

COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(93) 1139 final

Brussels, 27 July 1993

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

**INTERNATIONAL
SCIENCE AND TECHNOLOGY CENTRE (ISTC) :
ADOPTION OF THE COMMUNITY POSITION CONCERNING
ISTC STATUTE AND ADMINISTRATIVE DOCUMENTS**

1. BACKGROUND

The agreement establishing an International Science and Technology Centre (ISTC Agreement) was initiated by the Commission, on behalf of the European Community and European Atomic Energy Community, acting as one party, the USA, Japan and the Russian Federation on 24 May 1992 in Lisbon.

The ISTC Agreement was signed by the Parties on 27 November 1992 in Moscow.

As far as the Community's ratification of the ISTC Agreement, the European Parliament gave its favourable opinion on 17 November 1992 and the relevant Council Regulation (EEC) No.3955/92 and Commission Regulation (Euratom) No.3956/92 of 21 December 1992 were published in O.J. L409 of 31 December 1992.

A Preparatory Committee (informal until the signature of the ISTC Agreement), with representatives from the four Parties, has held a series of working meetings since June 1992, in order to draw up, by consensus, the ISTC administrative and organisational documents, that have to be approved by the ISTC Board. The last meeting was held in Moscow on 8-12 February 1993.

In such meetings the Community was represented by the Commission; negotiations were carried out on the basis of the directives and with the concurrence of the Council Advisory Group "Eastern Europe" and "ex-USSR" after 31 December 1992.

In particular the following documents, attached hereto,¹ were drawn up ad referendum by consensus among the Parties by the Preparatory Committee :

- Statute - (12.02.93)
- Proposal Evaluation Criteria - (15.03.93)
- Governing Board Rules of Procedures - (12.02.93)
- Establishment of the Coordination Committee - (11.02.93)
- Procedures for Accession of New Parties - (11.02.93)
- Procedures for Requesting Governing Board Membership - (12.02.93)

¹ Documents to be adopted by the ISTC Board in English only.

2. OBJECTIVES

In order to present a Community position at the Board meeting, the Council needs to lay down, by qualified majority pursuant to Article 3(4) of Council Regulation No.3955/92, the Community position concerning the following matters pursuant to Article 3(3) of the above mentioned Council Regulation :

- a. adoption of the Statute (Article IV, E of the ISTC Agreement);
- b. approval of proposal evaluation criteria (Article IV, B, (v));
- c. approval of Board rules of procedures (Article IV, B, i);
- d. admission of new member countries (Article XIII);
- e. admission of new Board members (Article V)
 - e.1. request for admission
 - e.2. criteria for admission.

3. CONCLUSION

The Commission proposes to the Council the adoption as the Community position for the above matters [a. through e.1.], of the documents, drawn up ad referendum by consensus among the Parties, listed in and attached to this communication. The Community Board Members may agree to any minor amendments to the Statute during the first Board meeting.

As far as the item e.2. is concerned, a document has not yet been drawn up ad referendum among the Parties. Therefore, the Council is requested to authorize the Community Board Members to establish the Community position in the first Board meeting on the basis of the guidelines given in the attached document "ISTC Board membership - Community position". These guidelines constitute a reasonable compromise between the positions so far expressed by the Parties and, at the same time, are conceptually similar to the Community's own position.

4. APPOINTMENT OF THE COMMUNITY MEMBERS TO THE SCIENTIFIC ADVISORY COMMITTEE (SAC).

Article IV D of the ISTC Agreement set up the Scientific Advisory Committee (SAC), made up of representatives to be nominated by the Parties, to give to the Board expert scientific and other necessary professional advise, and to advise the Board on the fields of research to be encouraged.

Pursuant to Article 3(6) of the Council Regulation No. 3955/92, the Communities shall be represented on the SAC by appropriate expert appointed by the Council on the basis of a list proposed by the Commission and containing the names put forward by the Member States.

The Commission proposes to the Council to appoint as SAC members, Mr. W. Häfele and Mr. A. Zichichi, on the basis of the above mentioned list, attached hereto.

**LIST OF THE CANDIDATES FOR THE SCIENTIFIC ADVISORY COMMITTEE (SAC)
PUT FORWARD BY THE MEMBER STATES**

- | | |
|----------------|----------------------------|
| Belgium | - Mr. Dimitry de HEERING |
| Denmark | - Mr. Ove NATHAN |
| Germany | - Mr. Wolf HÄFELE |
| Italy | - Mr. Claudio NICOLINI |
| | - Mr. Carlo RIZZUTO |
| | - Mr. Antonio ZICHICHI |
| Spain | - Mr. Agustín GRAU MALONDA |
| | - Mr. Eric Richard HODGSON |
| U.K. | - Mr. Ant J. STEVENS |
| | - Mr. Paul R. WILLIAMS |

AGREED - 02/12/93

ISTC
INTERNATIONAL SCIENCE AND TECHNOLOGY CENTER

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STATUTE

This Statute is adopted pursuant to Article IV of the Agreement Establishing An International Science and Technology Center (hereinafter referred to as "the ISTC Agreement"). In the event of a discrepancy between it and the ISTC Agreement, the latter shall prevail.

02/12/93
Edited 03/11/93

ARTICLE I
[NAME, LOCATION]

- A. The International Science and Technology Center (hereinafter referred to as "the Center") was created by the ISTC Agreement, which entered into force on _____, 1993.
- B. The Headquarters of the Center is located at Moscow, in the Russian Federation.

ARTICLE II
[POWERS]

- A. Article II of the ISTC Agreement provides as follows:

"The Center shall develop, approve, finance, and monitor science and technology projects for peaceful purposes, which are to be carried out primarily at institutions and facilities located in the Russian Federation and, if interested, in other states of the CIS and Georgia.

The objectives of the Center shall be:

--[i] To give weapons scientists and engineers, particularly those who possess knowledge and skills related to weapons of mass destruction or missile delivery systems, in the Russian Federation and, if interested, in other states of the CIS and Georgia, opportunities to redirect their talents to peaceful activities; and

--[ii] To contribute thereby through its projects and activities: to the solution of national or international technical problems; and to the wider goals of reinforcing the transition to market-based economies responsive to civil needs, of supporting basic and applied research and technology development, inter alia, in the fields of environmental protection, energy production, and nuclear safety, and of promoting the further integration of scientists of the states of the CIS and Georgia into the international scientific community."

- B. The Center is authorized to carry out the activities enumerated in Article III of the ISTC Agreement and shall use its resources solely for the accomplishment of its objectives.
- C. Without prejudice to the privileges and immunities provided by the ISTC Agreement, the Center and individuals related to its activities and the implementation of projects on the territory of the Russian Federation shall respect the national legislation of the Russian Federation.

ARTICLE III
[PARTIES, NEW PARTIES]

A. The United States of America, Japan, the Russian Federation, and, acting as one Party, the European Economic Community and European Atomic Energy Community (hereinafter referred to as "the Parties") are the initial Parties to the ISTC Agreement.

B. Accession to the ISTC Agreement:

--[i] A state desiring to accede to the ISTC Agreement shall so inform the Governing Board (hereinafter referred to as the "Board") through the Executive Director and shall provide information required by the Board. The Board shall, inter alia, require information concerning the requesting state's anticipated contributions to the Center and its expected proposals and activities.

--[ii] The Executive Director shall transmit requests for accession to the Board without delay and shall place the request for accession on the agenda of the first Board meeting after the receipt of the information requested in accordance with subparagraph [i] of this Article.

--[iii] The Executive Director shall communicate the Board's decision to the State requesting accession.

--[iv] Upon approval by the Board, the acceding state shall be permitted to deposit its instrument of accession with the Board through the Executive Director.

ARTICLE IV
[BOARD PURPOSE, MEMBERSHIP, PROCEDURES]

A. The Board has the responsibilities set forth in Article IV of the ISTC Agreement.

B. Each initial Party has one vote on the Board. The United States of America, Japan, the Russian Federation, and, acting as one party, the European Economic Community and the European Atomic Energy Community, have each appointed their representatives.

C. It is intended that the Board's membership be expanded from the size provided for in paragraph B. of this Article.

--[i] A Party acceding to the ISTC Agreement may request Board membership through the Executive Director.

--[ii] A Party is eligible for membership on the Board when the Board approves and upon such terms and conditions, in particular as to voting rights, as the Board may determine. Such terms and conditions must not be inconsistent with the ISTC Agreement.

--[iii] One acceding Party that is a state of the CIS or Georgia will have membership on the Board, in accordance with subparagraph [ii] of this Article. The term of that Party's representative shall be one year or a period until another such state has acceded, whichever is longer. A representative from another acceding state that is a state of the CIS or Georgia shall be appointed subsequently to a one-year term.

--[iv] A Party joining the Board under subparagraph [iii] of this Article shall not be eligible to vote on applications for accession or Board membership by other states of the CIS or Georgia.

D. The Board shall select its Chair, who shall serve for one year.

E. The Board shall meet as needed, but not less than four times annually, upon thirty (30) days prior notice from the Chair, except whenever a shorter period of notice is agreed to by all Parties. At the request of the representatives of two Parties on the Board to the Chair, an extraordinary meeting of the Board shall be held upon fifteen (15) days prior notice except whenever a shorter period of notice is agreed to by all the Parties.

F. The Board shall decide its own rules of procedure, which shall address, inter alia, the method by which representatives to the Board shall cast their votes and the participation of non-Board members, including Parties, governments, inter-governmental organizations, non-governmental organizations, in Board meetings, and the establishment of any committees and task forces.

ARTICLE V
[SECRETARIAT]

A. The Secretariat of the Center consists of the Executive Director, Deputy Executive Directors, and other staff.

B. The Executive Director supervises the daily administration of the Center and is responsible for implementing the policies and decisions of the Board. The Deputy Executive Directors report directly to the Executive Director. In addition, the Executive Director directly oversees the chief officers for administration, procurement, and finance. The Executive Director is appointed for a two-year term by, and may be dismissed upon the decision of, the Board.

C. There are initially three Deputy Executive Directors, who are appointed by the Board for two-year terms and who may be dismissed upon the decision of the Board. Without prejudice to paragraph B., the Board shall designate one Deputy Executive Director, as a Principal Deputy Executive Director, who shall fulfill the duties of Executive Director in the absence of the Executive Director for a period up to three months. After three months' absence, or upon the earlier permanent incapacity of the Executive Director or Deputy Executive Director, the Party which nominated the Executive Director or Deputy Executive Director will have the option to nominate a new Executive Director or Deputy Executive Director, who will be approved by the Board, for the remainder of the term.

D. After consultation with the Deputy Executive Directors, the Executive Director shall recommend to the Board the division of responsibilities among them.

E. Staff other than the Executive Director and the Deputy Executive Directors shall be nominated by the Parties and approved by the Executive Director, consistent with decisions of the Board. In approving staff nominations, the Executive Director shall consider the paramount importance of employing staff of the highest standards of efficiency, technical competence, and integrity.

F. Under the guidance of the Executive Director, the Secretariat shall be responsible for, inter alia:

--[i] Disseminating information about the Center, including its objectives and functions;

--[ii] Receiving project proposals and information required in accordance with this Statute and preparing proposals for transmission to the Board;

- [iii] Responding to statements of interest from institutions in the CIS and Georgia;
- [iv] Assisting the Parties and participants in the development of project proposals;
- [v] Collating the advice on the scientific and technical merit of project proposals given pursuant to Article VIII of this Statute;
- [vi] Communicating with those who submit project proposals;
- [vii] Bringing together specialists in the CIS and Georgia with other specialists with similar interests;
- [viii] Proposing the Center's activity plan and a budget for each year;
- [ix] Preparing Annual Reports of the Center's activities, with the first Report to be submitted to the Board at the end of 1993; and
- [x] Making the necessary arrangements for handling business confidential information, as defined in Article XIII.A., in the Center Secretariat. The Center personnel shall conclude confidentiality agreements with the Secretariat for the period of their work at the ISTC and two years thereafter. Upon a complaint or on his own initiative, the Executive Director shall take appropriate administrative actions, up to and including dismissal, against an ISTC employee who has disclosed business confidential information.
- [xi] Other functions assigned to it by the ISTC Agreement, this Statute, or the Board.

G. In respect of the ISTC Agreement, the Executive Director shall, in fulfilling the following functions of a depository, notify the Parties of:

- [i] Deposits of instruments of accession;
- [ii] Amendments and their dates of entry into force; and
- [iii] Notifications of a Party's withdrawal.

ARTICLE VI
[SCIENTIFIC ADVISORY COMMITTEE]

- A. Within seven (7) days of the ISTC Agreement's entry into force, each initial Party may appoint not more than two (2) persons to the Scientific Advisory Committee (SAC), which is established pursuant to Article IV.D. of the ISTC Agreement. The Board may allow any state admitted to membership under Article III to appoint, alone or in conjunction with others, another such person. The persons appointed shall be prominent members of scientific disciplines relevant to the Center's objectives. The Parties are encouraged to appoint members with expertise in a broad range of scientific disciplines.
- B. The SAC members shall serve in their personal capacities and shall not serve as representatives of the Parties appointing them.
- C. The SAC shall meet at least once a year to advise the Board on fields of research and application to be encouraged. Its first meeting shall occur within thirty (30) days of the ISTC Agreement's entry into force.
- D. In addition to meetings described in paragraph C. of this Article, the SAC shall meet upon request of the Board, to provide advice on questions referred to it by the Board. To this end, a SAC member may ask his or her Party or the Chair of the Board to recommend that the Board call a meeting of the SAC.

ARTICLE VII
[PROPOSAL SUBMISSIONS]

- A. Any person, institution, government, or intergovernmental or non-governmental organization may submit a proposal.
- B. Proposals shall be made through the Executive Director.
- C. Each acceptable proposal shall comply with the instructions of the Center, which shall set forth requirements concerning information to be contained in proposals and the format for proposals. These instructions are prepared by the Executive Director and approved by the Board. At a minimum, the instructions shall require for each proposal:
- [i] A summary of the project, including the name of the project manager; a short narrative description of the project's purpose, activities, anticipated results,

location, and participants; and the project's estimated duration and costs, identified by element of expense to include at least: salaries, equipment, materials, travel, and standard overhead of up to 10% of direct costs, excluding equipment and travel;

--[ii] A description of all program and financial aspects of the project, including anticipated commercial results and intellectual property rights;

--[iii] A statement of whether concurrence has been obtained from participating individuals, institutions, and state(s) in which work is to be carried out and an acknowledgment that such concurrence is required prior to Board consideration; and

--[iv] Monitoring and auditing assurances sufficient for implementing obligations of Article VIII of the ISTC Agreement.

These instructions should help ensure that each proposal contains information sufficient for the Executive Director, Scientific Advisory Committee, and Board to fulfill their responsibilities under this Statute and the ISTC Agreement.

D. Each Party is encouraged to disseminate the Center's instructions within its territory.

E. The Center will give due regard to preventing, in soliciting proposals, disseminating proposals and related reports for review, and making available project results:

--[i] the seeking or disseminating of any information of a national security nature;

--[ii] the transfer of sensitive information that is prohibited under relevant international rules and practices for the nonproliferation of weapons and other sensitive technologies, in particular information related to special nuclear materials; and

--[iii] unauthorized disclosures of proprietary and business confidential information.

Proposers are responsible for ensuring that their proposals comply with applicable laws and regulations regarding sensitive information.

F. Proposals are regarded as submitted when the Executive Director determines that the information required in paragraph C. of this Article is substantially complete.

G. The Executive Director shall transmit proposals to the State(s) in which work is to be carried out within five (5) days of their submission, in order to obtain the prior concurrence required in Article VI of the ISTC Agreement, unless such concurrence has been obtained. When no response is received within 30 days of the request's transmission to the state(s), the Executive Director shall so notify the Board. In accordance with Article VI of the ISTC Agreement, the Executive Director must obtain the concurrence of the state(s) in which work is to be carried out before transmitting the proposal to the Board for approval.

ARTICLE VIII
[SCIENTIFIC AND OTHER PROFESSIONAL ADVICE]

A. The Executive Director shall send each submitted proposal to at least one SAC member of each Party no more than five (5) days after its submission. The Executive Director shall include at least the information required in Article VII.C. and other information he or she deems relevant, and a form on which the review shall be completed. The Executive Director shall prepare that form after consultation with the SAC.

B. Each SAC member may obtain, without expense to the Center, up to three (3) expert scientific, economic or other professional reviews for each project.

C. Not more than thirty (30) days after receiving the proposal from the Executive Director, each SAC member shall return a single completed form synthesizing the reviews obtained in accordance with paragraph B. of this Article, together with copies of those reviews and his or her own recommendation as appropriate; or confirmation that no review has been undertaken.

D. A completed review shall contain:

--[i] The reviewers' names and qualifications, including any qualifications related to the specific proposal;

--[ii] An analysis of the scientific and technical merit and importance of the proposals;

--[iii] An opinion as to whether the project's objective can be accomplished within the framework proposed and time allowed;

--[iv] An analysis, to the extent possible, of the qualifications of the proposed participants and of the skills necessary to meet the project's objectives; and

--[v] Recommendations for the proposal's improvement.

E. When the Executive Director receives all reviews of a proposal, but no later than forty-five (45) days after its submission, he or she shall either:

--[i] Transmit the proposal to the Board, accompanied by all reviews and other relevant information; or

--[ii] Consult with the proposer to consider revision in accordance with the reviews. The Executive Director shall decide whether a revised proposal requires further review by the SAC before it is transmitted to the Board. If a proposal is being revised, the Executive Director may extend the forty-five (45) day period as necessary. The Board will be informed of the status of such proposals which are under revision within the forty-five (45) day time period.

ARTICLE IX [PROJECT APPROVAL]

A. The Executive Director shall transmit proposals to at least one member of the Board of each Party, along with the information required by this Statute. The Executive Director shall also attach:

--[i] An initial assessment by the Executive Director as to whether the project is in accordance with the objectives of the Center, as described in Article II of the ISTC Agreement;

--[ii] The results of scientific and professional reviews of the project proposals conducted in accordance with Article VIII of this Statute, if available; and

--[iii] Recommendations by the Executive Director, when he or she deems it appropriate.

B. Approval of projects by the Board:

--[i] Unless the Board decides otherwise with regard to a specific proposal, it shall have at least forty-five (45) days to consider a proposal after the proposal has been transmitted to it by the Executive Director. It shall consider the proposal no later than its first meeting after the forty-five (45) day period ends.

--[ii] The Executive Director shall communicate the Board's decision to the person, institution, or government proposing the project.

C. In deciding whether to approve a project, the Board will be guided by criteria and priorities established according to Article VI.B.[v] of the ISTC Agreement. The Board shall adopt these criteria at its first meeting.

D. Each project approved by the Board shall be subject to a project agreement that is binding upon the participants in the project before the project is carried out.

E. In approving each project, the Board shall consider financing for the project.

ARTICLE X
[PROJECT AGREEMENTS]

A. For each approved project financed through the Center, the Center, acting through the Executive Director or his designee, shall enter into a written project agreement for the project with the recipient entity or entities. The project agreement shall expressly provide that it is subject to the provisions of the ISTC Agreement and the Statute, which shall govern in the case of conflict with the project agreement. The Secretariat shall ensure that this is the case.

B. At a minimum, the Project Agreements referred to in paragraph A. of this Article shall contain provisions which:

--[i] Specify conditions under which costs shall be eligible for reimbursement and ensuring that they are allowable under the terms of the Project, reasonable as to amount and properly allocated to the Project;

--[ii] Designate responsibility for performance of technical and financial tasks under the project and delineate procedures to be followed in the resolution of disputes;

- [iii] Establish a schedule for performance and conditions to be met in order to obtain payment;
- [iv] Provide for each Party which wholly or partly finances a project and for the Center the right of full ISTC Agreement access, after notice of not less than 20 days or as specified in the project agreement, to carry out on-site monitoring and audit of all activities of the project; specify the portions of the facilities, equipment, documentation, information, data systems, materials, supplies, personnel, and services which will concern the project and so will be accessible for the monitoring and audit; such specification shall permit the recipient entity the right to protect those portions of facilities which are not related to the project.
- [v] Require the recipient entity to account for resources used, to identify the types of records required to support expenditures for the project, and to return unspent funds within a stated time;
- [vi] Require regular technical and financial reports detailing the expenditures made against the projects by the same elements of expense identified in the approved proposal, including accounting for any interest earned by the recipient on funds accepted from the Center;
- [vii] Require that allowable costs not include, inter alia, any element of profit;*
- [viii] Set a standard contribution for overhead costs up to 10% of direct costs, excluding equipment and travel;
- [ix] Require that allowable costs not include amounts imposed for taxes of any kind, including profit tax, value added tax, personal income tax, local taxes as well as any other tariffs, dues, custom duties, import taxes, fees, or any other similar taxes or charges;
- [x] Prohibit the transfer of sensitive information that is prohibited under relevant international rules and practices for the nonproliferation of weapons and other sensitive technologies, in particular information related to special nuclear materials, and unauthorized disclosures of proprietary and business confidential information.

* See attached statement.

--[xi] Provide for the termination of the project as follows:

(a) When the agreement is terminated other than pursuant to paragraph (b) below, costs shall be limited to the allowable costs incurred by the recipient entity prior to the termination and such other costs as the Center considers to be fair and reasonable, having regard to commitments reasonably entered into and which cannot be cancelled or avoided. The recipient entity shall comply with any directions of the Center in the termination notice to reduce or mitigate these costs.

(b) When the Center or the financing Party(s) determines that the recipient entity has not complied with the terms and conditions of the project agreement, the recipient entity shall, upon demand, promptly return all payments and equipment contributions previously made.

(c) Any disputes on the above matter shall be settled by a procedure involving a final decision of the Board, as necessary.

C. When an approved project is financed other than through the Center, the persons or institutions providing financing shall conclude a project agreement with the recipient entity and with the Center, represented by the Executive Director. The project agreements shall take fully into consideration the provisions specified in paragraph B. of this Article and be fully consistent with the provisions of the ISTC Agreement.

ARTICLE XI [CONTRIBUTIONS TO THE CENTER]

A. Without prejudice to Articles XII and XIV, each Party may deposit any or all of its monetary contribution to the Center for operating costs, projects, and all other expenses in accordance with its laws and regulations into an account in the name of the Center or directly into the Center project and administrative accounts. At the discretion of the financing Party, this contribution may be made subject to a written agreement with the Center and may be maintained in any currency.

B. Funds that are deposited in the Center's bank accounts pursuant to paragraph A. of this Article shall be disbursed from the bank account by the Executive Director or his designee in accordance with procedures approved by the Board and/or any agreement between the Center and the relevant financing Party.

C. The Russian Federation shall provide at its own expense an appropriately furnished facility suitable for use by the Center along with maintenance, utilities, and security for the facility and vehicles. The Russian Federation shall also provide full financial resources to cover its personnel in the Center Secretariat.

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

E. In financial transactions, the Center shall not pay in the Russian Federation taxes of any kind, including profit tax, value added tax, personal income tax, local taxes as well as any other tariffs, dues, custom duties, import taxes, fees, or any other similar imposed taxes or charges.

F. Disbursements of funds for projects may be made to the appropriate organizations and individuals in hard currency or local currency.

ARTICLE XII [FINANCING PROJECTS THROUGH THE CENTER]

A. The Center shall establish appropriate project and administrative hard currency bank accounts outside the CIS and Georgia and also appropriate accounts as approved by the Board, in each of the States of the CIS and Georgia that are Parties to the ISTC Agreement, in order to consolidate financing for projects and administration.

B. Each Party which has undertaken responsibility to finance a project through the Center shall do so in a written commitment to the Center and will ensure that funds are available for use by the Center in those amounts required to execute the approved project agreement.

ARTICLE XIII
[INTELLECTUAL PROPERTY RIGHTS]

A. For the purposes of the Agreement and this Statute:

"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.

"Business confidential information" means information containing know-how, trade secrets, or technical, commercial or financial information, which either:

--[i] Has been held in confidence by its owner;

--[ii] Is not generally known or available from other sources;

--[iii] Has not been made available by its owner to other parties without an obligation concerning its confidentiality; or

--[iv] Is not available to the receiving party without obligations concerning confidentiality.

B. Each project agreement shall provide for the adequate protection of intellectual property and business-confidential information exchanged or provided in the course of a project.

C. Each party shall use its best endeavors to ensure that rights acquired are exercised in such a way as to encourage, consistent with the Statute:

--[i] The dissemination and use of non-confidential information created, provided, or exchanged in the course of a project;

--[ii] The adoption and implementation of international technical standards; and

--[iii] Fair competition in areas affected by the Agreement.

D. Entities having rights should make adequate efforts to exploit their intellectual property rights consistent with the objectives of the Agreement. To that end, except as provided in paragraph E. of this Article, each project agreement shall provide that:

--[i] All rights worldwide to intellectual property arising from the project, including patent protection for industrial property, shall be held by the recipient entity (or its designee), which shall provide adequate protection of such intellectual property (except as provided below). If the recipient entity (or its designee) decides not to protect the intellectual property in the territory of a Party other than the recipient entity's Party, each such Party and the financing Party have the option to protect the intellectual property in that territory.

--[ii] Each Party and the Center shall be entitled to a non-exclusive, irrevocable, royalty-free license with the right to sub-license in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, reports, and books directly arising from the project. When the objective of a project is only to produce an article, report, or book that is expected to be valuable in itself, the provisions of paragraph E. of this Article shall be applied.

--[iii] (a) The recipient entity (or its designee) shall grant the financing Party (or its designee) an exclusive, irrevocable, royalty-free license (with the right to sub-license) for commercial purposes in that Party's territory. In such cases, the financing Party and recipient entity shall agree on appropriate compensation for persons named as inventors. Costs of protection in that territory shall be borne by the licensee. When the benefits from the exploitation of intellectual property arising from the project are expected to exceed significantly the financing Party's expected contribution, the provisions of paragraph E. of this Article shall be applied.

(b) When two or more Parties finance a project, it is expected that the provisions of paragraph E. of this Article shall be applied. When the Parties and the recipient entity agree not to do so, in such cases the co-financing parties (or their designees) shall agree on the allocation among themselves of the rights received pursuant to this paragraph.

(c) Upon the request of the financing Party (or its designee), the recipient entity (or its designee) shall enter negotiations for licenses in additional territories on fair and reasonable terms.

(d) Upon the request of a non-financing Party (or its designee), a non-exclusive license for commercial purposes, with the right to sub-license,

shall be granted in that non-financing Party's territory, on fair and reasonable terms to be mutually agreed, taking into account that non-financing Party's contribution to the establishment and operation of the ISTC;* the financing Party (or its designee) shall be entitled to a license on the same terms in that non-financing Party's territory. (e) The financing Party will, if requested, provide assistance to the recipient entity in managing the intellectual property;

--[iv] A non-exclusive, irrevocable license on transfer conditions for non-commercial purposes, with the right to sub-license, shall be granted to the Center and to each Party (or its designee) for the territory of each Party in which the intellectual property is protected. Upon request the Parties will exchange information on licenses and sub-licenses granted under this paragraph;

--[v] Persons named as inventors shall receive not less than 15% of any royalties earned by the executing entity;

--[vi] All publicly distributed copies of a copyrighted work arising from cooperation under the project shall indicate the names of the authors of the work unless an author explicitly declines to be named;

--[vii] The recipient entity shall grant on reasonable conditions access rights for intellectual property and information owned by the recipient entity necessary for the exploitation of intellectual property arising from the project, provided that the recipient entity is free to disclose such intellectual property or information, that no major business interests of the recipient entity oppose the granting of access rights, and that in making this opposition such interests are not abusively restricting the exploitation of such rights.

E. The financing Party (or its designee) and the recipient entity (or its designee) may agree to protect, allocate, and manage intellectual property arising under the project agreement differently than paragraph D. of this Article provides, consistent with the principles of the Agreement and their laws and regulations. In order to avoid increasing the work of the Center's staff, any provisions agreed under this paragraph will be provided by those entities to the Center for inclusion in the project agreement.

* See attached statement.

ARTICLE XIV
[FINANCING OF ADMINISTRATIVE EXPENSES]

- A. The fiscal year of the Center shall be the calendar year.
- B. By November 15 of each year, the Executive Director shall submit to the Board the annual budget estimates for the expenses of the Center. The Center's budget shall exclude costs of facilities, materials, services, and vehicles provided by the Russian Federation free of charge pursuant to the Memorandum of Understanding between the Center and the Government of the Russian Federation. The Board shall approve the annual budget with any amendments and return the budget for execution to the Executive Director by December 31 of that same year. The initial budget shall be for the remainder of the fiscal year in which it is submitted.
- C. Upon the approval of the annual budget by the Board, the Board will establish and inform each Party the amount of its share, if any, of the Center's annual operating budget. In accordance with this budget, each Party shall ensure that funds are credited for their share for use by the Center.
- D. Any funds remaining uncommitted at the end of each fiscal year shall be applied to the budget for the following year.
- E. Withdrawal by a Party from the ISTC Agreement shall not affect its budgetary contributions committed under paragraph C. of this Article to the Center's administrative account.
- F. In addition to financial contributions, the Parties will be encouraged to second staff and provide other support to the Center at no cost to the Center's budget. The Center may, as necessary, enter into agreements concerning these secondments and support.

ARTICLE XV
[FINANCIAL PROCEDURES]

- A. Periodic financial reports shall be provided to the Parties and the Board on the Center's administrative costs, project awards, and expenditures in the format and detail required by the Parties and the Board.
- B. An annual audit by an auditor approved by the Board shall be conducted of the Center's expenditures and related financial activities. Results of the audit shall be reported to the Board within 30 days after completion.

ARTICLE XVI
[AUDITING AND MONITORING]

A. All funds contributed for a project through the Center shall be subject to audit by the Center or by a Party represented on the Board with regard to projects it finances or their representatives in accordance with the following principles:

--[i] Audit of costs shall assure that costs reimbursed are allowable under the terms of the project agreement;

--[ii] The Center, a Party represented on the Board with regard to projects it finances, or audit organizations as specified by the Board, may perform such audits, or engage others to do so.

--[iii] Accounting systems used by project recipients must be acceptable to the Center or the Party represented on the Board in regard to projects it finances and shall be subject to review and audit;

--[iv] Audit reports pertaining to a project shall be available to the entities audited, to the Center and to all Parties represented on the Board.

--[v] Allowable costs based on the result of an audit shall be determined by the entity performing the audit or engaging others to do so. Any disputes shall be settled in accordance with resolution of dispute procedures contained in the project agreement.

--[vi] Provisions for each Party which wholly or partly finances a project and for the Center the right of full ISTC Agreement access, after notice of not less than 20 days or as specified in the project agreement, to carry out on-site monitoring and audit of all activities of the project; specifications of the portions of the facilities, equipment, documentation, information, data systems, materials, supplies, personnel, and services which will concern the project and so will be accessible for the monitoring and audit; such specification shall permit the recipient entity the right to protect those portions of facilities that are not related to the project. After completion or termination of a Center project the recipient entity may utilize the facility or portion of the facility previously used for the Center project for other work; however, all documentation and records including those associated with equipment, data systems, materials, supplies and services utilized on

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the Center project must be maintained for up to two years following such completion or termination and such documents and records and personnel must be available to the auditor for up to two years following such completion or termination.

B. Approved projects funded other than through the Center shall be subject to audit by the financing Party and/or their representatives taking into account the principles set forth in paragraph A of this Article.

ARTICLE XVII
[SUPPLEMENTARY AGREEMENTS]

Each Party may conclude supplementary written agreements with the Center as approved by the Board consistent with the ISTC Agreement in order to comply with its national laws, rules, and regulations applicable to the Center.

ARTICLE XVIII
[AMENDMENT OF STATUTE]

This Statute may be amended by unanimous consent of the Board.

Statement of the United States, European Community
and Japan

"Any element of profit" in Article X.B. [vii] is recognized to include contributions to pension funds, social insurance, and other social funds.

The Russian Federation, as part of its in-kind contribution, has agreed to indicate on each project proposal transmitted to the Board its contribution of the costs listed above.

Statement of the Russian Federation

The Russian Federation interprets "fair and reasonable terms" referred to in Article XIII.D.[iii]. as terms established at the moment on the international license market.

PROPOSAL EVALUATION CRITERIA

The Center will ensure a confidential, fair, and equitable evaluation of proposals. This evaluation will give due regard to the criteria set out below and will be carried out under the responsibility and coordination of the Executive Director. In deciding whether or not to approve a project proposal, the Center's Governing Board will be guided by the following:

Eligibility Criteria

Conformity with the ISTC's objectives.

Proposals must respond to the ISTC's objectives listed in Section 2. above.

Host government and institution concurrence.

The project activities must be approved by the government(s) on whose territory(s) the work will be carried out. Proposals need not include government approval prior to submission. All proposals submitted without such approval, however, will be sent by the Center Secretariat to appropriate government offices prior to presenting the proposed project to the Center's Governing Board for consideration.

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

Auditing and Monitoring Assurance.

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

Selection Criteria

Potential of the project to provide peaceful alternative employment opportunities to weapons scientists and engineers in the CIS and Georgia.

Scientific and technical excellence

- Description of the problem, why it is important, and how the project contributes to its solution
- Significance and feasibility of scientific and technical approach
- Justification of project's underlying theories, methods, and techniques
- Demonstration of unique approaches to the solution of important scientific and technical problems
- Qualifications of weapons and other scientists, engineers, and technicians participating in the project
- Proven capabilities of participating institutions

Quality of Management

- Clearly specified expected intermediate and final project results and products
- Establishment of milestones and reporting schedules for project progress/success
- Budget structure and its underlying assumptions
- Realistic manpower allocation
- Justification of use of major existing and new equipment, supplies, and other items

Financial Structure

- Size of budget in relationship to expected results
- Proportion of budget allocated to salaries of CIS/Georgia scientists and engineers
- Financial and non-financial support from participating institutions and/or other sources

Assistance to states of CIS/Georgia in transition to market economies

- Potential to produce products, technologies, or services that meet commercial needs and/or respond to host country national priorities in accordance with ISTC objectives
- Potential to contribute to conversion efforts aimed at strengthening the market economy
- Participation of potential partners with specific skills in management, marketing, and commercialization
- Known possibilities to exploit project results

Collaboration

- Degree of collaboration between CIS/Georgia weapons scientists and engineers and non-weapons scientists and engineers from the CIS/Georgia and abroad
- Potential for continuation of collaborative activities beyond the life of the project

AGREED - 02/12/93

INTERNATIONAL SCIENCE AND TECHNOLOGY CENTER

Governing Board Rules of Procedure

I. SCOPE AND PURPOSE

These Rules of Procedure are adopted by the Governing Board of the International Science and Technology Center (ISTC) pursuant to Article IV(B)(i) of the ISTC Agreement.

II. MEMBERSHIP

A. Initial Membership

The initial membership of the ISTC's Governing Board (hereinafter referred to as the "Board") will consist of no more than two representatives named by each of the ISTC's initial Parties.

B. Chairman

The Board shall select its chair, who shall serve for one year.

C. New Members

The Board will consider applications for membership from new Parties to the Agreement. Intent to apply for Board membership should be stated at the time of application for accession. In considering such applications, the Board will take into consideration the general guidelines established by the Board in the "Application Procedures for Board Membership."

D. Resignation of Members

Parties will promptly notify the Chairman of the Board of the resignation of a Board member(s). The Party will name a new member(s) as soon as possible. If a Board meeting takes place before a new member(s) is named, the Party will designate an alternate to act on its behalf.

III. MEETINGS

A. Regular Meetings

The Board shall meet in regular session at least quarterly, but may schedule other meetings as appropriate. One regular meeting shall be designated as the Annual Meeting.

Meetings normally shall be held at the ISTC headquarters in Moscow at such times as may be determined by the Board. If a Party proposes to host a Board meeting in a location other than Moscow, and the Board agrees, the hosting Party will bear any additional costs to the Center associated with the meeting. The Board may agree to charge costs associated with meetings held outside Moscow to the Center's operating budget.

Board meetings are called by the chair, who will give at least thirty (30) days written advance notice of the meeting. Notification of meeting dates and places and appropriate materials will be communicated to the Board members by the Executive Director. Board members will normally have a minimum of fifteen (15) days to review materials scheduled for consideration at a meeting, except as otherwise provided in Statute Article IX(B)(i) (a minimum of 45 (forty-five) days is required for Board consideration of project proposals).

B. Extraordinary Meetings

At the written request of the Board representatives of two Parties, an extraordinary meeting of the Board shall be held without delay. Board members shall make their request for extraordinary meetings to the Chair, and shall advise the Executive Director accordingly. Notice of any extraordinary meeting shall be given at least fifteen (15) days in advance, either by writing, fax, or telephone. Materials to be reviewed at the meeting will be transmitted at the same time as the notification of the meeting.

C. Voting

Each initial Party represented on the Board has one vote. Decisions of the Board shall be by consensus of all Parties, subject to the conditions and terms of Articles IV, V, and VI of the Agreement, Article IV of the ISTC

Statute, and, for acceding members, any conditions and terms decided by the Board.

Each Party may designate alternate(s) Board members, who shall exercise all the rights of the members they replace.

D. Action Without Meeting

The Board normally will conduct its business at regular meetings. However, unless otherwise restricted by the ISTC Agreement or Statute, any action required or permitted to be taken at any meeting of the Board may be taken without a meeting, if all members of the Board consent thereto in writing and the written statements of consent are filed with the minutes of the next Board meeting.

E. Compensation

Board members as such shall not receive any compensation or reimbursement of costs for their services from the ISTC.

F. Records of Meetings

All actions of the Board shall be recorded in minutes by the Executive Director, who shall circulate a draft of the minutes to Board members for review and comment within two weeks of the date of the meeting. Board members shall return comments promptly to the Executive Director, who shall incorporate them in final versions of the minutes to be approved at the next Board meeting.

G. Attendance at Board Meetings

Each member of the Board may be accompanied at meetings by any persons designated by the member's Party. Each Party shall bear any expenses related to the participation of such designated persons.

The Executive Director shall ensure that all ISTC staff members necessary to the conduct of the Board's business are available to the Board at its meetings.

The Board, at its discretion, may invite Parties not represented on the Board, inter-governmental and non-governmental organization representatives, and individuals to participate in Board deliberations, in a non-voting capacity.

Notwithstanding the foregoing, the Board, at its discretion, may restrict attendance at all or any part of a meeting.

H. Meeting Preparation

Representatives appointed by the Parties will meet, as needed, prior to Board meetings to review details of projects to be considered by the Board, discuss coordination of project funding, and exchange views on policy and other issues on the Board's agenda, as appropriate.

IV. COMMUNICATIONS

A. Secretariat

The Executive Director is responsible for Secretariat communications with the Board and Committees and Task Forces established by the Board, and is assisted in this capacity by other members of the ISTC staff, as designated by him or her.

B. Methods of Communication

The Executive Director will maintain a current directory of addresses, telephone and fax numbers, and other available means of communications for Board members and alternates, to ensure timely transmission of information. The updated list will be distributed to Board members.

AGREED - 02/11/93

Establishment of the Coordination Committee

Section III.H. of the Governing Board Rules of Procedure reads as follows:

"H. Meeting Preparation

Representatives appointed by the Parties will meet, as needed, prior to Board meetings to review details of projects to be considered by the Board, discuss coordination of project funding, and exchange views on policy and other issues on the Board's agenda, as appropriate."

It is proposed that the Governing Board establish a Coordinating Committee to perform the functions described in the paragraph above. The Coordinating Committee will meet immediately prior to each Board meeting. The Committee's activities will be supported by the Executive Director and Senior Advisors.

AGREED - 02/11/93

INTERNATIONAL SCIENCE AND TECHNOLOGY CENTER**Procedures for Accession of New Parties****BACKGROUND**

Article XIII of the Agreement Establishing the International Science and Technology Center (ISTC) provides for the accession of new Parties to the Agreement:

Article XIII: "Any state desiring to become Party to this Agreement shall notify the Governing Board through the Executive Director. The Governing Board shall provide such a state with certified copies of the Agreement through the Executive Director. Upon approval by the Governing Board, that state shall be permitted to accede to this Agreement. This Agreement shall enter into force for that state on the thirtieth (30th) day after the date on which its instrument of accession is deposited. In the event that a state or states of the CIS and Georgia accede to this Agreement, that state or those states shall comply with the obligations undertaken by the Government of the Russian Federation in Articles VIII (monitoring/auditing), IX(C) (ISTC's legal status), and X-XII (tax treatment, legal proceedings, and privileges and immunities, respectively)."

Acceding states also may apply for membership on the Governing Board (hereinafter referred to as the "Board") subject to Article V of the Agreement, but such membership is not automatic upon accession. The application process for Board membership is contained in "Application Procedures for Governing Board Membership."

PROCEDURES

1. Any state desiring to accede to the Agreement shall notify the Board through the Executive Director. The Executive Director shall promptly notify the board of the receipt of any request for accession.

2. Upon receipt of notification from a state of its desire to accede to the Agreement, the Executive Director shall promptly provide that state with copies of the following, if he or she has not done so before:
 - * A certified copy of the ISTC Agreement;
 - * The current list of Parties to the Agreement, indicating dates of accession;
 - * The ISTC Statute;
 - * The Procedures for Application for Governing Board Membership;
 - * The ISTC Instructions for Proposal Preparation;
 - * The Model Project Agreement.

3. Upon receiving the materials in (2) above, the applying state shall submit to the Board, through the Executive Director, an Application for Accession. This Application shall be submitted in English or Russian and, at a minimum, shall contain the following:
 - (a) A statement from the applying state affirming that the Agreement has been reviewed by the appropriate national authorities and that the state will accept all terms and conditions contained in the Agreement;
 - (b) An indication of the time anticipated to complete any internal procedures necessary in the applying state to obtain authorization for signature and of any additional internal procedures necessary following signature before the Agreement can enter into force;
 - (c) A statement of the applying state's proposed contribution to the ISTC, including any financial and non-financial contributions. The applying state shall specify the method of valuation of any non-financial contributions;
 - (d) A statement of the applying state's commitment to contribute to the Center's operating budget;
 - (e) A description of the areas of Center activity of special interest to the applying state and, to the extent possible, summaries of any project proposals planned or being developed that might be submitted to the ISTC:

- (f) Information on ISTC staff that the requesting state may provide and fund, including an estimate of when any such staff may be available; and
- (g) Any other information relevant to the requesting state's request for accession.

4. Upon receipt of the information required in (3) above, the Executive Director shall:

- (a) Acknowledge receipt of the request for accession by certified post or other verifiable means;
- (b) Promptly inform the Board of receipt of the request and schedule consideration of the request for the next scheduled Board meeting, providing this permits the Board at least thirty (30) days to consider the request and the Executive Director's comments before taking formal action.

5. The Board will review all aspects of the request for accession in the context of the ISTC's Agreement and Statute, the Board's policies, and the international commitments of the Parties. If it deems necessary, the Board may ask a representative from the requesting state to attend all or part of the meeting at which that state's request will be considered. The Board shall notify the requesting state of its decision through the Executive Director. The votes of the individual members of the Board shall not be communicated.

6. After an requesting state has received notification that its request has been approved by the Board, it shall deposit its instrument of accession (model attached) with the Executive Director. The Agreement shall enter into force in the requesting state thirty (30) days after the Executive Director's receipt of the instrument of accession by certified post or other verifiable means. The Executive Director shall promptly confirm to the new Party the receipt of the instrument of accession and the date on which the Agreement will enter into force.

7. From the date of entry into force for it, the new Party will enjoy all rights, privileges, and responsibilities of its membership in the Agreement. During the 30-day period between deposit of the instrument of accession and entry into force, all steps will be taken to integrate the new Party into the operation of the ISTC.

AGREED - 02/12/93

INTERNATIONAL SCIENCE AND TECHNOLOGY CENTER

Procedures for Requesting Governing Board Membership

Pursuant to Article V of the ISTC Agreement, The ISTC Governing Board (hereinafter referred to as the "Board") has "the discretion and exclusive power to expand its membership to include representatives appointed by Parties that accede to [the] Agreement, on such conditions and terms as the Board may determine." Requests for Board membership also will be considered pursuant to Article IV(C) of the ISTC Statute. Parties may request Board membership at any time, but it is preferred that intent to request membership be stated when the Party requests to accede to the Agreement.

Moreover, a request from an acceding Party that is a state of the CIS or Georgia will be considered in accordance with Article IV(C)(iii) of the ISTC Statute:

"One acceding Party that is a state of the CIS or Georgia will have membership on the Board. . . . The term of that Party's representative shall be one year or a period until another such state has acceded, whichever is longer. A representative from another acceding state that is a state of the CIS or Georgia shall be appointed subsequently to a one-year term."

PROCEDURES

1. Any Party desiring Board membership shall notify the Board through the Executive Director. The Executive Director shall promptly notify the Board of the receipt of any request for Board membership.
2. The requesting Party shall submit to the Board, through the Executive Director, its request for Board membership. The request shall be submitted in English or Russian and, at a minimum, shall contain the following:
 - a) A statement of the requesting Party's contribution to the ISTC, including any financial and non-financial contributions. The requesting Party shall specify the method of valuation of any non-financial contributions;

- b) A statement of the requesting state's commitment to contribute to the Center's operating budget;
- c) A description of the type of project activities the requesting Party intends to support;
- d) Information on whether the requesting Party intends to provide and fund ISTC staff; and
- e) Any other information relevant to the Party's request.

3. Upon receipt of the information required in (3) above, the Executive Director shall:

- a) Acknowledge receipt of the request by certified post or other verifiable means;
- b) Promptly inform the Board of receipt of the request and schedule consideration of the request for the next scheduled Board meeting, providing this permits the Board at least thirty (30) days to consider requests and the Executive Director's recommendations before taking formal action.

4. The Board shall consider requests for Board membership at a regularly scheduled meeting. In cases where a state is requesting to accede to the Agreement and requesting Board membership, the Board will consider the two requests at the same meeting.

5. The Board will review all aspects of the request in the context of the ISTC's Agreement and Statute, the Board's policies, and the international commitments of the Parties. If it deems necessary, the Board may ask a representative from the requesting Party to attend all or part of the meeting at which the request will be considered. The Board shall notify the requesting Party of its decision through the Executive Director via certified mail or other verifiable means. The votes of the individual members of the Board shall not be communicated.

6. After an requesting Party has received notification that its application has been approved by the Board, the new member will enjoy all rights, privileges, and responsibilities of its membership of the Board.

e.2.

ISTC BOARD MEMBERSHIP - COMMUNITY POSITION

Guidelines

1. **Limited Board membership (8-10 indicative).**
2. **New Board membership by an individual country, with full rights, only if its contribution attains a threshold of \$10 million.**
3. **Countries with a lower individual financial contribution must form a group attaining a combined financial contribution of 10 million:**
 - **a group expresses one full vote in the Board;**
 - **a group would choose its voting representative on the basis of a rotating mechanism to be determined by the countries forming the group;**
 - **group members contributing a minimum of \$2 million, while subject to above group voting conditions, are members of the Board, and, as such, may participate in Board discussions and audit and monitor the projects they finance, in accordance with the provisions of Article VIII of the ISTC Agreement.**