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2000-1126-F

FOIA Number:
2000-1126-F

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Comments, pls.

FROM

Jim O'Brien L-PM

State Dep't

Legal Adviser's Office

Thanks -
Dan

This is a rough draft of a statute
for the Int'l Science & Tech. Center
in Moscow. We hope to have preliminary
discussions about it next week in Moscow
(but not negotiations or detailed drafting
sessions). Please get me any comments
by COB WEDNESDAY (if possible). My phone
number is 647 7838. Fax is 647-1037.

Thanks.

INTERNATIONAL SCIENCE AND TECHNOLOGY CENTER

STATUTE

ARTICLE I
[NAME, LOCATION]

A. The International Science and Technology Center (hereinafter "the Center") has been created by the Governments of the United States of America, Japan, and the Russian Federation, and the European Atomic Energy Community and the European Economic Community (the European Community) in the Agreement Establishing An International Science and Technology Center (hereinafter "the Agreement"), which entered into force on 1992.

B. The headquarters of the Center will be in the Russian Federation.

ARTICLE II
[PURPOSE, POWERS]

A. The Center shall develop, approve, finance, and monitor science and technology projects for the objectives set forth in Article II of the Agreement.

B. The Center shall use its resources solely for the accomplishment of those objectives.

C. The Center shall have the powers enumerated in Article III of the Agreement.

ARTICLE III
[PARTIES, NEW PARTIES]

A. The Governments of the United States of America, Japan, and the Russian Federation, and the European Community shall be the initial parties to this Agreement.

B. Only after an application to accede or accept this Agreement is approved in accordance with Article [] may a Government become party to the Agreement. Only governments may apply to become party to the Agreement.

C. States desiring to accede to the Agreement shall notify the Executive Director and shall provide information requested by the Executive Director on behalf of the Parties. The Executive Director shall circulate requests for approval to representatives on the Governing Board (Article []) without delay. No later than thirty (30) days after receipt of such notification, each representative shall communicate its approval or rejection of the request to the Executive Director, who shall communicate the Board's decision to the applying Government. (Votes of individual representatives shall not be communicated.) Failure to communicate a decision to the Executive Director shall be construed as rejection of a request.

ARTICLE IV [STRUCTURE]

The Center shall have a Governing Board ("the Board") and a staff, which shall include an Executive Director, Deputy Directors, a Senior Review Committee, and other staff as determined in accordance with Article [] of this Statute.

ARTICLE V [BOARD PURPOSE, MEMBERSHIP, PROCEDURES]

A. The Governing Board shall be the principal policymaking body of the Center. It shall be responsible for the duties set forth in Article IV of the Agreement.

B. The Board shall initially have four members. The Governments of the United States of America, Japan, and the Russian Federation, and the European Community shall each appoint one representative within forty-five days after the Agreement's entry into force.

C. A party acceding to the Agreement may join the Board upon the decision of the Board and upon the terms and conditions the Board sets.

D. The Parties intend to expand the Board's membership. In particular, it is anticipated that one acceding party that is a state of the former Soviet Union shall have a representative on the Board. The term of that Party's representative shall be one year, and it is intended that a representative from another such acceding state shall be appointed subsequently to an identical term.

*give Ukraine
a permanent
seat, if it
desires.*

EACIF 9K

- E. (i) In the event that a State that is a member of the European Economic Community or European Atomic Energy Community requests Board approval to become Party to the Agreement, that state and the relevant Community or Communities shall declare before a decision is taken on its request the extent of each's competence with respect to matters governed by the Agreement.
(ii) The Community or Communities and member states shall not be entitled to exercise rights under the Agreement concurrently.
(iii) Member States of the European Economic Community or European Atomic Energy Community shall not be admitted to membership on the Governing Board in a voting capacity.
- F. All decisions of the Board shall be by consensus of all its members, except as provided otherwise in the Agreement or in its rules of procedure.
- G. The Board shall have a chair, who shall each serve for one year in that capacity. The representative of the European Community shall serve as the first chair.
- H. The Board shall meet, upon thirty (30) days notice from the Chair, at least twice annually.
- I. Representatives to the Board may cast their votes in person or, when appropriate, in writing, including facsimile transmission, or by telephone to the Executive Director.

ARTICLE VI
[STAFF]

- A. The staff of the Center shall consist of the Executive Director, the Deputy Directors, an Executive Secretary to the Board, and other staff.
- B. The Executive Director shall supervise the daily administration of the Center and shall be responsible for implementing the policy guidance of the Board. The Executive Director shall be appointed for a two-year term and may be dismissed at the will of the Parties. The Executive Director shall be in residence at the headquarters of the Center. The first Executive Director shall be nominated by the Government of the United States and subject to approval by the Board.
- C. There shall be three Deputy Directors, who shall each serve a two-year term. The Governments of Japan and the Russian Federation, and the European Community, shall each nominate one Deputy Director, who shall be subject to approval by the Board. The Executive Director shall determine the division of responsibilities among the Deputy Directors.

D. The Executive Director shall appoint an Executive Secretary, who shall serve as liason between the Director and the Board.

E. Other staff shall be appointed by the Executive Director, subject to the approval of the Board, and may be dismissed by the Executive Director.

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

- (i) Disseminating information about Center procedures and objectives;
- (ii) Receiving project proposals and for information required in accordance with Article VII of these Statutes;
- (iii) Soliciting project proposals and statements of interest, including areas of expertise, from institutions in parties that are states of the former Soviet Union;
- (iv) Coordinating the review of projects for scientific and technical merit;
- (v) Communicating with those submitting projects to the Center;
- (vi) Proposing an activity plan and a budget for each year; and
- (vii) Preparing an Annual Report of the Center's activities, with the first Report to be submitted to the Parties one year after the first meeting of the Governing Board.

ARTICLE VII [PROJECT APPROVAL]

A. A project must be approved by the Governing Board to be a "Center project." The Board shall decide whether a project is to be approved and whether it shall be funded by the Center.

B. Submission/of projects to the Governing Board:

- (i) Any person, institution, or government may submit a proposal.
- (ii) Proposals for projects shall be submitted to the Governing Board through the Executive Director, who shall transmit them to the Governing Board.
- (iii) Parties represented on the Governing Board may present projects directly to the Governing Board. To the extent practicable, such Parties shall provide the information required in paragraph C.

C. Information required in submissions:

- (i) Project title;
- (ii) Project participants, including principal collaborators, their institutional affiliations, and contact persons;
- (iii) Description of the project, including a 500-word summary, the project's purpose, the work to be done, the location of the work, and sufficient information to permit a review of the project's scientific merit and its consistency with the Center's objectives, as described in Article II of the Agreement;
- (iv) Financial information, including a cost estimate, a recommended budgetary schedule, any financial support anticipated from non-Center sources (including relevant documentation), and whether a project will require assistance from the Center in obtaining financing;
- (v) Any intellectual property or research results likely to arise from the project, along with arrangements concluded for allocating and protecting any such results or intellectual property;
- (vi) Provisions for monitoring projects, if any;
- (vii) The written concurrence of the participating individuals and institutions and of involved states, including both any sponsoring states and any states of the former Soviet Union in which the project is to be carried out;
- (viii) Merit: whether the project has undergone independent peer review and, if so, the results of that peer review;
- (ix) Access and monitoring assurances from participating states and institutions as required by the Agreement.
- (x) Any other information specified in the Center's call for proposals or requested by the Executive Director concerning a particular proposal.

This information shall be provided in a format to be described by the Executive Director. The Executive Director, in his discretion, may seek to obtain the above information on behalf of those proposing a project or may require that those proposing a project obtain the information themselves.

D. The Executive Director shall transmit projects to the Governing Board after the information required in paragraph C has been provided. The Executive Director shall also attach:

- (i) A determination by the Executive Director that the project is in accordance with the objectives of the Center, as described in Article II of the Agreement;
- (ii) The results of a scientific review conducted in accordance with Article VIII of these Statutes, if available; and
- (iii) When deemed appropriate by the Executive Director, his or her recommendation for approval or disapproval of a project.

E. Approval of projects by the Governing Board:

(i) When transmitting a project, the Executive Director shall specify a date by which a Governing Board member's decision on the project shall be communicated to the Executive Director. That date shall be not fewer than [] weeks but not more than [] weeks from the date on which the project was transmitted, except when the Board agrees otherwise.

(ii) A Board member's failure to communicate shall be deemed to be disapproval.

(iv) The Executive Director shall communicate the Board's decision (but not votes of individual representatives) to the applicant upon receiving all votes or within one week of the date established in accordance with paragraph C(i), whichever is sooner.

(v) Upon receiving the approval of the Governing Board in accordance with Article V of the Agreement, a project may be described as a Center project, as that term is used in the Agreement.

F. In deciding whether to approve a project, the Governing Board will consider the following criteria:

(i) Importance of participating institution in the state of the former Soviet Union to threat of proliferation;

(ii) Number of target scientists, engineers, and facilities participating;

(iii) Contribution to the elimination of capabilities in nuclear, biological, or chemical, or other weapons development;

(iv) Lead time required for impact;

(v) Duration of impact;

(vi) Availability of non-Center financing for participating personnel and institutions outside the former Soviet Union;

(vii) Consistency with Parties' international legal obligations;

(viii) Likelihood of assisting CIS in transition to market economy;

(ix) Potential for economic returns or economic self-sufficiency, e.g., for producing a commercially viable product or resulting in a commercially viable service;

(x) Ease of ensuring accountability of funds and resources and transparency of activities.

G. Funding of Center projects:

(i) The Governing Board shall consider sources of financing for Center projects, unless the information submitted with the project states that financing has been obtained or will be sought from non-Center sources.

(ii) Center projects may be financed by the Center, by nongovernmental organizations, intergovernmental organizations, or by governments.

(iii) A project may be financed by the Center only upon a decision of the Governing Board. Each Governing Board member shall, when communicating a decision to approve a project, state whether the project will merit further consideration for financing with Center funds. When the Board agrees that a project merits further consideration, the Executive Director shall prepare a paper for the Board explaining the availability of funds and containing a recommendation on the Center's financing a project. The Board shall make a final decision within two weeks of receiving that paper. The failure to reach a decision shall be deemed a negative decision.

(iv) The Governing Board may instruct the Executive Director to assist in obtaining financing from sources other than the Center.

ARTICLE VIII
[SCIENTIFIC REVIEW]

A. A Senior Review Committee (SRC) shall be constituted, with membership of two individuals named by each signatory Board member. Each Board member admitted in accordance with Article [] shall be entitled to appoint one further member.

B. The SRC shall meet within forty-five days of the initial meeting of the Board to provide advice on the method for obtaining technical review of individual projects.

C. Unless decided otherwise by the SRC, the review of individual project proposals for technical and scientific merit shall be obtained by fax review from at least three individual experts from different states. Each independent review conducted by a state Party to this Agreement shall be considered to be one of the three reviews. Experts for additional reviews, if necessary, shall be selected from lists provided by SRC members to the Center staff.

ARTICLE IX
[INTELLECTUAL PROPERTY RIGHTS]

- A. Intellectual property arising from, or exchanged under, Center projects, shall be adequately protected.
- B. The allocation of rights to intellectual property arising from Center projects shall be determined by the parties to a project in accordance with a project agreement, to be concluded before the project begins.
- C. The Parties to the Agreement shall make their best efforts to ensure that, through project agreements, individuals who create intellectual property are entitled to receive a share of royalties resulting from the dissemination of such intellectual property.
- D. The Parties shall make their best efforts to provide assistance to states of the former Soviet Union in developing means to transfer intellectual property arising from projects under the Agreement from the governmental sector to the private sector.

ARTICLE X
[MONITORING/AUDITING]

- A. The Governing Board shall cooperate with Parties that are financing a project in determining how to audit and monitor projects, in accordance with Article VIII of the Agreement. The Governing Board will seek to reduce the Center's expenditures on auditing and monitoring to the minimum, consistent with ensuring accountability and transparency.
- B. The Governing Board may appoint [five] auditors, from a list supplied by the Executive Director, to conduct audits of projects.
- C. An auditor selected from that list shall conduct an annual audit of the Center's financial status and activities and shall report to the Governing Board.

ARTICLE XI
[AMENDMENT OF STATUTES]

These Statutes may be amended by written agreement of all the Parties on the Board.

ARTICLE XII
[ADMINISTRATIVE DETAILS]

ARTICLE XIII
[PARTICIPATION OF IOs and NGOs]

- A. Inter-governmental organizations and non-governmental organizations may be invited to participate in Board deliberations in a non-voting capacity.
- B. Inter-governmental organizations
- C. Non-governmental organizations

ARTICLE XIV
[INTERIM ARRANGEMENTS]

The Parties shall take necessary steps to ensure that the first approvals of projects by the Governing Board shall be communicated to persons proposing projects the Executive Director not later than [June 1]. In particular, scientific reviews by the state of the former Soviet Union and by at least one Governing Board member shall be regarded as sufficient. What else do we need?