

INTERNATIONAL ENERGY AGENCY

IMPLEMENTING AGREEMENT  
FOR A PROGRAMME OF RESEARCH  
AND DEVELOPMENT ON PLASMA WALL  
INTERACTION IN TEXTOR

- (2) Has not previously been made available by the owner to others without obligation concerning its confidentiality; and
- (3) Is not already in the possession of the recipient Contracting Party without obligation concerning its confidentiality.

It shall be the responsibility of each Contracting Party supplying proprietary information to identify the information as such and to ensure that it is appropriately marked.

(d) *Production of Relevant Information by Governments.* The Operating Agent should encourage the governments of all Agency Participating Countries to make available or to identify to the Operating Agent all published or otherwise freely available information known to them that is relevant to the Programme. The Contracting Parties should notify the Operating Agent of all pre-existing information, and information developed independently of the Programme known to them which is relevant to the Programme and which can be made available to the Programme without contractual or legal limitations.

(e) *Reports on Programme Work.* Reports containing arising information and pre-existing information necessary for and used in the Programme, including proprietary information, shall be provided to each Contracting Party by the Contracting Party performing the work. It shall be the responsibility of each Contracting Party to identify information which qualifies as proprietary information under this Article and ensure that it is appropriately marked. The Operating Agent shall provide summary reports of work performed under the Annex hereto and the results thereof (arising information), other than proprietary information, to the Executive Committee.

(f) *Licence of Proprietary Information.* Each Contracting Party agrees to license all pre-existing proprietary information necessary for and used in its work under the Programme and which it owns or controls and all arising proprietary information to the Contracting Parties, their governments, and the nationals of their respective countries designated by them:

- (1) Royalty-free for research, development and demonstration purposes (non-commercial uses) in the field of fusion power only; and
- (2) On favourable terms and conditions for all other uses taking into account the equities of the Contracting Parties based upon the sharing of obligations, contributions, rights and benefits of all Contracting Parties.

Each Contracting Party agrees to license all such arising proprietary information to all Agency Participating Countries on reasonable terms and conditions for use in their own country in order to meet their energy needs.

(g) *Licence of Patents Needed for Programme.* Patents solely owned or controlled by a Contracting Party which are needed for use in the Programme shall be licensed to another Contracting Party for use in the Programme only at no cost to such Contracting Party. If such patents are partially owned or controlled by a Contracting Party, then efforts shall be made by the Contracting Party to reduce or eliminate as possible the benefit that might accrue to it.

(h) *Arising Inventions.* Inventions made or conceived in the course of or under the Programme (arising inventions) shall be owned in all countries by the inventing Contracting Party. Information regarding inventions on which patent protection is to be obtained by the Contracting Party shall not be published or publicly disclosed by the other Contracting Parties until a patent application has been filed, provided, however, that this restriction on publication or disclosure shall not extend beyond six months from the date of receipt of such information. It shall be the responsibility of the inventing Contracting Party to appropriately mark reports which disclose inventions that have not been appropriately protected by the filing of a patent application.

(i) *Licence of Inventions.* Each Contracting Party agrees to license all pre-existing inventions covered by patents owned or controlled by it which are necessary for utilizing the results of its work under the Programme and which have been utilized in that work, and all arising inventions to the Contracting Parties, their governments and the nationals of their respective countries designated by them:

- (1) Royalty-free for research, development and demonstration purposes (non-commercial uses) in the field of fusion power only; and
- (2) On favourable terms and conditions for all other uses, taking into account the equities of the Contracting Parties based upon the sharing of obligations, contributions, rights and benefits of all Contracting Parties.

Each Contracting Party agrees to license all such arising inventions to all Agency Participating Countries on reasonable terms and conditions for use in their own country in order to meet their energy needs.

(j) *Copyright.* The Operating Agent or each Contracting Party for its own work under the Programme may take appropriate measures necessary to protect copyrightable material generated under the Programme. Copyrights obtained shall be the property of that Contracting Party or the Operating Agent, provided, however, that Contracting Parties may reproduce and distribute such material, but shall not publish it with a view to profit.

(k) *Inventors and Authors.* Each Contracting Party will, without prejudice to any rights of inventors or authors under its national laws, take all necessary steps to provide the co-operation from its authors and inventors required to carry out the provisions of this Article. Each Contracting Party will assume the responsibility to pay awards or compensation required to be paid to its employees according to the laws of its country.

(l) *Determination of "National".* The Executive Committee may establish guidelines to determine what constitutes a "national" of a Contracting Party, provided, however, in recognition of the fact that all the fusion power research and development programmes of the individual Member States of the European Atomic Energy Community (EURATOM) and Sweden are carried out jointly in the framework of EURATOM, and that EURATOM acts on behalf of itself and its associated national organizations in fusion power research and development, the governments and countries referred to in paragraphs (f) and (i) above shall, with respect to EURATOM, be understood to be the governments and countries of the Member States of EURATOM and Sweden.

## Article 7

### LEGAL RESPONSIBILITY

Each Contracting Party agrees to compensate the Operating Agent or persons acting on its behalf for damages, liabilities or costs when such damages, liabilities or costs are due to the gross negligence or wilful misconduct of the personnel of the Contracting Party assigned under an agreement entered into in accordance with the Annex hereto, provided, however, that this provision shall not apply to damages, liabilities or costs insofar as and to the extent that they arise out of the gross negligence or wilful misconduct of the Operating Agent, or persons acting on its behalf.

## Article 8

### LEGISLATIVE PROVISIONS

- (a) *Accomplishment of Formalities.* Each Contracting Party shall request the appropriate authorities of its country (or its Member States in the case of an international organization) to use their best endeavours, within the framework of applicable legislation, to facilitate the accomplishment of formalities involved in the movement of persons, the importation of materials and equipment and the transfer of currency which shall be required to conduct its work under the Programme.
- (b) *Applicable Laws.* In carrying out this Agreement and the Annex hereto, the Contracting Parties shall be subject to the appropriation of funds by the appropriate governmental authority, where necessary, and to the constitution, laws and regulations applicable to the respective Contracting Parties, including, but not limited to, laws establishing prohibitions upon the payment of commissions, percentages, brokerage or contingent fees to persons retained to solicit governmental contracts and upon any share of such contracts accruing to government officials.
- (c) *Decisions of Agency Governing Board.* The Contracting Parties shall take account, as appropriate, of the Guiding Principles for Co-operation in the Field of Energy Research and Development, and any modification thereof, as well as other decisions of the Governing Board of the Agency in that field. The termination of the Guiding Principles shall not affect this Agreement, which shall remain in force in accordance with the terms hereof.
- (d) *Settlement of Disputes.* Any dispute among the Contracting Parties concerning the interpretation or the application of this Agreement which is not settled by negotiation or other agreed mode of settlement shall be referred to a tribunal of three arbitrators to be chosen by the Contracting Parties concerned who shall also choose the Chairman of the tribunal. Should the Contracting Parties concerned fail to agree upon the composition of the tribunal or the selection of its Chairman, the President of the International Court of Justice shall, at the request of any of the Contracting Parties concerned, exercise those responsibilities. The tribunal shall decide any such dispute by reference to the terms of

this Agreement and any applicable laws and regulations, and its decision on a question of fact shall be final and binding on the Contracting Parties. An Operating Agent which is not a Contracting Party shall be regarded as a Contracting Party for the purpose of this paragraph.

#### Article 9

### ADMISSION AND WITHDRAWAL OF CONTRACTING PARTIES

- (a) *Admission of New Contracting Parties: Agency Countries.* Upon the invitation of the Executive Committee, acting by unanimity, admission to the Agreement shall be open to the government of any Agency Participating Country (or a national agency, public organization, private corporation, company or other entity designated by such government), which signs or accedes to this Agreement and accepts the rights and obligations of a Contracting Party. Such admission of a Contracting Party shall become effective upon the signature of this Agreement by the new Contracting Party or its accession thereto and the adoption of any consequential amendments thereto.
- (b) *Admission of New Contracting Parties: Other OECD Countries.* The government of any Member of the Organisation for Economic Co-operation and Development which does not participate in the Agency may, on the proposal of the Executive Committee, acting by unanimity, be invited by the Governing Board of the Agency to become a Contracting Party to this Agreement (or to designate a national agency, public organization, private corporation, company, or other entity to do so), under the conditions stated in paragraph (a) above.
- (c) *Contributions.* The Executive Committee may require, as a condition to admission to participation, that the new Contracting Party accept obligations which are designed to compensate the Contracting Parties as appropriate for their prior contributions to the Programme.
- (d) *Replacement of Contracting Parties.* With the agreement of the Executive Committee, acting by unanimity, and upon the request of a government, a Contracting Party designated by that government may be replaced by another party. In the event of such replacement, the replacement party shall assume the rights and obligations of a Contracting Party as provided in paragraph (a) above and in accordance with the procedure provided therein.
- (e) *Withdrawal.* Any Contracting Party may withdraw from this Agreement either with the agreement of the Executive Committee, acting by unanimity, or by giving twelve months written Notice of Withdrawal to the Executive Director of the Agency, such Notice to be given not less than two years after the date hereof. The withdrawal of a Contracting Party under this paragraph shall not affect the rights and obligations of the other Contracting Parties.
- (f) *Change of Status of Contracting Party.* A Contracting Party other than a government or an international organization shall forthwith notify the Executive Committee

of any significant change in its status or ownership, or of its becoming bankrupt or entering into liquidation. The Executive Committee shall determine whether any such change in status of a Contracting Party significantly affects the interests of the other Contracting Parties; if the Executive Committee so determines, then, unless the Executive Committee, acting upon the unanimous decision of the other Contracting Parties, otherwise agrees:

- (1) That Contracting Party shall be deemed to have withdrawn from the Agreement under paragraph (e) above on a date to be fixed by the Executive Committee; and
- (2) The Executive Committee shall invite the government which designated that Contracting Party to designate, within a period of three months of the withdrawal of that Contracting Party, a different entity to become a Contracting Party; if approved by the Executive Committee, acting by unanimity, such entity shall become a Contracting Party with effect from the date on which it signs or accedes to this Agreement.

(g) *Failure to Fulfil Contractual Obligations.* Any Contracting Party which fails to fulfil its obligations under this Agreement within sixty days after its receipt of notice specifying the nature of such failure and invoking this paragraph, may be deemed by the Executive Committee, acting by unanimity, to have withdrawn from this Agreement.

#### Article 10

#### FINAL PROVISIONS

(a) *Term of Agreement.* This Agreement shall remain in force for an initial period of nine years from the date hereof. The term of this Agreement may be extended for such additional period as may be determined by the Executive Committee, acting by unanimity.

(b) *Legal Relationship of Contracting Parties.* Nothing in this Agreement shall be regarded as constituting a partnership between any of the Contracting Parties.

(c) *Amendment.* This Agreement and the Annex hereto may be amended at any time by the Executive Committee, acting by unanimity. Such amendments shall come into force in a manner determined by the Executive Committee, acting by unanimity.

(d) *Deposit.* The original of this Agreement shall be deposited with the Executive Director of the Agency and a certified copy thereof shall be furnished to each Contracting Party. A copy of this Agreement shall be furnished to each Agency Participating Country, and to each Member country of the Organisation for Economic Co-operation and Development.

Done in Paris, this 6th day of October, 1977.

For the NATIONAL RESEARCH  
COUNCIL OF CANADA  
(designated by the Government  
of Canada):

ALASTAIR GILLESPIE

For the EUROPEAN ATOMIC ENERGY  
COMMUNITY (EURATOM):

BRUNNER

For the GOVERNMENT OF JAPAN:

SUNAO SONODA  
13th April, 1978.

For the OFFICE FÉDÉRAL DE LA SCIENCE  
ET DE LA RECHERCHE  
DU DÉPARTEMENT FÉDÉRAL DE L'INTÉRIEUR  
for and on behalf of  
the Government of Switzerland:

A. GRÜBEL  
Subject to ratification

For the TURKISH SCIENTIFIC AND  
TECHNICAL RESEARCH COUNCIL  
(designated by the Government  
of Turkey):

MEMDUH AYTÜR

For the DEPARTMENT OF ENERGY  
for and on behalf of the Government  
of the United States of America:

JAMES R. SCHLESINGER