and possession;

(e) they shall be granted the same advantages in respect of foreign currency as the officials of foreign diplomatic missions in France.

2. In addition to the privileges and immunities specified in Article 16 of Annex Y to the ITER Agreement, staff members who are neither French nationals nor permanently resident in France shall have the right to acquire a motor vehicle without payment of taxes and duties for the duration of their stay in France, which vehicle shall be registered in a special series.

3. The ITER Organisation shall inform France whenever a staff member takes up or relinquishes his duties. It shall at least once every year send the Government a list of all staff members and family members forming part of their households.

4. **Scientists within the meaning of xxx of the JIA** and trainees shall benefit from the provisions of paragraph 1 a above when carrying out research at the ITER Organisation.

5. France will, upon request, provide assistance in obtaining educational facilities for the children of staff members of the ITER Organisation.

Article 11 - Exemption from income tax

Staff members of the ITER Organisation discharging their functions in France shall be exempt from all income tax, in accordance with Article 18 of Annex Y to the ITER Organisation and from the taxes imposed by French Law

Article 12 - Social Security¹²

The ITER Organisation, its Director General, its staff members and their families to whom the ITER Organisation Social Security Scheme applies shall in accordance with Article 20 of Annex Y to the ITER Agreement be exempt from all compulsory contributions to France Social Security bodies solely with regard to income arising out of their employment with the ITER Organisation, applying the regulations in force to other possible revenues of the above-mentioned persons of French nationality.

The persons referred to in the above paragraph consequently shall not be entitled to benefits prescribed by the relevant French legislation unless a complementary agreement has been concluded to that effect.

¹² Only for Directly employed staff.

ITER Site Support Agreement

SITE SUPPORT AGREEMENT

Between

The ITER ORGANIZATION

and

CEA/Agence ITER-France

The ITER International Fusion Energy Organization, hereinafter referred to as “the Organization”, represented by the ITER Director-General,

and

The CEA/Agence ITER-France, hereinafter referred to as the “Host Organization”, represented by the Director, [Name]

hereinafter referred to as “the Parties”,

HAVING REGARD to the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project, hereinafter referred to as the “ITER Agreement” and in particular to the provisions of Article 12 and to the Annex on Site Support forming part of the ITER Agreement and concerning the provision of site support;

HAVING REGARD ALSO to the designation, in accordance with Article 12.1 of the ITER Agreement, by EURATOM of the Host Organization to act on its behalf in discharging the obligations of the Host Party under said Article;

INTENDING to specify the means for effective collaboration and support which are essential to the successful implementation of the ITER project and for the effective running of the ITER Organization;

INTENDING ALSO to clarify the financial responsibilities both for the work done by the Host Organization to bring the site into the reference conditions and for the provision of support and services to the ITER Organization;

HAVE AGREED AS FOLLOWS-

Article 1 - Subject Matter

- 1.1 The Host Organization shall make available to the ITER Organization the site facilities and services specified in this Agreement on the terms specified in this Agreement.
- 1.2 Estimates of the annual support requirements shall be agreed between the Parties before the beginning of each year, using the Liaison Committee referred to in Article 3 of this Agreement. These estimates shall be accompanied by an indicative five year rolling forecast.
- 1.3 The obligation of the Host Organization to provide, and of the ITER Organization to pay for, the support under the Agreement shall be based on the Estimates for each year.

Article 2 – Duration of the Agreement

- 2 This Agreement shall enter into force on the date of signature by the two Parties. It shall terminate upon the date of expiry of the ITER Agreement.**

Article 3 – Liaison Committee

- 3.1 A Liaison Committee shall be established to ensure the effective provision of the support and services covered by this Agreement, and effective co-operation between the Parties. In particular it shall:**
 - 3.1.1 prepare annual estimates of support and services covered by this Agreement and an indicative five year forecast as provided in Article 1.2 and Annex 1 of this Agreement;
 - 3.1.2 agree upon the method of providing services, and of meeting their cost within the provisions of Article 7 of this Agreement, and shall endeavour to resolve any difficulties which may arise in their provision;
 - 3.1.3 promote co-operation on safety standards and procedures;
 - 3.1.4 agree upon detailed financial procedures – particularly as concern procurements – within the Project Management Resource Regulations of the ITER Organization;
 - 3.1.5 discuss matters of common interest to the ITER Organization and the Host Organization;
 - 3.1.6 review at intervals the effectiveness of support provided under this Agreement.
- 3.2 Members shall be the Director-General of the ITER Organization and the Director of the Host Organization or their nominees, as well as any additional members from each Party nominated by them. The members may call upon additional persons to attend the meetings.
- 3.3 Meetings of the Liaison Committee shall take place at regular intervals agreed between the Parties, with special Meetings being convened at the request of either Party.
- 3.4 Each Party to shall nominate Liaison Officers to deal with the day to day requests for information and services.

Article 4 – Land, Buildings and Facilities

- 4.1 The Host Organization shall lease to the ITER Organization free of charge an area of land defined in Annex 1.1 to this Agreement. (Guidelines for the conditions of this lease are in Annex 4 to this Agreement.)
- 4.2 Subject to the laws of the Host State, to the terms of the ITER Agreement and to other provisions of this Agreement, the ITER Organization shall have exclusive right of use of this land and shall be free to conduct all actions it may deem necessary for the success of the ITER project. In particular the ITER Organization shall be free within the provisions of the Agreement to construct the ITER device and the buildings and facilities required for it.
- 4.3 The Host Organization shall provide at its own expense the temporary accommodation for the ITER Organization as specified and in accordance with the schedule set out in Annex to this Agreement. The ITER Organization shall pay a rental for this accommodation and for such associated services as are not charged separately, on a basis of proven cost under a specific contract in accordance with the provisions of Article 6 of this Agreement.
- 4.4 The Host Organization shall provide at its own expense as soon as possible, service installations for use by the ITER Organization as specified in Annex 1 to this Agreement.
- 4.5 The Parties shall collaborate, without prejudice to any agreement on financial liability, in obtaining such modifications or extensions to the service installations in the future as are necessary for later phases of the ITER Project.
- 4.6 The Liaison Committee shall establish the arrangements for the circulation of personnel of each Party within the respective boundaries of the CEA Cadarache and the ITER site. Both Parties shall ensure that persons concerned in such circulation shall exercise due care and attention and shall conform with all current local regulations.
- 4.7 When mutually agreed, each Party shall be permitted to use the buildings and facilities of the other Party. When costs are thereby incurred, each Party shall make charges in accordance with the principles defined in Article 6 of this Agreement.

ARTICLE 5 – SERVICES

- 5.1 The Host Organization shall ensure that the services listed in Annexes 2 and 3 of this Agreement are available to the ITER Organization. The level and manner of use of these services shall be agreed between the Parties using the Liaison Committee, and based upon the annual Estimates mentioned in Article 1.2 of this Agreement.
- 5.2 These services shall be provided free of charge or charged to the ITER Organization as specified in Annexes 2 and 3 of this Agreement. Charges shall be in accordance with the provisions of Article 6 of this Agreement.

ARTICLE 6 - FINANCIAL CHARGES FOR BUILDINGS AND SERVICES

- 6.1 *Rentals for Buildings and Facilities*

For the temporary accommodation and facilities as defined in Annex 5 to this Agreement the rental shall be set at a rate of per square metre for net working space (excluding space for circulation, washrooms, toilets and service plant). [*Maybe various rates for Offices, Workshop space, storage space etc*] The rental rate shall be adjusted annually for inflation according to [*a standard index*] The buildings and facilities shall be made available in full working condition for the purposes for which the ITER Organization will use them, in conformity with the normal standards of the Host Organization. Where temporary accommodation is provided outside of the ITER Site boundary, this shall also conform to the normal standards of the Host Organization and be reasonably close to the ITER Site. Rental shall be payable quarterly in advance from the date of occupation of the buildings.

6.2 *Charges for Supporting Services*

Charges to the ITER Organization shall be at proven cost as defined by the accounting conventions in force in the Host Organization. The Parties, acting through the Liaison Committee shall agree the detailed modalities for applying the above-mentioned principle of charging according to the services provided. For those services for which the Host Organization is liable to pay the capital costs of installation in accordance with Annex ... of the ITER Agreement, the charges made to the ITER Organization shall not include any element for recovery of the capital costs concerned.

6.3 Invoices showing the charges made to the ITER Organization under this Agreement together with the necessary supporting documents shall be submitted at quarterly intervals as agreed by the Parties. Supplementary invoices may be submitted when necessary, and a final invoice shall be submitted upon termination of the ITER Agreement.

6.4 90% of the estimated expenditure under this Agreement, as agreed by the Parties, shall be paid to the Host Organization during the quarter to which it refers. Full settlement shall be made within 30 days of the receipt of the corresponding quarterly invoice.

6.5 The Host Organization and the ITER Organization and their auditors and authorised agents shall, for auditing purposes, have access to such documents as shall substantiate the charges made to each other for a period of three years after the year or years to which they relate.

6.6 Where the ITER Organization decides, within the frame of the five year forecast, to procure any service or services provided for by this Agreement by means of a call for tender, the Host Organization shall have the right to submit a tender for evaluation on the same basis as any other company or organization. In the event that the ITER Organization selects the Host Organization for the service concerned then the conditions of supply and the charges shall be in accordance with the terms established through the tender process and resultant contract.

ARTICLE 7 SUBCONTRACTS

- 7.1 Each Party to this Agreement shall be free to enter into sub-contracts to assist in the fulfilment of its obligations deriving from this Agreement, without thereby being released from those obligations. Such subcontracts shall be reported at the Liaison Committee.
- 7.2 Where either Party incurs costs under such sub-contracts, these costs shall be regarded as part of the actual costs of fulfilling the obligation. If this cost is greater than the costs which would have been incurred if the obligation had been fulfilled without such a sub-contract, the Parties shall determine which cost (or what intermediate cost) shall be used as the basis for charges between the two Parties.

ARTICLE 8 – TAXATION

- 8 The Host Organization shall make available to the ITER Organization all documents which it might require in order to submit to the tax authorities applications for refund of any duties or taxes which may have been paid in respect of the performance of this Agreement.

ARTICLE 9 – SAFETY

- 9.1 The Host Organization and the ITER Organization shall cooperate by means of the Liaison Committee to ensure that all actions and operations of, and in support, of the ITER Organization meet the statutory requirements of France regarding safety.
- 9.2 The ITER Organization and its staff shall comply with the safety Regulations which apply in the Host Organization. [EU Proposal: The ITER Organization and its staff shall comply with the safety Regulations of the Host State including public and occupational health and safety, nuclear safety, radiation protection, licensing, and protection of environment.]
- 9.3 The Host Organization shall be responsible, unless otherwise agreed by the Parties, for the safe state of all support covered by this Agreement.
- 9.4 Within the responsibilities of the ITER Organization under Article 15 of the ITER Agreement, the Host Organization shall provide a service for the management and disposal of radioactive waste as it arises in the course of ITER operations and during the phase of de-activation, pending the transfer of the ITER Facilities to France in accordance with Article 17 of the ITER Agreement. Such services will be subject to a specific contract.

ARTICLE 10 – SECURITY

- 10.1 The ITER Organization shall comply with the regulations which apply in the Host Organization for the protection of the site and of the personnel property and information thereon.

- 10.2 The ITER Organization shall comply with the [safeguards]¹³ which apply in the Host Organization in respect of radioactive substances.
- 10.3 Without prejudice to the operation of Article 11 of the ITER Agreement governing the treatment of Information and Intellectual Property in the ITER project, the Parties shall respect and protect such private information as comes into their possession. The ITER Organization shall ensure that the Parties to the ITER Agreement provide, as necessary, appropriate accreditation of ITER staff to enable access to privileged or protected information of the Host Organization needed for the fulfilment of their official duties.
- 10.4 Each Party shall respect the other's interest in authorizing publication of information and communications to the media.
- 10.5 The detailed implementation of this Article shall be agreed between the Parties using the Liaison Committee.

ARTICLE 11 – FORCE MAJEURE

- 11 Neither Party to this Agreement shall be liable for failure to fulfil any of its obligations under this Agreement in so far as such failure is due to any cause beyond its reasonable control, including, but not limited to, act of God, natural disasters, fire, flood, riot, insurrection, industrial dispute, inevitable accident, war, embargoes.

ARTICLE 12 – APPLICABLE LAW

- 12 This Agreement shall be governed by French Law.

ARTICLE 13 – SETTLEMENT OF DISPUTES

- 13 Any dispute between the Parties concerning the interpretation or application of this Agreement which is not settled by the good offices of the ITER Council, may, at the request of the Parties, be presented for settlement in accordance with the procedures set out in Article 26 of the ITER Agreement.

ARTICLE 14 – AMENDMENTS TO THIS AGREEMENT

- 14 All amendments or additions to this Agreement shall be proposed in writing. The amendment shall come into effect upon approval by the ITER Council and signature by the Parties. The Parties shall review this Agreement at periods of not more than five years.

ARTICLE 15 – PRECEDENCE

- 15 The provisions of the ITER Agreement shall have precedence over any contrary provisions of this Agreement.

¹³ Safeguards used for fissile materials.

ARTICLE 16 – ANNEXES

- 16 The following are added to and shall form an integral part of this Agreement:
- Annex 1: Items for which the Host Organization shall bear the capital costs;
 - Annex 2: Services provided free of charge to the ITER Organization by the Host Organization;
 - Annex 3: Services provided by the Host Organization and charged to the ITER Organization
 - Annex 4: Guidelines for the conditions of lease of land to the ITER Organization
 - Annex 5: Temporary Accommodation