

Protocol
privind
privilegiile și imunitățile
Organizației Europene
pentru Cercetări Nucleare

2004

Preambul

Statele Părți la prezentul Protocol,

Având în vedere Convenția pentru înființarea unei Organizații Europene pentru Cercetări Nucleare (CERN) și Protocolul Financiar anexat la aceasta, semnate la 1 iulie 1953, intrate în vigoare la 29 septembrie 1954 și modificate la 17 ianuarie 1971;

Având în vedere faptul că Organizația își are sediul în Geneva, Elveția, și că statutul său în Elveția este definit prin Acordul între Consiliul Federal Elvețian și Organizație din 11 iunie 1955;

Având în vedere faptul că Organizația este, de asemenea, stabilită în Franța, unde statutul său este definit prin Acordul între Guvernul Republicii Franceze și Organizație din data de 13 septembrie 1965, astfel cum a fost revizuit la 16 iunie 1972;

Având în vedere de asemenea Convenția între Consiliul Federal al Confederației Elvețiene și Guvernul Republicii Franceze din 13 septembrie 1965 privind extinderea teritoriului Organizației pentru a include teritoriul francez;

Având în vedere faptul că activitățile Organizației se extind în mod constant pe teritoriul tuturor Statelor Părți ale Convenției, cu o creștere consecventă substanțială a mobilității persoanelor și bunurilor atribuite și utilizate pentru programele sale de cercetare;

Dorind să asigure îndeplinirea eficientă a funcțiilor Organizației atribuite prin Convenție, în mod particular Articolul II prin care se definesc scopurile Organizației, și să îi garanteze un tratament egal pe teritoriul tuturor Statelor Părți ale Convenției;

Grimes

Jaw

Hotărând în acest sens, în conformitate cu Articolul IX din Convenție, să acorde Organizației privilegiile și imunitățile necesare pentru exercitarea activităților sale oficiale;

Au convenit următoarele:

Articolul 1 **Definiții**

În sensul prezentului Protocol:

- a) „Convenția” se referă la Convenția pentru înființarea unei Organizații Europene pentru Cercetări Nucleare și Protocolul Financiar anexat la aceasta, semnate la 1 iulie 1953, intrate în vigoare la 29 septembrie 1954 și modificate la 17 ianuarie 1971;
- b) „Organizația” se referă la Organizația Europeană pentru Cercetări Nucleare;
- c) „activități oficiale” se referă la activitățile Organizației prevăzute în Convenție, în mod particular Articolul II al acesteia, inclusiv activitățile sale de natură administrativă;
- d) „oficiali” se referă la „membrii personalului” astfel cum sunt aceștia definiți în Statutul Personalului Organizației;
- e) „Acord de Cooperare” se referă la un acord bilateral, încheiat între Organizație și un Stat non-Membru sau un institut științific cu sediul în respectivul Stat, prin care se definesc condițiile de participare la activitățile Organizației;
- f) „Acord de Asociere” se referă la un acord bilateral, încheiat între Organizație și un Stat neeligibil pentru a deveni un Stat Membru, prin care se instituie un puternic parteneriat instituțional între respectivul Stat și Organizație pentru a îi permite acestuia o angajare mai profundă în activitățile Organizației.

Articolul 2
Personalitate juridică internațională

1. Organizația va avea personalitate juridică internațională și capacitate juridică pe teritoriile respective ale Statelor Părți la prezentul Protocol.
2. Organizația va avea în mod particular capacitatea de a contracta, de a dobândi și de a dispune de bunuri mobile și imobile și de a participa la proceduri judiciare.

Articolul 3
Inviolabilitatea terenurilor, clădirilor și spațiilor

1. Terenurile, clădirile și spațiile Organizației sunt inviolabile.
2. Niciun mandatar al autorităților publice nu poate avea acces în cadrul acestora fără acordul expres al Directorului General sau al reprezentantului său autorizat în mod corespunzător.
3. În caz de incendiu sau alt dezastru care necesită o acțiune de protecție promptă, în cazul în care solicitarea consimțământului expres nu este posibilă, autorizarea din partea Directorului General poate fi considerată a fi acordată.
4. Organizația nu va permite ca spațiile sau clădirile sale să servească drept refugiu pentru o persoană urmărită pentru săvârșirea, tentativa de a săvârși sau săvârșirea recentă a unei infracțiuni sau ilegalități, sau pentru care s-a emis mandat de arestare sau ordin de deportare, sau care a fost condamnată pentru infracțiune de către autoritățile competente.

Acum

Acum

Articolul 4
Inviolabilitatea arhivelor și a documentelor

Arhivele Organizației și toate documentele sub orice formă deținute de Organizație sau aparținând acesteia, indiferent de locul în care se află acestea și indiferent de persoana care le deține, sunt inviolabile.

Articolul 5
**Imunitatea de jurisdicție și
de execuție**

1. În exercitarea activităților sale oficiale organizația se va bucura de imunitate de jurisdicție, cu următoarele excepții:
 - a) în măsura în care Consiliul Organizației renunță la această imunitate într-un caz particular;
 - b) în cazul unei plângeri din partea unui terț pentru daune rezultate în urma unui accident cauzat de un autovehicul aparținând sau utilizat în numele Organizației, sau în cazul unei infracțiuni rutiere în care este implicat respectivul vehicul;
 - c) în cazul punerii în aplicare a unei hotărâri arbitrale pronunțate în temeiul Articolului 16 sau 18 din prezentul Protocol;
 - d) în cazul unei cereri reconvenționale care are legătură directă cu și care a fost introdusă în cadrul procedural al unei plângeri înaintate de către Organizație.
2. Bunurile și valorile Organizației, indiferent de locul în care se află acestea, se vor bucura de imunitate față de orice formă de rechiziționare, confiscare, expropriere, sechestrare și orice altă formă de sechestru sau interferență, prin acțiune executivă, administrativă, judiciară sau legislativă, cu următoarele excepții:
 - a) în măsura în care Consiliul Organizației renunță la respectiva imunitate într-un caz particular;

- b) în măsura în care poate fi temporar necesar pentru prevenirea sau investigarea accidentelor în care sunt implicate autovehicule aparținând sau utilizate în numele Organizației;
- c) în cazul unei în cazul unei popririi pe salariu, aplicate pentru o datorie a unui oficial al Organizației, cu condiția ca respectiva poprire să rezulte dintr-o hotărâre definitivă și executorie în conformitate cu regulile și reglementările în vigoare în teritoriul de executare.

Articolul 6

Măsuri Fiscale și Vamale

1. În cadrul activităților sale oficiale, Organizația, bunurile și veniturile sale, vor fi scutite de impozite directe.
2. Atunci când, în exercitarea activităților sale oficiale, Organizația procedează la achiziționarea sau utilizarea de bunuri sau servicii de valoare substanțială, în al căror preț sunt incluse impozitele, taxele sau alte impuneri, Statul Parte la prezentul Protocol care a perceput taxele, impozitele sau alte impuneri va lua măsurile corespunzătoare în vederea remiterii sau rambursării valorii acestor impozite, taxe sau alte impuneri în cazul în care sunt identificabile.
3. Importul și exportul de către sau în numele Organizației de bunuri și materiale în exercitarea activităților sale oficiale vor fi scutite de toate taxele de import și export și alte taxe.
4. Nu se va acorda nicio scutire sau rambursare pentru impozite, taxe sau alte impuneri de orice fel care constituie simpla remunerare a serviciilor prestate.
5. Prevederile de la paragrafele 2 și 3 din prezentul Articol nu se aplică în cazul achiziției sau utilizării de bunuri sau servicii sau în cazul importului de bunuri destinate uzului personal al oficialilor și al Directorului General al Organizației.

6. Bunurile și materialele aparținând Organizației care au fost achiziționate sau importate în conformitate cu prevederile paragrafului 2 sau 3 din prezentul Articol nu vor fi vândute sau donate pe teritoriul Statului care a acordat scutirea decât în condițiile prevăzute de respectivul Stat.

Articolul 7

Dispunerea liberă de fonduri

Organizația poate să primească, să dețină și să transfere în mod liber orice fel de fonduri, valută și numerar; Organizația poate dispune de acestea în mod liber pentru activitățile sale oficiale și poate deține conturi în orice valută în măsura necesară îndeplinirii obligațiilor sale.

Articolul 8

Comunicări oficiale

Circulația publicațiilor și a altor materiale informative, primite sau transmise de către Organizație sub orice formă în exercitarea activităților sale oficiale nu va fi restricționată în niciun fel.

Articolul 9

Privilegiile și imunitățile reprezentanților Statelor

1. Reprezentanții Statelor Părți la prezentul Protocol se vor bucura, în exercitarea propriilor funcții și în cursul deplasărilor la și de la locul pentru întâlniri ale Organizației, de următoarele privilegii și imunități:
 - a) imunitate de arestare, detenție și confiscare a efectelor personale;

- b) imunitate de jurisdicție, chiar și după încheierea misiunii acestora, în ceea ce privește actele, inclusiv cuvintele rostite sau scrise, întreprinse de aceștia în exercitarea funcțiilor deținute; această imunitate nu se va aplica însă în cazul unei infracțiuni rutiere cu autovehiculul săvârșite de un reprezentant al unui Stat Parte la prezentul Protocol, și nici în cazul daunelor provocate de un autovehicul aparținând sau condus de acesta;
 - c) inviolabilitatea tuturor documentelor oficiale deținute sub orice formă;
 - d) dreptul de a utiliza coduri și de a primi documente și corespondență prin curier sau bagaj sigilat;
 - e) pentru aceștia și soții/soțiile acestora, scutirea de toate măsurile de restricționare a intrării și formalitățile de înregistrare a străinilor;
 - f) aceleași facilități în ceea ce privește reglementările monetare și de schimb valutar ca și cele acordate reprezentanților Guvernelor străine aflați în misiuni oficiale temporare;
 - g) aceleași facilități vamale în ceea ce privește bagajul personal al acestora ca și cele acordate agenților diplomatici.
2. Niciun Stat parte la prezentul Protocol nu va fi obligat să acorde privilegiile și imunitățile prevăzute în prezentul Articol propriilor cetățeni sau persoanelor care, la momentul preluării atribuțiilor în respectivul Stat, sunt rezidenți permanenți ai acestuia.

Articolul 10

Privilegiile și imunitățile oficialilor Organizației

1. Oficialii Organizației vor beneficia de imunitate de jurisdicție, chiar și după încetarea funcțiilor deținute, pentru actele, inclusiv cuvintele rostite sau scrise, întreprinse de aceștia în exercitarea funcțiilor deținute și în limitele propriilor atribuții. Această imunitate nu se va aplica însă în cazul unei infracțiuni rutiere cu autovehiculul săvârșite de un oficial al Organizației și nici în cazul daunelor provocate de un autovehicul aparținând sau condus de acesta.

2. Oficialii Organizației se vor bucura de următoarele privilegii:

- a) dreptul de a importa fără taxe vamale mobilierul propriu și efectele personale la momentul preluării funcției în care au fost numiți în serviciul Organizației în Statul respectiv și dreptul de a exporta fără taxe vamale, la momentul încetării funcțiilor deținute în Statul respectiv, mobilierul propriu și efectele personale, în ambele cazuri sub rezerva condițiilor impuse de legile și reglementările Statului în care se exercită dreptul;
- b)
 - i. sub rezerva condițiilor și conform procedurilor stabilite de Consiliul Organizației, oficialii și Directorul General al Organizației vor fi supuși unei taxe, în beneficiul Organizației, asupra salariilor și retribuițiilor plătite de Organizație. Aceste salarii și retribuiții vor fi scutite de la plata impozitului pe venit național;
 - ii. Statele Părți la prezentul Protocol nu vor fi obligate să scutească de la impozitul pe venit pensiile sau rețele plătite de Organizație foștilor oficiali și Directori Generali aferente activității desfășurate în cadrul Organizației;
- c) pentru ei înșiși și membrii familiei care fac parte din gospodăria proprie, aceeași scutire de la restricțiile de imigrare și formalitățile de înregistrare a străinilor ca și cea acordată în mod normal oficialilor organizațiilor internaționale;
- d) inviolabilitatea tuturor documentelor oficiale, deținute sub orice formă;
- e) pentru ei înșiși și membrii familiei care fac parte din gospodăria proprie, aceleași facilități de repatriere în timpul crizelor internaționale ca și cele acordate membrilor misiunilor diplomatice;
- f) în ceea ce privește transferurile de fonduri și schimbul valutar și facilitățile vamale, privilegiile acordate în general oficialilor organizațiilor internaționale.

3. Niciun Stat Parte la prezentul Protocol nu va fi obligat să acorde privilegiile și imunitățile la care se face referire la paragrafele 2), c), e) și f) din cadrul prezentului Articol propriilor cetățeni sau persoanelor care, la momentul preluării atribuțiilor în respectivul Stat Parte, sunt rezidenți permanenți ai acestuia.

Articolul 11

Asigurări sociale

Organizația și oficialii angajați de Organizație vor fi scutiți de toate contribuțiile obligatorii la schemele naționale de asigurări sociale, înțelegându-se că respectivelor persoane li se oferă asigurare de protecție socială echivalentă de către Organizație.

Articolul 12

Privilegiile și imunitățile Directorului General

1. În plus față de privilegiile și imunitățile prevăzute la Articolele 10 și 11 din prezentul Protocol, Directorul General se va bucura pe întreaga durată a funcțiilor sale de privilegiile și imunitățile acordate prin Convenția de la Viena privind Relațiile Diplomatice din 18 aprilie 1961 agenților diplomatici de rang comparabil.
2. Niciun Stat Parte la prezentul Protocol nu va fi obligat să acorde privilegiile și imunitățile la care se face referire în prezentul Articol propriilor cetățeni sau persoanelor care, la momentul preluării atribuțiilor în respectivul Stat Parte, sunt rezidenți permanenți ai acestuia.

Articolul 13
Obiectul și limita imunităților

1. Privilegiile și imunitățile prevăzute la Articolele 9, 10 și 12 din prezentul Protocol se acordă exclusiv pentru a asigura funcționarea fără impedimente a Organizației și independența integrală a persoanelor cărora le sunt acordate. Acestea nu sunt acordate pentru beneficiul personal al persoanelor în cauză.
2. Renunțarea la aceste imunități se poate realiza:
 - a) în cazul Directorului General, de către Consiliul Organizației;
 - b) în cazul oficialilor, de către Directorul General sau persoana care acționează în locul său în conformitate cu Articolul VI, paragraful 1 b) al Convenției;
 - c) în cazul reprezentanților de Stat, de către respectivul Stat Parte;

și reprezintă o obligație să se procedeze astfel în orice caz particular în care imunitățile ar împiedica mersul justiției iar renunțarea la acestea se poate realiza fără a afecta scopul pentru care sunt acordate.

Articolul 14
Cooperarea cu Statele
Părți la prezentul Protocol

Organizația va coopera cu autoritățile competente din Statele Părți la prezentul Protocol pentru a facilita administrarea corespunzătoare a justiției, respectarea legilor și reglementărilor cu privire la poliție, sănătate publică, sănătate și siguranță în muncă și mediu, precum și pentru a preveni orice abuz de privilegii, imunități și facilități prevăzute în cadrul prezentului Protocol.

Articolul 15
Securitate și ordine publică

1. Dreptul unui Stat Parte la prezentul Protocol de a lua măsuri de precauție în interesul propriei securități nu va fi afectat de nicio prevedere din prezentul Protocol.
2. Dacă un Stat Parte la prezentul Protocol consideră că este necesar să se ia măsuri pentru propria securitate sau pentru menținerea ordinii publice, acesta va sesiza Organizația, cu excepția cazului în care acest lucru nu este posibil, cât mai repede în funcție de circumstanțe, în scopul de a stabili de comun acord măsurile necesare pentru protejarea intereselor Organizației.
3. Organizația va coopera cu Guvernul respectivului Stat Parte la prezentul Protocol, pentru a evita orice prejudiciu adus securității sau ordinii publice din respectivul Stat Parte care rezultă din activitățile sale.

Articolul 16
Dispute de natură privată

1. Organizația va prevedea metode adecvate de soluționare a următoarelor tipuri de dispute:
 - a) dispute care decurg din contractele la care Organizația este parte;

Organizația va include, în toate contractele scrise pe care le încheie, altele decât cele la care se face referire la paragraful 1 d) din prezentul Articol, o clauză de arbitraj în temeiul căreia orice dispute care rezultă din interpretarea sau executarea contractului vor fi supuse arbitrajului, la cererea oricăreia dintre părți, sau, dacă părțile stabilesc astfel, unei alte metode adecvate de soluționare;

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- b) dispute care decurg din prejudiciile cauzate de Organizație sau care implică orice altă răspundere non-contractuală a Organizației;
- c) dispute care implică un oficial al Organizației care se bucură de imunitate de jurisdicție, dacă nu s-a renunțat la respectiva imunitate în conformitate cu dispozițiile Articolului 5 din prezentul Protocol;
- d) dispute apărute între Organizație și proprii oficiali;

Organizația va supune toate disputele care decurg din aplicarea și interpretarea contractelor încheiate cu oficiali ai Organizației, în baza Statutului Personalului Organizației, jurisdicției Tribunalului Administrativ al Organizației Internaționale a Muncii (ILOAT) sau a oricărui alt tribunal administrativ internațional cu jurisdicție asupra Organizației în urma unei decizii a Consiliului.

- 2. Pentru disputele pentru care nu este specificată nicio metodă anume de soluționare la paragraful 1 din prezentul Articol, Organizația poate recurge la orice metodă de soluționare pe care o consideră adecvată, în mod particular la arbitraj sau la trimiterea către un tribunal național.
- 3. Orice metodă de soluționare pentru care se optează conform prezentului Articol se va baza pe principiul unui proces corect în vederea soluționării în timp util, în mod echitabil, imparțial și obligatoriu a disputei.

Articolul 17

Dispute între State Părți la prezentul Protocol

- 1. Orice diferend referitor la aplicarea sau interpretarea prezentului Protocol care nu este soluționat pe cale amiabilă între Părți poate fi supus de oricare dintre Părți unui Tribunal de Arbitraj internațional, în conformitate cu Articolul 19 din prezentul Protocol.

2. Dacă un Stat Parte la prezentul Protocol intenționează să supună o dispută arbitrajului, acesta va notifica Directorul General, care va informa imediat fiecare Stat Parte la prezentul Protocol cu privire la respectiva notificare.

Articolul 18

Dispute între Statele Părți la prezentul Protocol și Organizație

1. Orice diferend între unul sau mai multe State Părți la prezentul Protocol și Organizație privind aplicarea sau interpretarea prezentului Protocol, care nu este soluționat pe cale amiabilă între Părți (unul sau mai multe State Părți la prezentul Protocol reprezentând o parte la dispută și Organizația reprezentând cealaltă parte) poate fi înaintat de oricare dintre Părți unui Tribunal de Arbitraj internațional, în conformitate cu Articolul 19 din prezentul Protocol.
2. Directorul General va informa imediat celelalte State Părți la prezentul Protocol cu privire la notificarea transmisă de Partea care solicită arbitraj.

Articolul 19

Tribunalul de Arbitraj internațional

1. Tribunalul de Arbitraj internațional la care se face referire la Articolele 17 și 18 din prezentul Protocol („Tribunalul”) va fi guvernat de prevederile prezentului Articol.
2. Fiecare parte la dispută va numi un membru al Tribunalului. Membrii astfel numiți vor alege de comun acord un al treilea membru, care va fi Președintele Tribunalului. În caz de dezacord între membrii Tribunalului cu privire la alegerea Președintelui, acesta din urmă va fi numit de Președintele Curții Internaționale de Justiție la cererea membrilor Tribunalului.

Arum

Arum

3. Dacă una dintre Părțile la dispută nu desemnează un membru al Tribunalului și nu a luat măsuri în acest sens în termen de două luni de la solicitarea celeilalte Părți, cealaltă Parte poate solicita Președintelui Curții Internaționale de Justiție să realizeze numirea.
4. Tribunalul își va stabili propria procedura.
5. Nu va exista niciun drept de apel împotriva hotărârii Tribunalului, care va fi definitivă și obligatorie pentru Părți. În cazul unei dispute privind conținutul sau sfera de aplicare a hotărârii, Tribunalului îi revine obligația de a da o interpretare, la cererea oricăreia dintre Părți.

Articolul 20

Implementarea Protocolului

Organizația poate să încheie, în cazul în care Consiliul Organizației decide astfel, Acorduri suplimentare cu unul sau mai multe State Părți la prezentul Protocol, în vederea implementării dispozițiilor prezentului Protocol.

Articolul 21

Procedura de modificare

1. Amendamentele la prezentul Protocol pot fi propuse de orice Stat Parte la Convenție și vor fi comunicate de către Directorul General al Organizației celorlalte State Părți la prezentul Protocol.
2. Directorul General va convoca o reuniune a Statelor Părți la prezentul Protocol. Dacă în cadrul reuniunii textul propus al modificării este adoptat cu o majoritate de două treimi a Statelor Părți prezente și care votează, acesta va fi transmis de Directorul General către Statele Părți la prezentul Protocol spre acceptare în conformitate cu normele constituționale respective ale acestora.

3. Orice astfel de modificare va intra în vigoare în a treizecea zi după ce toate Statele Părți la prezentul Protocol au notificat Directorul General cu privire la ratificarea, acceptarea sau aprobarea acesteia.

Articolul 22

Acorduri speciale

1. Dispozițiile prezentului Protocol nu vor limita sau aduce atingere dispozițiilor altor acorduri internaționale încheiate între Organizație și un Stat Parte la prezentul Protocol ca urmare a faptului că pe teritoriul respectivului Stat Parte se află sediul, birourile regionale, laboratoarele sau alte instalații ale acesteia. În caz de conflict între prevederile prezentului Protocol și cele ale unui astfel de acord internațional, dispozițiile respectivului acord internațional vor prevala.
2. Nicio prevedere din prezentul protocol nu va împiedica Statele Părți la prezentul Protocol să încheie alte acorduri internaționale cu Organizația prin care se confirmă, se completează, se extind sau se amplifică prevederile prezentului Protocol.

Articolul 23

Semnare, ratificare și aderare

1. Prezentul Protocol va fi deschis pentru semnare din 19 decembrie 2003 până în 19 decembrie 2004, de către Statele Părți la Convenție și de către Statele care au încheiat un Acord de Cooperare sau de Asociere cu Organizația.
2. Prezentul Protocol este supus ratificării, acceptării sau aprobării de către Statele semnatare. Instrumentele de ratificare, de acceptare sau de aprobare vor fi depuse la Directorul General al Organizației Națiunilor Unite pentru Educație, Știință și Cultură (UNESCO).

Amintire

Deu

3. Prezentul Protocol va rămâne deschis pentru aderare de către Statele Părți la Convenție și de către Statele care au încheiat un Acord de Cooperare sau de Asociere cu Organizația. Instrumentele de aderare vor fi depuse la Directorul General al Organizației Națiunilor Unite pentru Educație, Știință și Cultură (UNESCO).

Articolul 24

Intrare în vigoare

1. Prezentul Protocol va intra în vigoare la treizeci de zile de la data la care este depus al doispzezecelea instrument de ratificare, de acceptare, de aprobare sau de aderare de către un Stat parte la Convenție.
2. Pentru fiecare Stat care ratifică, acceptă, aprobă sau aderă la prezentul Protocol după intrarea sa în vigoare, prezentul Protocol va intra în vigoare în a treizecea zi de la depunerea la Directorul General al Organizației Națiunilor Unite pentru Educație, Știință și Cultură (UNESCO) a propriului instrument de ratificare, de acceptare, de aprobare sau de aderare.

Articolul 25

Notificare

Directorul General al Organizației Națiunilor Unite pentru Educație, Știință și Cultură (UNESCO) va notifica toate Statele semnatare și aderente ale prezentului Protocol și Directorul General al Organizației cu privire la depunerea fiecărui instrument de ratificare, de acceptare, de aprobare sau de aderare, cu privire la data intrării în vigoare a prezentului Protocol, precum și cu privire la orice notificare de denunțare a acestuia.

Articolul 26

Înregistrare

Directorul General al Organizației Națiunilor Unite pentru Educație, Știință și Cultură (UNESCO) va înregistra prezentul Protocol, la data intrării sale în vigoare, la Secretariatul Organizației Națiunilor Unite, în conformitate cu Articolul 102 din Carta Organizației Națiunilor Unite.

Articolul 27

Denunțare

Orice Stat Parte la prezentul Protocol poate denunța prezentul Protocol, în orice moment, prin notificare scrisă adresată Directorului General al Organizației Națiunilor Unite pentru Educație, Știință și Cultură (UNESCO). Denunțarea va intra în vigoare la data împlinirii unui an de la data primirii respectivei notificări, cu excepția cazului în care notificarea precizează o dată ulterioară.

DREPT CARE, reprezentanții subsemnați, care au fost autorizați în mod corespunzător în acest sens de propriile Guvernele, au semnat prezentul Protocol.

Încheiat la Geneva, în data de 18 martie 2004, în limbile engleză și franceză, ambele texte fiind în mod egal autentice și deus la arhiva Organizației Națiunilor Unite pentru Educație, Știință și Cultură, al cărei Director General va transmite o copie certificată tuturor Statelor semnatare și aderente.

Arina

Arina

Pentru Republica Austria

.....

Pentru Regatul Belgiei

.....

Pentru Republica Bulgaria

.....

Pentru Republica Cehă

.....

Pentru Regatul Danemarcei

.....semnătură indescifrabilă.....

17/04/10

Armas...

Pentru Republica Finlanda

.....*semnătură indescifrabilă*.....

Pentru Republica Federală Germania

.....*semnătură indescifrabilă*.....

Pentru Regatul Unit al Marii Britanii
și Irlandei de Nord

.....*semnătură indescifrabilă*.....

Pentru Republica Elenă

.....*semnătură indescifrabilă*.....

Pentru Republica Ungaria

.....

Prin

ca

Pentru Republica Italia

.....*semnătură indescifrabilă*.....

Pentru Regatul Olandei

.....*semnătură indescifrabilă*.....

Pentru Regatul Norvegiei

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Pentru Republica Polonia

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Pentru Republica Portugalia

.....*semnătură indescifrabilă*.....

Pentru Republica Slovacia

.....

Pentru Regatul Spaniei

.....*semnătură indescifrabilă*.....

Pentru Regatul Suediei

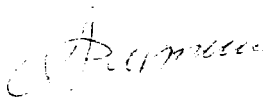
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Prin

Li

Subsemnatul, ICHIMESCU ADELA MARIA (nume, prenume astfel cum sunt menționate în autorizație), interpret și traducător autorizat pentru limbile străine engleză, franceză, în temeiul Autorizației nr. 12762 din data de 13.09.2007, eliberată de Ministerul Justiției din România, certific exactitatea traducerii efectuate din limba engleză în limba română, că textul prezentat a fost tradus complet fără omisiuni, și că, prin traducere, înscrisului nu i-au fost denaturate conținutul și sensul. Înscrisul a cărui traducere se solicită în întregime are, în integralitatea sa, un număr de 22 pagini, poartă titlul de PROTOCOL PRIVIND PRIVILEGIILE ȘI IMUNITĂȚILE ORGANIZAȚIEI EUROPENE PENTRU CERCETĂRI NUCLEARE, a fost emis de CERN și mi-a fost prezentat mie în întregime. Traducerea înscrisului prezentat are un număr de 22 pagini.

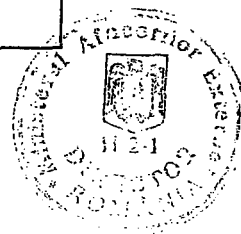
INTERPRET ȘI TRADUCĂTOR AUTORIZAT



(semnătura și ștampila)

Protocol
on
the privileges and immunities
of the European Organization
for Nuclear Research

2004



Preamble

The States Parties to this Protocol,

Considering the Convention for the Establishment of a European Organization for Nuclear Research (CERN) and the Financial Protocol annexed thereto, signed on 1st July 1953, entered into force on 29 September 1954 and amended on 17 January 1971;

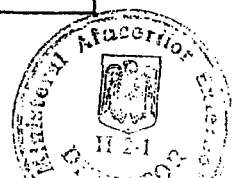
Considering that the Organization has its seat in Geneva, Switzerland, and that its status in Switzerland is defined by the Agreement between the Swiss Federal Council and the Organization dated 11 June 1955;

Considering that the Organization is also established in France, where its status is defined by the Agreement between the Government of the French Republic and the Organization dated 13 September 1965, as revised on 16 June 1972;

Considering also the Convention between the Federal Council of the Swiss Confederation and the Government of the French Republic dated 13 September 1965 concerning the extension of the Organization's site to include French territory;

Considering that the Organization's activities are increasingly extending into the territory of all the States Parties to the Convention, with a consequent substantial increase in the mobility of persons and goods assigned to and used for its research programmes;

Desiring to ensure the efficient performance of the Organization's functions assigned to it by the Convention, in particular Article II defining the Organization's purposes, and to guarantee it equal treatment on the territory of all the States Parties to the Convention;



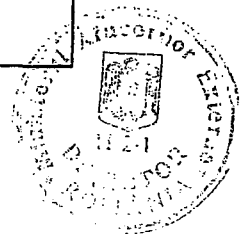
Having resolved to this end, in accordance with Article IX of the Convention, to grant to the Organization the privileges and immunities necessary for the exercise of its official activities;

Have agreed as follows:

Article 1 Definitions

For the purpose of this Protocol:

- a) the "Convention" refers to the Convention for the Establishment of a European Organization for Nuclear Research and the Financial Protocol annexed thereto, signed on 1st July 1953, entered into force on 29 September 1954 and amended on 17 January 1971;
- b) the "Organization" refers to the European Organization for Nuclear Research;
- c) "official activities" refers to the activities of the Organization set out in the Convention, in particular its Article II, including its activities of an administrative nature;
- d) "officials" refers to the "members of personnel" as defined in the Staff Rules and Regulations of the Organization;
- e) "Co-operation Agreement" refers to a bilateral agreement, concluded between the Organization and a non-Member State or a scientific institute established in that State, defining the conditions governing its participation in the activities of the Organization;
- f) "Association Agreement" refers to a bilateral agreement, concluded between the Organization and a State ineligible to become a Member State, establishing a close institutional partnership between that State and the Organization in order to allow it to be engaged more deeply in the activities of the Organization.



Article 2 International legal personality

1. The Organization shall have international legal personality and legal capacity on the respective territories of the States Parties to this Protocol.

2. The Organization shall in particular have the capacity to contract, to acquire and to dispose of movable and immovable property and to participate in legal proceedings.

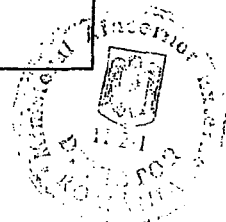
Article 3 Inviolability of grounds, buildings and premises

1. The grounds, buildings and premises of the Organization shall be inviolable.

2. No agent of the public authorities may enter them without the express consent of the Director-General or his duly authorised representative.

3. In case of fire or other disaster requiring prompt protective action, where the seeking of such express consent is not practicable, the authorization of the Director-General may be considered as granted.

4. The Organization shall not allow its buildings or premises to serve as a refuge to a person wanted for committing, attempting to commit or just having committed a crime or offence or for whom a warrant of arrest or deportation order has been issued or who has been convicted of a crime or offence by the competent authorities.



Article 4
Inviolability of archives and documents

The archives of the Organization and all documents in whatever form held by the Organization or belonging to it, wherever located and by whomsoever held, shall be inviolable.

Article 5
**Immunity from legal process and
from execution**

1. In the exercise of its official activities, the Organization shall enjoy immunity from legal process, except:
 - a) in so far as such immunity is waived in a particular case by the Council of the Organization;
 - b) in respect of a claim by a third party for damage arising from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Organization, or in respect of a motor traffic offence involving such a vehicle;
 - c) in respect of the enforcement of an arbitration award made under Article 16 or 18 of this Protocol;
 - d) in respect of a counter-claim relating directly to and introduced in the procedural framework of a claim brought by the Organization.

2. The Organization's property and assets, wherever located, shall enjoy immunity from every form of requisition, confiscation, expropriation, sequestration and any other form of seizure or interference whether by executive, administrative, judicial or legislative action, except:
 - a) in so far as such immunity is waived in a particular case by the Council of the Organization;



6. Goods and materials belonging to the Organization which have been acquired or imported in accordance with the provisions of paragraph 2 or 3 of this Article shall not be sold or donated on the territory of the State which has granted the exemption except under the conditions laid down by that State.

Article 7 **Free disposal of funds**

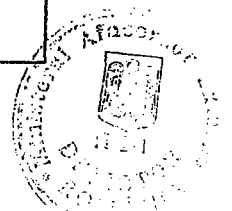
The Organization may freely receive, hold and transfer any kind of funds, currency and cash; it may dispose of them freely for its official activities and hold accounts in any currency to the extent required to meet its obligations.

Article 8 **Official communications**

The circulation of publications and other information material, received or sent by the Organization in whatever form in the exercise of its official activities, shall not be restricted in any way.

Article 9 **Privileges and immunities of the States representatives**

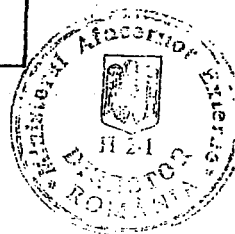
1. The representatives of the States Parties to this Protocol shall enjoy, in the exercise of their functions and in the course of journeys to and from the place of meetings of the Organization, the following privileges and immunities:
 - a) immunity from personal arrest, detention and seizure of their personal effects;



- b) immunity from legal process, even after the termination of their mission, in respect of acts, including words spoken or written, done by them in the exercise of their functions; this immunity shall not apply, however, in the case of a motor vehicle offence committed by a representative of a State Party to this Protocol, nor in the case of damage caused by a motor vehicle belonging to or driven by her or him;
 - c) inviolability of all official documents in whatever form held;
 - d) the right to use codes and to receive documents and correspondence by courier or sealed luggage;
 - e) for them and their spouses, exemption from all measures restricting entry and aliens' registration formalities;
 - f) the same facilities concerning currency and exchange regulations as those granted to the representatives of foreign Governments on temporary official missions;
 - g) the same customs facilities as regards their personal luggage as those granted to diplomatic agents.
2. No State Party to this Protocol shall be obliged to accord the privileges and immunities set out in this Article to its own nationals or to persons who, at the moment of taking up their duties in that State Party, are permanent residents thereof.

Article 10 **Privileges and immunities of the officials** **of the Organization**

1. The officials of the Organization shall enjoy immunity, even after the termination of their functions, from legal process in respect of acts, including words spoken or written done by them in the exercise of their functions and within the limits of their duties. This immunity shall not apply, however, in the case of a motor vehicle offence committed by an official of the Organization nor in the case of damage caused by a motor vehicle belonging to or driven by her or him.



2. The officials of the Organization shall enjoy the following privileges:

- a) the right to import free of duty their furniture and personal effects at the time of taking up their appointment with the Organization in the State concerned and the right, on the termination of their functions in that State, to export free of duty their furniture and personal effects, subject, in both cases, to the conditions imposed by the laws and regulations of the State where the right is exercised;
- b)
 - i) subject to the conditions and following the procedures laid down by the Council of the Organization, the officials and the Director-General of the Organization shall be subject to a tax, for the benefit of the Organization, on salaries and emoluments paid by the Organization. Such salaries and emoluments shall be exempt from national income tax;
 - ii) the States Parties to this Protocol shall not be obliged to exempt from income tax pensions or annuities paid by the Organization to its former officials and Directors-General in respect of their service with the Organization;
- c) for themselves and the family members forming part of their household, the same exemption from immigration restrictions and aliens' registration formalities as are normally granted to officials of international organizations;
- d) inviolability of all official documents, in whatever form held;
- e) for themselves and the family members forming part of their household, the same repatriation facilities in time of international crisis as the members of diplomatic missions;
- f) in respect of transfers of funds and currency exchange and customs facilities, the privileges generally granted to the officials of international organizations.



3. No State Party to this Protocol shall be obliged to accord the privileges and immunities referred to in paragraphs 2 a), c), e) and f) of this Article to its own nationals or to persons who, at the moment of taking up their duties in that State Party, are permanent residents thereof.

Article 11

Social security

The Organization and the officials employed by the Organization shall be exempt from all compulsory contributions to national social security schemes, on the understanding that such persons are provided with equivalent social protection coverage by the Organization.

Article 12

Privileges and immunities of the Director-General

1. In addition to the privileges and immunities provided for in Articles 10 and 11 of this Protocol, the Director-General shall enjoy throughout the duration of her or his functions the privileges and immunities granted by the Vienna Convention on Diplomatic Relations of 18 April 1961 to diplomatic agents of comparable rank.
2. No State Party to this Protocol shall be obliged to accord the privileges and immunities referred to in this Article to its own nationals or to persons who, at the moment of taking up their duties in that State Party, are permanent residents thereof.



Article 13
Object and limits of the immunities

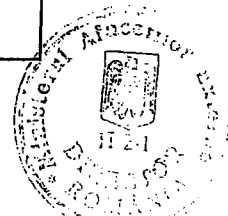
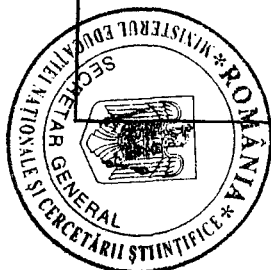
1. The privileges and immunities provided for in Articles 9, 10 and 12 of this Protocol are granted solely to ensure the unimpeded functioning of the Organization and the complete independence of the persons to whom they are accorded. They are not granted for the personal benefit of the individuals concerned.

2. Such immunities may be waived :
 - a) in the case of the Director-General, by the Council of the Organization;
 - b) in the case of officials, by the Director-General or the person acting in her or his' stead as provided in Article VI, paragraph 1 b), of the Convention;
 - c) in the case of State representatives, by the State Party concerned;

and there is a duty to do so in any particular case where they would impede the course of justice and can be waived without prejudice to the purpose for which they are accorded.

Article 14
Co-operation with the States
Parties to this Protocol

The Organization shall co-operate with the competent authorities of the States Parties to this Protocol in order to facilitate the proper administration of justice, the observance of laws and regulations on police, public health, health and safety at work and on the environment; and to prevent any abuse of privileges, immunities and facilities provided for in this Protocol.



Article 15
Security and public order

1. The right of a State Party to this Protocol to take precautionary measures in the interest of its security shall not be prejudiced by any provision in this Protocol.
2. If a State Party to this Protocol considers it necessary to take measures for its security or for the maintenance of public order, it shall, except where this is not practicable, approach the Organization as rapidly as circumstances allow in order to determine, by mutual agreement, the measures necessary to protect the interests of the Organization.
3. The Organization shall co-operate with the Government of such State Party to this Protocol to avoid any prejudice to the security or public order of such State Party to this Protocol resulting from its activities.

Article 16
Disputes of a private nature

1. The Organization shall make provision for appropriate modes of settlement of:
 - a) disputes arising from contracts to which the Organization is a party;

the Organization shall include, in all written contracts into which it enters, other than those referred to in paragraph 1 d) of this Article, an arbitration clause under which any disputes arising out of the interpretation or execution of the contract shall, at the request of either party, be submitted to arbitration or, if so agreed by the parties, to another appropriate mode of settlement;



- b) disputes arising out of damages caused by the Organization or involving any other non-contractual liability of the Organization;
- c) disputes involving an official of the Organization who enjoys immunity from legal process, if such immunity has not been waived in accordance with the provisions of Article 5 of this Protocol;
- d) disputes arising between the Organization and its officials;

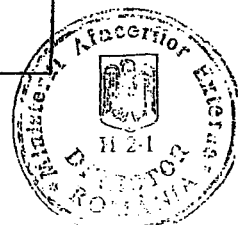
the Organization shall submit all disputes arising from the application and interpretation of contracts concluded with officials of the Organization on the basis of the Staff Rules and Regulations of the Organization to the jurisdiction of the International Labour Organization Administrative Tribunal (ILOAT) or to any other appropriate international administrative tribunal to the jurisdiction of which the Organization is submitted following a decision by the Council.

- 2. For disputes for which no particular mode of settlement is specified in paragraph 1 of this Article, the Organization may resort to any mode of settlement it deems appropriate, in particular to arbitration or to referral to a national tribunal.
- 3. Any mode of settlement selected under this Article shall be based on the principle of due process of law, with a view to the timely, fair, impartial and binding settlement of the dispute.

Article 17

Disputes between States Parties to this Protocol

- 1. Any difference of opinion concerning the application or interpretation of this Protocol which is not settled amicably between the Parties may be submitted by either Party to an international Arbitration Tribunal, in accordance with Article 19 of this Protocol.



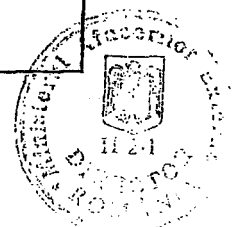
2. If a State Party to this Protocol intends to submit a dispute to arbitration, it shall notify the Director-General, who shall immediately inform each State Party to this Protocol of such notification.

Article 18
Disputes between States Parties to this Protocol
and the Organization

1. Any difference of opinion between one or more States Parties to this Protocol and the Organization concerning the application or interpretation of this Protocol which is not settled amicably between the Parties (one or more State(s) Party(ies) to this Protocol constituting one Party to the dispute and the Organization constituting the other Party) may be submitted by either Party to an international Arbitration Tribunal, in accordance with Article 19 of this Protocol.
2. The Director-General shall immediately inform the other States Parties to this Protocol of the notification given by the Party applying for arbitration.

Article 19
International Arbitration Tribunal

1. The international Arbitration Tribunal referred to in Articles 17 and 18 of this Protocol ("the Tribunal") shall be governed by the provisions of this Article.
2. Each Party to the dispute shall appoint one member of the Tribunal. The members thus appointed shall jointly choose a third member, who shall be the Chairman of the Tribunal. In the event of disagreement between the members of the Tribunal on the choice of Chairman, the latter shall be appointed by the President of the International Court of Justice at the request of the members of the Tribunal.



3. If one of the Parties to the dispute fails to appoint a member of the Tribunal and has not taken steps to do so within two months following a request by the other Party, the other Party may request the President of the International Court of Justice to make the appointment.
4. The Tribunal shall determine its own procedure.
5. There shall be no right of appeal against the award of the Tribunal, which shall be final and binding on the Parties. In the event of a dispute concerning the import or scope of the award, it shall be incumbent upon the Tribunal to give an interpretation at the request of either Party.

Article 20 **Implementation of the Protocol**

The Organization may, if the Council of the Organization so decides, conclude additional Agreements with one or more States Parties to this Protocol in order to implement the provisions of this Protocol.

Article 21 **Amendment Procedure**

1. Amendments to this Protocol may be proposed by any State Party to the Convention and shall be communicated by the Director-General of the Organization to the other States Parties to this Protocol.
2. The Director-General shall convene a meeting of the States Parties to this Protocol. If the meeting adopts, by a two-thirds majority of the States Parties present and voting, the proposed text of the amendment, it shall be forwarded by the Director-General to States Parties to this Protocol for acceptance in accordance with their respective constitutional requirements.



3. Any such amendment shall come into force on the thirtieth day after all States Parties to this Protocol have notified the Director-General of their ratification, acceptance or approval thereof.

Article 22

Particular Agreements

1. The provisions of this Protocol shall not limit or prejudice the provisions of other international agreements concluded between the Organization and a State Party to this Protocol by reason of the location in the territory of that State Party of its headquarters, regional offices, laboratories or other installations. In case of conflict between the provisions of this Protocol and those of such an international agreement, the provisions of that international agreement shall prevail.
2. Nothing in this Protocol shall preclude States Parties to this Protocol from concluding other international agreements with the Organization confirming, supplementing, extending or amplifying the provisions of this Protocol.

Article 23

Signature, ratification and accession

1. This Protocol shall be open for signature from 19 December 2003 until 19 December 2004 by the States Parties to the Convention and by the States which have concluded a Co-operation or an Association Agreement with the Organization.
2. This Protocol shall be subject to ratification, acceptance or approval by signatory States. The instruments of ratification, acceptance or approval shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO).



3. This Protocol shall remain open for accession by the States Parties to the Convention and by the States which have concluded a Co-operation or an Association Agreement with the Organization. The instruments of accession shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

Article 24

Entry into force

1. This Protocol shall enter into force thirty days after the date on which the twelfth instrument of ratification, acceptance, approval or accession by a State Party to the Convention is deposited.
2. For each State ratifying, accepting, approving or acceding to this Protocol after its entry into force, this Protocol shall enter into force on the thirtieth day following the deposit with the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) of its instrument of ratification, acceptance, approval or accession.

Article 25

Notification

The Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) shall notify all signatory and acceding States of this Protocol and the Director-General of the Organization of the deposit of each instrument of ratification, acceptance, approval or accession, of the entry into force of this Protocol, as well as of any notification of its denunciation.



Article 26 Registration

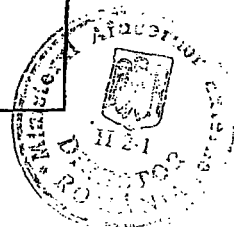
The Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) shall, upon the entry into force of this Protocol, register it with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations.

Article 27 Denunciation

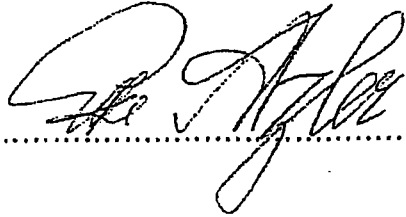
Any State Party to this Protocol may, at any time, by written notification addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO), denounce this Protocol. The denunciation shall take effect on the date one year after the date of receipt of such notification, unless the notification specifies a later date.

IN WITNESS WHEREOF, the undersigned representatives, having been duly authorized thereto by their respective Governments, have signed this Protocol.

Done at Geneva, on 18 March 2004, in the English and French languages, both texts being equally authoritative and deposited in the archives of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Director-General of which shall transmit a certified copy to all signatory and acceding States.



For the Republic of Austria

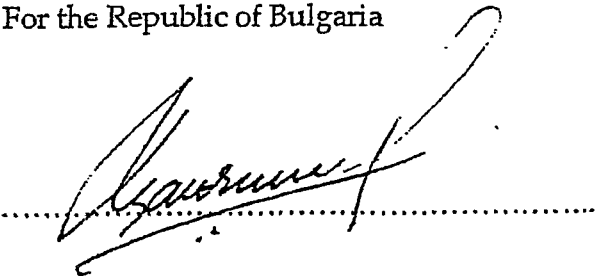


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For the Kingdom of Belgium

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For the Republic of Bulgaria




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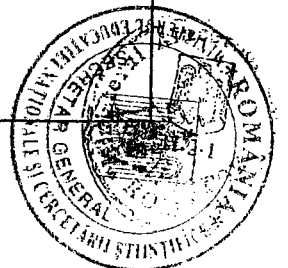
For the Czech Republic

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For the Kingdom of Denmark



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For the Republic of Finland

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For the Federal Republic of Germany

Michael Stürmer

For the United Kingdom of Great Britain
and Northern Ireland

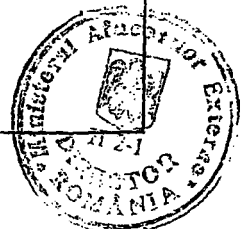
Paul Williams

For the Hellenic Republic

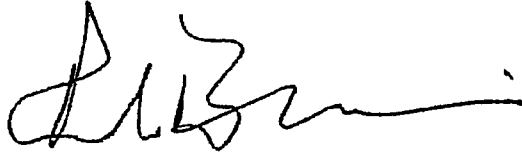
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For the Republic of Hungary

Tóth László

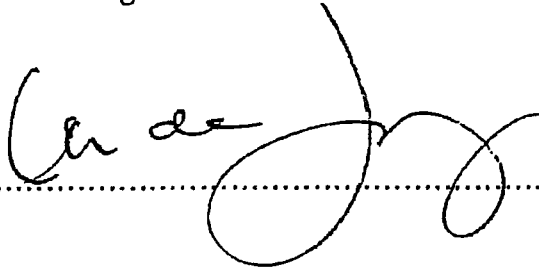


For the Italian Republic



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For the Kingdom of the Netherlands



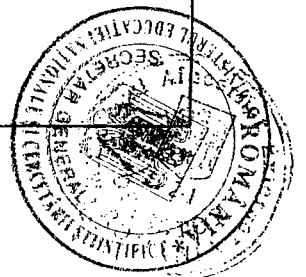
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For the Kingdom of Norway

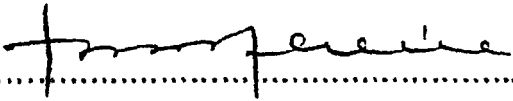
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For the Republic of Poland

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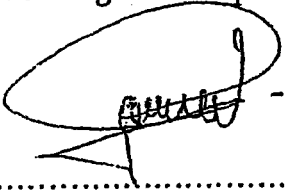
For the Portuguese Republic


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For the Slovak Republic

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For the Kingdom of Spain


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For the Kingdom of Sweden

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CONVENTION
FOR THE ESTABLISHMENT OF A EUROPEAN ORGANIZATION
FOR NUCLEAR RESEARCH

CONVENTION
POUR L'ÉTABLISSEMENT D'UNE ORGANISATION EUROPÉENNE
POUR LA RECHERCHE NUCLÉAIRE

CONVENTION
FOR THE ESTABLISHMENT OF A EUROPEAN ORGANIZATION
FOR NUCLEAR RESEARCH
As amended

CONVENTION
POUR L'ÉTABLISSEMENT D'UNE ORGANISATION EUROPÉENNE
POUR LA RECHERCHE NUCLÉAIRE
Telle qu'elle a été modifiée

CONVENTION

for the Establishment of a European Organization for Nuclear Research

THE STATES parties to this Convention,

CONSIDERING the Agreement open for signature at Geneva on the fifteenth of February, 1952, constituting a Council of Representatives of European States for planning an international laboratory and organizing other forms of co-operation in nuclear research;

CONSIDERING the Supplementary Agreement signed at Paris on the thirtieth of June, 1953, prolonging the said Agreement; and

DESIRING, pursuant to section 2 of Article III of the said Agreement of the fifteenth of February, 1952, to conclude a Convention for the Establishment of a European Organization for Nuclear Research, including the establishment of an international laboratory for the purpose of carrying out an agreed programme of research of a pure scientific and fundamental character relating to high-energy particles;

HAVE AGREED as follows:

Article I

Establishment of the Organization

1. A European Organization for Nuclear Research (hereinafter referred to as "the Organization") is hereby established.

2. The seat of the Organization shall be at Geneva, unless the Council referred to in Article IV subsequently decides by a two-thirds majority of all the Member States to transfer it to the place where another of the Laboratories referred to in sub-paragraph (a) of paragraph 2 of Article II is situated.

Article II

Purposes

1. The Organization shall provide for collaboration among European States in nuclear research of a pure scientific and fundamental character, and in research essentially related thereto. The Organization shall have no concern with work for military requirements and the results of its experimental and theoretical work shall be published or otherwise made generally available.

2. The Organization shall, in the collaboration referred to in paragraph 1 above, confine its activities to the following:

- (a) the construction and operation of one or more international laboratories (hereinafter referred to as "the Laboratories") for research on high-energy particles, including work in the field of cosmic rays; each Laboratory shall include:
 - (i) one or more particle accelerators;
 - (ii) the necessary ancillary apparatus for use in the research programmes carried out by means of the machines referred to in (i) above;
 - (iii) the necessary buildings to contain the equipment referred to in (i) and (ii) above and for the administration of the Organization and the fulfilment of its other functions.

(b) the organization and sponsoring of international co-operation in nuclear research, including co-operation outside the Laboratories; this co-operation may include in particular:

- (i) work in the field of theoretical nuclear physics;
- (ii) the promotion of contacts between, and the interchange of, scientists, the dissemination of information, and the provision of advanced training for research workers;

(iii) collaborating with and advising other research institutions;

(iv) work in the field of cosmic rays.

3. The programmes of activities of the Organization shall be:

- (a) the programme carried out at its Laboratory at Geneva including a proton synchrotron for energies above ten gigaelectronvolts (10^{10} eV) and a synchro-cyclotron for energies of six hundred million electronvolts (6×10^8 eV);
- (b) the programme for the construction and operation of the intersecting storage rings connected to the proton synchrotron described in sub-paragraph (a) above;
- (c) the programme for the construction and operation of a Laboratory to include a proton synchrotron for energies of about three hundred gigaelectronvolts (3×10^{11} eV);

(d) any other programme falling within the terms of paragraph 2 above.

4. The programmes referred to in sub-paragraph (c) and (d) of paragraph 3 above shall require approval by the Council by a two-thirds majority of all the Member States. In giving such approval, the Council shall define the programme, and this definition shall include those administrative, financial and other provisions necessary for the proper management of the programme.

5. Any change to the definition of a programme shall require approval by the Council by a two-thirds majority of all the Member States.

6. Until the bringing into operation of the accelerator referred to in sub-paragraph (c) of paragraph 3 above, the date of which shall be determined by the Council by a two-thirds majority of all the Member States, the basic programme of the Organization shall be that referred to in sub-paragraph (a) of that paragraph. From that date, the programme referred to in sub-paragraph (c) shall also become part of the basic programme, and the Council may, by a two-thirds majority of all the Member States, decide that the programme referred to in sub-paragraph (a), provided that no Member State participating in that programme votes to the contrary, is no longer part of the basic programme.

7. The Laboratories shall co-operate to the fullest possible extent with laboratories and institutes in the territories of Member States within the scope of their programmes of activities. So far as is consistent with the aims of the Organization, the Laboratories shall seek to avoid duplicating research work which is being carried out in the said laboratories or institutes.

Article III

Conditions of Membership

1. States which are parties to the Agreement of the fifteenth of February, 1952, referred to in the Preamble hereto, or which have contributed in money or in kind to the Council thereby established and actually participated in its work, shall have the right to become members of the Organization by becoming parties to this Convention in accordance with the provisions of Articles XV, XVI and XVII.

2. (a) Other States may be admitted to the Organization by the Council referred to in Article IV by a unanimous decision of all the Member States.
- (b) If a State wishes to join the Organization in accordance with the provisions of the preceding sub-paragraph, it shall notify the President of the Council. The President shall inform all Member States of this request at least three months before it is discussed by the Council. States accepted by the Council may become members of the Organization by acceding to this Convention in accordance with the provisions of Article XVII.
3. Each Member State shall signify in writing to the President of the Council those programmes of activities in which it wishes to participate. No State shall be entitled to become or to remain a member of the Organization unless it participates in at least one of the programmes of activities forming part of the basic programme.
4. The Council may, by a two-thirds majority of all the Member States, determine a minimum initial period of participation in any programme of activities together with a limit on the expenditure that may be incurred for that programme during that period. Once this period of participation and limit of expenditure have been so determined, the Council may, by the same majority, change either provided that no Member State participating in the programme votes to the contrary. Subject to any such minimum period of participation, a Member State may at any time give notice in writing to the President of the Council of withdrawal from any programme, and such withdrawal shall take effect at the end of the financial year following that in which notice is given, or on such later date as the Member State proposes.
5. In the event that a programme of activities comes to an end, the Council shall be responsible for its liquidation, subject to any agreement which may be made at the time between the Member States participating in that programme, and subject also to the relevant terms of any agreement which exists between the Organization and the States on the territories of which the programme is being carried out. Any surplus shall be distributed among those Member States which are participating in the programme at the time of its termination, in proportion to the total contributions actually made by them in respect of that programme. In the event of a deficit, this shall be met by the same Member States in the same proportions as those in which their contributions in respect of the programme have been assessed for the financial year then current.
6. Member States shall facilitate, for the purposes of the activities of the Organization, the exchange of persons and of relevant scientific and technical information, provided that nothing in this paragraph shall:
 - (a) affect the application to any person of the laws and regulations of Member States relating to entry into, residence in, or departure from, their territories; or
 - (b) require any Member State to communicate, or to permit the communication of, any information in its possession in so far as it considers that such communication would be contrary to the interests of its security.

Article IV

Organs

The Organization shall consist of a Council and, in respect of each Laboratory, a Director-General, assisted by a staff.

Article V

The Council

1. The Council shall be composed of not more than two delegates from each Member State who may be accompanied at meetings of the Council by advisers.

2. The Council shall, subject to the provisions of this Convention:
 - (a) determine the Organization's policy in scientific, technical and administrative matters;
 - (b) approve the programmes of activities of the Organization;
 - (c) adopt, by a two-thirds majority of Member States represented and voting, the parts of the budget which apply to the different programmes of activities and determine the financial arrangements of the Organization in accordance with the Financial Protocol annexed to this Convention;
 - (d) review expenditures and approve and publish audited annual accounts of the Organization;
 - (e) decide on the staff establishments required;
 - (f) publish an annual report or reports;
 - (g) have such other powers and perform such other functions as may be necessary for the purposes of this Convention.
3. The Council shall meet at least once a year at such places as it shall decide.
4. Each Member State shall have one vote in the Council.
5. Except where otherwise provided in this Convention, decisions of the Council shall be taken by a simple majority of Member States represented and voting.
6. Where this Convention or the Financial Protocol annexed thereto provides that a matter requires approval by the Council by a two-thirds majority of all the Member States, and this matter relates directly to any programme of activities, the majority shall include also a two-thirds majority of all the Member States participating in that programme.
7. Except where this Convention or the Financial Protocol annexed thereto provides that a matter requires approval by the Council unanimously or by a two-thirds majority of all the Member States, no Member State shall be entitled to vote in regard to any matter falling within the limits of a programme as defined by the Council by virtue of Article II unless it participates in that programme or unless the matter affects directly any programme in which it participates.
8. A Member State shall not be entitled to vote in the Council if the amount of its unpaid contributions to the Organization exceeds the amount of the contributions due from it for the current financial year and the immediately preceding financial year. Similarly, it shall not be entitled to vote in the Council in respect of a particular programme of activities if the amount of its unpaid contributions to that programme exceeds the amount of the contributions due from it for the current financial year and the immediately preceding financial year. The Council nevertheless may, by a two-thirds majority of all the Member States, permit such Member State to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the State concerned.
9. For the discussion of any matter in the Council, the presence of delegates from a majority of the Member States entitled to vote on that matter shall be necessary to constitute a quorum.
10. Subject to the provisions of this Convention, the Council shall adopt its own rules of procedure.
11. The Council shall elect a president and two vice-presidents who shall hold office for one year and may be re-elected on not more than two consecutive occasions.
12. The Council shall establish a Scientific Policy Committee and a Finance Committee, and such other subordinate bodies as may be necessary for the purposes of the Organization, and in particular for the execution and co-ordination of its different programmes. The creation and the terms of reference of such bodies shall be determined by the Council by a two-thirds majority of all the Member States. Subject to the provisions of this Convention and of the Financial Protocol annexed thereto, such subordinate bodies shall adopt their own rules of procedure.

13. Pending the deposit of their instruments of ratification or accession, the States mentioned in paragraph 1 of Article III may be represented at meetings of the Council and take part in its work until the thirty-first of December, 1954. This right shall not include the right to vote, unless the State concerned has contributed to the Organization in accordance with the provisions of paragraph 1 of Article 4 of the Financial Protocol annexed to this Convention.

Article VI

Directors-General and Staff

1. (a) The Council shall, by a two-thirds majority of all the Member States, appoint for each Laboratory a Director-General for a defined period and may, by the same majority, dismiss him. In respect of the Laboratory under his direction, each Director-General shall be the chief executive officer of the Organization and its legal representative. He shall, in regard to financial administration, act in accordance with the provisions of the Financial Protocol annexed to this Convention. The Council may, by a two-thirds majority of all the Member States, delegate to the Directors-General, either separately or jointly, authority to act on behalf of the Organization in other matters. Each Director-General shall also submit an annual report to the Council and shall attend, without the right to vote, all its meetings.
- (b) The Council may postpone the appointment of a Director-General for such period as it considers necessary, either on the entry into force of this Convention or on the occurrence of a subsequent vacancy. In this event, it shall appoint a person to act in his stead, the person so appointed to have such powers and responsibilities as the Council may direct.
2. Each Director-General shall be assisted by such scientific, technical, administrative and clerical staff as may be considered necessary and authorized by the Council.
3. All staff shall be appointed and may be dismissed by the Council on the recommendation of the Director-General concerned. Appointments and dismissals made by the Council shall require a two-thirds majority of all the Member States. The Council may by the same majority delegate powers of appointment and dismissal to subordinate bodies established under the terms of paragraph 12 of Article V and to the Directors-General. Any such appointment and its termination shall be in accordance with the Staff Rules to be adopted by the Council by the same majority. Any persons, not members of the staff, who are invited by or on behalf of the Council to work at any Laboratory shall be subject to the authority of the Director-General concerned, and to such general conditions as may be approved by the Council.
4. The responsibilities of the Directors-General and the staff in regard to the Organization shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any government or from any authority external to the Organization. Each Member State shall respect the international character of the responsibilities of the Directors-General and the staff, and not seek to influence them in the discharge of their duties.

Article VII

Financial Contributions

1. Each Member State shall contribute both to the capital expenditure and to the current operating expenses of the Organization:
 - (a) for the period ending on the thirty-first of December, 1956, as set out in the Financial Protocol annexed to this Convention; and, thereafter,

- (b) in accordance with scales which shall be decided every three years by the Council by a two-thirds majority of all the Member States, and shall be based on the average net national income at factor cost of each Member State for the three latest preceding years for which statistics are available, except that,
 - (i) in respect of any programme of activities, the Council may determine, by a two-thirds majority of all the Member States, a percentage as the maximum which any Member State may be required to pay of the total amount of contributions assessed by the Council to meet the annual cost of that programme; once any such maximum percentage has been so determined, the Council may, by the same majority, change it, provided that no Member State participating in that programme votes to the contrary;
 - (ii) the Council may decide, by a two-thirds majority of all the Member States, to take into account any special circumstances of a Member State and adjust its contribution accordingly; for the purpose of applying this provision it shall be considered to be a special circumstance, in particular, when the national income "per capita" of a Member State is less than an amount to be decided by the Council by the same majority.
2. When participation by the Organization in a national or multinational project forms a programme of activities of the Organization, the terms of paragraph 1 above shall apply unless the Council, by a two-thirds majority of all the Member States, determines otherwise.
3. The contributions to be paid by a Member State under paragraph 1 of this Article shall be calculated in respect of, and applied only to, the programmes in which it participates.
4. (a) The Council shall require States which become parties to this Convention after the thirty-first of December, 1954, to make a special contribution towards the capital expenditure of the Organization already incurred in respect of the programmes in which they participate, in addition to contributing to future capital expenditure and current operating expenses. The Council shall require a similar contribution from Member States in respect of any programme in which they first participate after its commencement. The amount of this special contribution shall be fixed by the Council by a two-thirds majority of all the Member States.
- (b) All contributions made in accordance with the provisions of sub-paragraph (a) above shall be applied in reducing the contributions of the other Member States in respect of the programmes concerned.
5. Contributions due under the provisions of this Article shall be paid in accordance with the Financial Protocol annexed to this Convention.
6. To the extent of the authority delegated to him under the terms of sub-paragraph (2) of paragraph 1 of Article VI, and subject to any directions given by the Council, a Director-General may accept gifts and legacies to the Organization provided that such gifts or legacies are not subject to any conditions inconsistent with the purposes of the Organization

Article VIII

Co-operation with UNESCO and with other organizations

The Organization shall co-operate with the United Nations Educational, Scientific and Cultural Organization. It may also, by a decision of the Council taken by a two-thirds majority of all the Member States, co-operate with other organizations and institutions.

Article IX
Legal Status

The Organization shall have legal personality in the metropolitan territories of all Member States. The Organization and the representatives of Member States on the Council, the members of any subordinate bodies established under paragraph 12 of Article V, the Directors-General and the members of the staff of the Organization shall be accorded, in the metropolitan territories of Member States, by virtue of agreements to be concluded between the Organization and each Member State concerned, such privileges and immunities, if any, as they agree to be necessary for the exercise of the functions of the Organization. The agreements to be concluded between the Organization and the Member States on the territory of which the Laboratories of the Organization shall be established shall contain, in addition to provisions concerning privileges and immunities, provisions regulating the special relations between the Organization and those Member States.

Article X
Amendments

1. The Council may recommend amendments of this Convention to Member States. Any Member State which wishes to propose an amendment shall notify the President of Council thereof. The President shall inform all Member States of any amendment so notified at least three months before it is discussed by the Council.

2. Any amendment of this Convention recommended by the Council shall require acceptance in writing by all Member States. It shall come into force thirty days after the President has received notifications of acceptance from all Member States. The President shall inform all Member States and the Director-General of the United Nations Educational, Scientific and Cultural Organization of the date on which the amendment shall thus come into force.

3. The Council may amend the Financial Protocol annexed to this Convention by a two-thirds majority of all the Member States provided that such amendment does not conflict with the Convention. Any such amendment shall come into force on a date to be decided by the Council by the same majority. The President of Council shall inform all Member States and the Director-General of the United Nations Educational, Scientific and Cultural Organization of each such amendment and of the date on which it shall come into force.

Article XI
Disputes

Any dispute between two or more Member States concerning the interpretation or application of this Convention which is not settled by the good offices of the Council shall be submitted to the International Court of Justice, unless the Member States concerned agree on some other mode of settlement.

Article XII
Withdrawal

After this Convention has been in force for seven years, a Member State may, subject to the provisions of paragraph 4 of Article III, give notice in writing to the President of Council of withdrawal from the

Organization and such withdrawal shall take effect at the end of the financial year following that in which notice is given, or at such later date as the Member State proposes.

Article XIII

Non-fulfilment of Obligations

If a Member State fails to fulfil its obligations under this Convention, it shall cease to be a member of the Organization on a decision of the Council taken by a two-thirds majority of all the Member States.

Article XIV

Dissolution

The Organization shall be dissolved if at any time there are less than five Member States. It may be dissolved at any time by agreement between the Member States. Subject to any agreement which may be made between Member States at the time of dissolution, the State on the territory of which the seat of the Organization is at that time established shall be responsible for the liquidation, and the surplus shall be distributed among those States which are members of the Organization at the time of the dissolution in proportion to the contributions actually made by them from the dates of their becoming parties to this Convention. In the event of a deficit, this shall be met by the existing Member States in the same proportions as those in which their contributions have been assessed for the financial year then current.

Article XV

Signature

This Convention and the annexed Financial Protocol, which is an integral part thereof, shall be open for signature until the thirty-first of December, 1953, by any State which satisfies the conditions laid down in paragraph 1 of Article III.

Article XVI

Ratification

1. This Convention and the annexed Financial Protocol shall be subject to ratification.
2. Instruments of ratification shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article XVII

Accession

1. Any State, not a signatory of this Convention, which satisfies the conditions laid down in paragraphs 1 or 2 of Article III may accede to the Convention and the Financial Protocol as from the first of January, 1954.
2. Instruments of accession shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article XVIII
Entry into force

1. This Convention and the annexed Financial Protocol shall enter into force when seven States have ratified, or acceded to, these instruments, provided that:
 - (a) the total of their percentage contributions on the scale set out in the Annex to the Financial Protocol amounts to not less than seventy-five per cent; and
 - (b) Switzerland, being the country in which the seat of the Organization is to be established, shall be among such seven States.
2. This Convention and the annexed Financial Protocol shall enter into force for any other signatory or acceding State on the deposit of its instrument of ratification or accession, as the case may be.

Article XIX
Notifications

1. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall notify all signatory and acceding States, and all other States which took part in the Conference for the organization of studies concerning the establishment of a European Nuclear Research Laboratory held at Paris in December, 1951, and at Geneva in February, 1952, of the deposit of each instrument of ratification or accession, and of the entry into force of this Convention.
2. The President of Council shall notify all Member States and the Director-General of the United Nations Educational, Scientific and Cultural Organization of every withdrawal from, or termination of, membership.

Article XX
Registration

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall, upon the entry into force of this Convention, register it with the Secretary-General of the United Nations in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, the undersigned representatives, having been duly authorized thereto by their respective Governments, have signed this Convention.

Done at Paris, this first day of July, 1953, in the English and French languages, both texts being equally authoritative, in a single original, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, the Director-General of which shall transmit a certified copy to all signatory and acceding States and to all other States which took part in the Conference for the organization of studies concerning the establishment of a European Nuclear Research Laboratory.

Copie conformă cu originalul

Alina Orosan, director
Direcția Drept Internațional și Tratat
Ministerul Afacerilor Externe

FINANCIAL PROTOCOL

**annexed to the Convention for the Establishment
of a European Organization for Nuclear Research
As amended**

PROTOCOLE FINANCIER

**annexe à la Convention pour l'établissement d'une
Organisation européenne pour la Recherche nucléaire
Tel qu'il a été modifié**

FINANCIAL PROTOCOL
annexed to the Convention for the Establishment
of a European Organization for Nuclear Research

THE STATES parties to the Convention for the Establishment of a European Organization for Nuclear Research (hereinafter referred to as "the Convention"),

DESIRING to make provision for the financial administration of the said Organization,

HAVE AGREED as follows:

Article 1

Budget

(1) The financial year of the Organization shall run from the first of January to the thirty-first of December.

(2) Each Director-General shall not later than the first of September in each year submit to the Council for consideration and approval detailed estimates of income and expenditure for the following financial year.

(3) Estimates of income and expenditure shall be divided under general headings. Transfers within the budget shall not be permitted except by authority of the Finance Committee referred to in Article 3. The exact form of the estimates shall be determined by the Finance Committee on the advice of the Directors-General.

Article 2

Supplementary Budget

The Council may require a Director-General to present supplementary or revised budget estimates if circumstances make it necessary. No proposal involving additional expenditure shall be deemed to be approved by the Council until it has approved an estimate submitted by the appropriate Director-General of the additional expenditure involved.

Article 3

Finance Committee

(1) The Finance Committee, established by paragraph 12 of Article V of the Convention, shall be composed of representatives of all Member States.

(2) The Finance Committee shall, in reaching its decisions, follow the rules for voting and quorum prescribed for the Council in Article V of the Convention.

(3) This Committee shall examine the budget estimates of the Directors-General, after which they shall be transmitted to the Council with the Committee's report thereon.

Article 4
Contributions

(1) For the period ending on the thirty-first of December, 1954, the Council shall make provisional budgetary arrangements, which shall be met by contributions as provided for in paragraph (1) of the Annex to this Protocol.

(2) For the financial years 1955 and 1956, approved budget expenditure shall be met by contributions from Member States, which shall be assessed in the same proportions as the percentage figures set out in paragraph (2) of the Annex to this Protocol, it being understood that the provisos mentioned in (i) and (ii) of sub-paragraph (b) of paragraph 1 of Article VII of the Convention shall apply.

(3) From the first of January, 1957, approved budget expenditure shall be met by contributions from Member States as provided for in Article VII of the Convention.

(4) When any State, whether on becoming a member of the Organization or later, first participates in a programme of activities, the contributions of the other Member States concerned shall be reassessed and the new scale shall take effect as from the beginning of the current financial year. Reimbursements shall be made, if necessary, to ensure that the contributions paid by all the Member States for that year are in conformity with the new scale.

(5) (a) The Finance Committee shall in consultation with the Directors-General determine the terms on which payments in respect of contributions shall be made consistently with the proper financing of the Organization.

(b) Each Director-General shall thereafter notify Member States of the amount of their contributions and of the dates on which payments shall be made.

Article 5
Currency of Contributions

(1) The budget of the Organization shall be expressed in the currency of the country in which the seat of the Organization is established.

(2) The Council shall, by a two-thirds majority of all the Member States, determine the payments arrangements and the currency or currencies in which the contributions of the Member States shall be made.

Article 6
Working Capital Funds

The Council may establish working capital funds

Article 7
Financial Rules

After consultation with the Finance Committee, the Council shall, by a two-thirds majority of all the Member States, adopt rules for the financial administration of the Organization, which shall constitute the Financial Rules

ANNEX

- (1) Contributions for the period ending on the 31st of December, 1954.
- (a) The States which are parties to the Convention on the date of its entry into force, together with any other States which may become members of the Organization during the period ending on the 31st of December, 1954, shall between them contribute the whole of the sums required by such provisional budgetary arrangements as the Council may make under paragraph (1) of Article 4.
 - (b) The contributions of the States which are members of the Organization when the Council first makes such provisional budgetary arrangements shall be provisionally assessed on the basis set out in paragraph (2) of Article 4, subject to the provisos mentioned in (i) and (ii) of sub-paragraph (b) of paragraph 1 of Article VII of the Convention, except that in proviso (i) thirty per cent shall be deemed to be substituted for twenty-five per cent.*
 - (c) The contributions of the States which become members of the Organization during the period between the first occasion on which provisional budgetary arrangements have been made and the 31st of December, 1954, shall be provisionally assessed in such a manner that the relative proportions between the provisional contributions of all Member States are the same as between the percentage figures set out in paragraph (2) of this Annex. Such contributions will serve either, as provided for in sub-paragraph (d) below, to reimburse subsequently part of the provisional contributions previously paid by the other Member States, or to meet additional budgetary appropriations approved by the Council during that period.
 - (d) The final contributions due for the period ending on the 31st of December, 1954, from all the States which are members of the Organization on that date shall be retroactively assessed after that date on the basis of the total budget for the said period, so that they shall be those which they would have been if all these States had become parties to the Convention on the date of its entry into force. Any sum paid by a Member State in excess of its contribution thus retroactively assessed shall be placed to the credit of the Member State.
 - (e) If all the States specified in the scale set out in paragraph (2) of this Annex have become members of the Organization before the 31st of December, 1954, their percentage contributions to the total budget for that period shall be those set out in that scale.
- (2) Scale to serve as a basis for the assessment of contributions during the period ending on the 31st of December, 1956.

	<i>Percentage</i>
Belgium	4.88
Denmark	2.48
France	23.84
Federal Republic of Germany	17.70
Greece	0.97
Italy	10.20
Netherlands	3.68
Norway	1.79
Sweden	4.98
Switzerland	3.71
United Kingdom of Great Britain and Northern Ireland	23.84
Yugoslavia	1.93
Total	100.00

* This provision refers to the original text of Article VII.1 (b) (i) of the Convention which read as follows: "No Member State shall, in respect of the basic programme, be required to pay contributions in excess of twenty-five per cent of the total amount of contributions assessed by the Council to meet the cost of that programme".

Article 8
Accounts and Auditing

- (1) Each Director-General shall keep an accurate account of all receipts and disbursements.
- (2) The Council shall appoint auditors who will serve for three years in the first instance and may be reappointed. The auditors shall examine the accounts of the Organization, particularly in order to certify that the expenditure has conformed, within the limits specified in the Financial Rules, to the provisions made in the budget, and shall discharge such other functions as are set out in the Financial Rules.
- (3) Each Director-General shall furnish the auditors with such information and help as they may require to carry out their duties.

IN WITNESS WHEREOF, the undersigned representatives, having been duly authorized thereto by their respective Governments, have signed this Protocol.

Done at Paris, this first day of July, 1953, in the English and French languages, both texts being equally authoritative, in a single original, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, the Director-General of which shall transmit a certified copy to all signatory and acceding States and to all other States which took part in the Conference for the organization of studies concerning the establishment of a European Nuclear Research Laboratory.

Copie conformă cu originalul

Alina Orosan, director
Direcția Drept Internațional și Tratat
Ministerul Afacerilor Externe

