



Consiglio Nazionale
delle Ricerche



AGREEMENT

ON

ACADEMIC, SCIENTIFIC AND TECHNICAL COOPERATION

Between

CONSIGLIO NAZIONALE DELLE RICERCHE (CNR)

and

THE ITER INTERNATIONAL FUSION ENERGY ORGANIZATION

ITER RESTRICTED

This Agreement is entered into by and between:

CONSIGLIO NAZIONALE DELLE RICERCHE whose headquarters are located at Piazzale Aldo Moro, 7 - 00185 Roma, Italia, registered under number fiscal code: 80054330586, represented by Mrs. Maria Chiara CARROZZA, duly authorized to sign the present Agreement in her capacity of President of the CNR, hereafter referred to as “**CNR**”,

and

THE ITER INTERNATIONAL FUSION ENERGY ORGANIZATION whose headquarters are located at Route de Vinon, 13115 Saint-Paul-lez-Durance, France, represented by Mr. Eisuke Tada, duly authorized to sign the present Agreement in his capacity of Director-General, *interim* of the ITER Organization,

hereafter referred to as “**the ITER Organization**” or “**IO**”,

Hereinafter referred to collectively as “the Parties” and individually as “the Party”

ITER RESTRICTED

HAVING REGARD to the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project, of 21 November 2006 (Hereinafter referred to as the “ITER Agreement”) including its two Annexes, in particular its Annex I on Information and Intellectual property;

HAVING REGARD to the Agreement on Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project, of 21 November 2006;

WHEREAS the Purpose of the ITER Organization shall be to provide for and promote cooperation among its 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;

NOTING that the CNR carries out research programs in plasma physics / nuclear fusion and it is a scientific institution of Italy, which is a Member State of the European Atomic Energy Community (Euratom);

FURTHER NOTING that Euratom is a founding Member of the ITER Organization;

RECALLING that in the preamble of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (hereafter referred to as “the ITER Agreement”), the parties to the ITER Agreement 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*”;

RECOGNIZING that cooperation with laboratories and institutions of the Members is considered an essential element in support of the future joint exploitation of the ITER facilities under the ITER Agreement;

RECALLING that the ITER Organization, in accordance with its functions as set out in Article 3 paragraph 1 (b) of the ITER Agreement, shall “*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*”;

FURTHER RECALLING that at its fifth meeting on 18 and 19 November 2009, the ITER Council endorsed the proposal from the Director-General of the ITER Organization for the Policies of the ITER Organization concerning Cooperation with Research Institutes, Laboratories and other Institutions of the Members of the ITER Organization;

CONSIDERING that under the above-mentioned policies, cooperative research activities may be implemented in an administratively simple way in order to facilitate an efficient and quick implementation of such activities;

CONSIDERING that the ITER Organization and the CNR have recognized the mutual benefits that could be obtained from academic and scientific cooperation;

The Parties have agreed to cooperate with each other as follows:

Article 1
PURPOSE

The CNR and the ITER Organization agree on the importance of promoting and furthering academic and scientific or technical cooperation between the two institutions. In this respect, the purpose of this Cooperation Agreement (hereinafter referred to as the “Agreement”) is to promote cooperation and exchange in academic, scientific and/or technical fields of mutual interest.

Article 2
SCOPE AND TYPES OF ACTIVITY

1. The Parties agree on conducting cooperation, subject to the Export Control laws and regulations of each Party, and in compliance with the ITER Agreement and its Annex on Information and Intellectual Property, in the following fields:
 - Joint training and exchange of young scientists and engineers;
 - Exchange of scientists or experts, including within the framework of the ITER Project Associate (IPA) Scheme;
 - Joint research projects in Nuclear Fusion, Fusion diagnostics, and in Fusion Technology.
2. The scope and types of activities under this Agreement shall depend on the funds respectively available to each Party for the types of cooperation undertaken.
3. The Parties agree to actively seek sources of funding in order to support the cooperation envisaged under this Agreement. All arrangements concerning funding shall be provided for in the implementing agreements defined in Article 4.

Article 3
PEACEFUL PURPOSES

The Parties shall use the results of their cooperation for peaceful purposes only.

Article 4
IMPLEMENTATION OF THE COOPERATION

1. Each Party shall make its best efforts under this Agreement to notify the other Party of possibilities for collaborative activities for the mutual benefit of the Parties, in accordance with its internal rules and regulations.
2. The implementation of the collaborative activities referred to in Article 2 of this Agreement shall be subject to the conclusion between the Parties of specific written implementing agreements. Such implementing agreements shall cover the exact scope of the activities. They shall include detailed provisions for the implementation of the concerned activity, and define matters such as, but not limited to: technical scope, contributions by each Party, conditions of staff attachment (if applicable), schedule,

potential financial provisions, as well as specific provisions concerning intellectual property and rights of use and safety.

3. This Agreement shall be referred to in any such implementing agreement.

Article 5 COORDINATION COMMITTEE

1. The Parties may establish a Coordination Committee, composed of an equal number of representatives from each Party, which may meet to discuss the scope of proposed activities, as well as appropriate frameworks to implement them, as necessary, and if required.
2. If established, the Coordination Committee shall decide on its meeting and consultation modalities and on a mechanism to discuss, monitor, and coordinate proposed cooperation activities.

Article 6 INFORMATION AND INTELLECTUAL PROPERTY

1. The ITER Organization is subject to the provisions of Article 10 of the ITER Agreement and its Information and Intellectual and Property Annex, and in particular the Article 5 of the Annex.
2. Specifically, and without prejudice to the above:
 - a. Intellectual Property which is owned by either Party before the entry into force of the present Agreement, or which is generated outside the scope of any cooperation under the present Agreement (hereafter ‘Background Intellectual Property’), shall remain the property of that Party. When a Party has incorporated Background Intellectual Property into any cooperation activity under the present Agreement, and if use of or access to such Background Intellectual Property is necessary for the use of any of the results of the cooperation, the other Party shall be granted a non-exclusive, irrevocable and royalty-free license for publicly sponsored fusion research and development purposes. For any other use, a license may be granted under conditions to be agreed by the Parties.

Intellectual Property which is generated during the execution of any cooperation under the present Agreement (hereafter “Generated Intellectual Property”) shall be owned by the ITER Organization. Notwithstanding the foregoing, the CNR shall be granted a non-exclusive, irrevocable and royalty free license for use of such Generated Intellectual Property for publicly sponsored fusion research and development purposes. For any other use, a license may be granted under conditions to be agreed by the Parties.

3. The Parties shall take reasonable steps to identify and promptly notify each other in writing of any results, whether protectable or not, generated in the execution of the collaborative activities under this Agreement. If necessary, such notifications shall be subject to the appropriate confidentiality arrangements in order to not compromise the registration or protection of such generated intellectual property.

Article 7 CONFIDENTIALITY

1. The Parties undertake to hold in confidence and not to copy, divulge to third parties or use for other purposes than to satisfy the implementation of this Agreement, any know-how, information or documents received from the other Party for the implementation of this Agreement, and marked as “confidential” (Confidential Information) or if provided orally or visually, identified as confidential at the time of disclosure and confirmed in writing within thirty (30) days of disclosure.
2. The Parties shall continue to be bound by this undertaking after the expiration or termination of this Agreement.
3. Each Party shall vouch for the compliance of its personnel or suppliers with the confidentiality of such Confidential Information. Such information may not be given to persons other than those who are entitled to have access to it, based on the need to know, and only after authorization of the person responsible for the implementation of this Agreement.
4. If the receiving Party is legally required to disclose any Confidential Information, it will give the disclosing Party prompt written notice of the request, and use its best efforts to limit disclosure and to obtain confidential treatment or a protective order and allow to the fullest extent possible the disclosing Party to participate in the proceeding.
5. Should a Party have knowledge of any incident that suggests that there has been an infringement of the obligation of confidentiality, it shall inform the other Party without delay.
6. The foregoing obligations will not apply to any Confidential Information that:
 - a. the receiving Party can demonstrate was in its rightful possession free of any obligation of confidentiality prior to its first receipt from the disclosing Party;
 - b. is publicly known through no fault of the receiving Party (except that information shall not be deemed to be publicly known simply because a portion thereof is embodied in a general disclosure or because individual features, components or combinations thereof are known to the public);
 - c. is obtained from a third person who had a right to disclose it; or
 - d. the receiving Party can show was independently developed without access to any Confidential Information of the disclosing Party.
7. It is expressly understood and agreed by the Parties hereto that the disclosure and provision of Confidential Information under this Agreement by one Party to the other Party shall not be construed as granting to the receiving Party of any rights, whether expressed or implied, by license or otherwise, on the matters, inventions or discoveries to which such Confidential Information pertains, nor on any works subject to copyright, trademark or trade secret rights.

Article 8
PUBLICATIONS - COMMUNICATION

1. The Parties shall strive to publish the results of their cooperation, it being understood, however, that any such publication shall be notified to the other Party in order to allow the other Party to inform of any ongoing measures to protect intellectual property disclosed in the publication.
2. Publications under this provision cannot assign any rights to third parties, unless explicitly agreed by the Parties who are owners of the corresponding rights.
3. Each Party agrees that neither Party shall use the other Party's name or logo, nor any adaptation or variation thereof, in any manner whatsoever (including, but not limited to, website(s), press releases, reference lists, or similar public announcements concerning this Cooperation Agreement), without the other Party's prior written consent in each instance. Nothing herein requires either Party to agree to the issuance of any press releases, public announcements or other public disclosure and, unless agreed to in writing in advance, neither Party shall issue any such release or announcement or make any such disclosure.

Article 9
CONFLICT OF INTEREST

1. The Parties shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the present cooperation. Conflicts of interest could arise in particular as a result of economic interest, political or national affinity, family, personal or any other relevant connection or shared interest.
2. Any conflict of interest which could arise during the present cooperation must be notified to the other Party in writing without delay. In the event of such a conflict of interest, the Parties shall immediately take all necessary steps to resolve it.
3. Without prejudice to the above, the CNR agrees that:
 - a. it shall not participate in any tender within the ITER Organization in the scope or related to the scope of the Agreement or having contributed to any of the tender package document related to the scope of the Agreement;
 - b. it shall not be awarded any contract/agreement as prime contractor/party, co-contractor or sub-contractor in relation with the work done under the work scopes defined for successful ITER project Associates (IPAs) which may be selected from the CNR applicants;
 - c. it has not made, and shall not make, any offer of any type whatsoever from which an advantage can be derived under this Agreement;
 - d. it has not granted and shall not grant, has not sought and shall not seek, has not attempted and shall not attempt to obtain, and has not accepted and shall not

accept, any advantage, financial or in kind, to or from any third party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to performance of the Agreement.

Article 10 AMENDMENT

Any modification to this Agreement shall be made upon mutual written consent of duly authorized representatives of the Parties. Such an amendment shall then become an integral part of this Agreement.

Article 11 NOTICES

1. Any notice required to be delivered hereunder shall be sent to the Parties at the following respective addresses:
 - a. If to the CNR:
Istituto per la Scienza e Tecnologia dei Plasmi,
Consiglio Nazionale delle Ricerche (ISTP-CNR)
Via Roberto Cozzi 53,
20125 Milano, Italy
Email: direttore@istp.cnr.it; daniela.farina@cnr.it
Tel/Fax: +39 02 66173 236 / 239
Attention to: ISTP-CNR Director
 - b. If to the ITER Organization:
ITER International Fusion Energy Organization
Route du Vinon-sur-Verdon
CS 90 046 – 13067
St. Paul-Lez-Durance, Cedex France
Email: tim.luce@iter.org
Attention to: Tim Luce, Head of the Science and Operation Domain
2. Every notice or communication sent to a party shall be considered to have been received upon actual receipt.
3. Either party may substitute or change its address by written notice to the other party.

Article 12 PRIVILEGES AND IMMUNITIES

This Agreement shall not be construed as a renunciation, whether explicit or implicit, on the part of the ITER Organization of the privileges and immunities granted under the Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project of 21 November 2006.

Article 13 GOVERNING LAW

1. The ITER Organization is governed by its constitutive agreements, the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project and the Agreement on the Privileges and Immunities of the ITER Organization, both signed on 21 November 2006.
2. Without prejudice to the ITER Organization's status, the provisions of this Agreement shall be interpreted in accordance with their true meaning and effect. Should there be a conflict between this Agreement and the ITER Agreement, the latter shall take precedence.
3. This Agreement is governed by, and all disputes arising under or in connection with this agreement shall be resolved in accordance with the law of the France, taking into account the ITER Organization status.

Article 14 SETTLEMENT OF DISPUTES

All disputes arising out of or in connection with this agreement, including any question regarding its existence, validity or termination ("Dispute"), shall be resolved in accordance with the procedures specified below, which shall be the sole and exclusive procedures for the resolution of any such Dispute.

1. Negotiation

The parties shall endeavor to resolve any Dispute amicably by negotiation between authorities who have authority to settle the Dispute, and if necessary, who are at a higher level of management than the persons with direct responsibility for administration or performance of this agreement.

2. Mediation

Any Dispute not resolved by negotiation in accordance with (1) within 30 days after either party requested in writing negotiation under 14.1 or within such other period as the parties may agree in writing, shall be settled amicably by mediation under the ICC Mediation Rules.

3. Arbitration

Any Dispute not resolved by mediation in accordance with (2) within 45 days after appointment of the mediator, or within such other period as the parties may agree in writing, shall be finally settled under the ICC Rules of Arbitration by one arbitrator appointed in accordance with the said Rules.

The place of arbitration shall be Paris.

The language of arbitration shall be English.

Article 15
ENTRY INTO FORCE, DURATION AND TERMINATION

1. This Agreement shall enter into force on the date that the last signature date of the Party, and shall be in force for five (5) years. It may be renewed for a further period of five (5) years upon mutual written consent of the Parties before the expiration date.
2. This Agreement may be terminated at any time by either Party upon 90 days prior written notice given to the other Party.
3. This Agreement supersedes all prior or contemporaneous agreements between the Parties in matters of academic and scientific cooperation, except if otherwise agreed by the Parties.

Article 16
ELECTRONIC SIGNATURE

Each Party agrees that this Agreement and any other documents to be delivered in connection herewith shall be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

IN WITNESS WHEREOF, the Parties have agreed to the terms set forth above.

Done in one original in the English language.

For and on behalf of

**Consiglio Nazionale delle
Ricerche**

CNR

For and on behalf of:

**ITER International Fusion Energy
Organization**

IO

Prof.ssa Maria Chiara Carrozza
President

Date:

Place:

Mr. Eisuke Tada
Director-General, *interim*

Date:

Place: