

# COMMISSION

## COMMISSION DECISION

of 17 November 2006

**on Provisional Application of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project and of the Agreement on Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project**

(notified under document number C(2006) 5557)

(2006/943/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

(‘the ITER Organization’) shall be at St Paul-lez-Durance, Bouches-du-Rhône, France.

Having regard to the Treaty establishing the European Atomic Energy Community, and, in particular, Articles 101, 124 and 192 thereof,

(5) As the ITER Host Party, Euratom has special responsibilities for ensuring the timely implementation of the ITER Project.

Whereas:

(1) The Council, in its Decision of 25 September 2006, approved the conclusion by the Commission of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (‘the ITER Agreement’), of the Arrangement on Provisional Application of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (‘the Arrangement on Provisional Application’) and of the Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project.

(6) Agreements concluded by the Community are binding on the institutions of the Community and on Member States.

(7) In accordance with Article 192 of the Treaty, Member States shall facilitate the achievement of the Community’s tasks.

(8) The power to conclude international agreements is vested in the Commission under Article 101 of the Treaty, whereas it is also for the Commission to ensure the provisional application of such agreements in accordance with the approval given by Council,

(2) Article 3 of the Arrangement on Provisional Application expresses the desire of the Signatories of the ITER Agreement (‘the Signatories’) to pursue co-operation as provided for in the ITER Agreement to the fullest possible extent, pending completion by each of them of all domestic actions required prior to ratification, acceptance or approval of the ITER Agreement.

HAS ADOPTED THIS DECISION:

### *Sole Article*

The ITER Organization in its provisional capacity shall in the Community:

(3) Article 4 of the Arrangement on Provisional Application expresses the undertaking of the Signatories, to the fullest extent possible consistent with their domestic laws and regulations, to abide by the terms of the ITER Agreement until it enters into force.

(a) enjoy the legal capacity it requires to (i) conclude contracts, in particular for hiring of staff, (ii) acquire, hold and dispose of property, (iii) obtain licenses and (iv) institute legal proceedings to the extent required to carry out necessary actions for a timely implementation of the ITER Project in anticipation of the formal establishment of the ITER Organization; noting that all rights and obligations assumed by the ITER Organization in a provisional capacity shall persist as those of the ITER Organization in accordance with the terms of the ITER Agreement upon the formal establishment of the ITER Organization;

(4) Article 1 of the ITER Agreement provides that the Headquarters of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project

(b) enjoy, together with its staff and representatives of the Signatories, in the territories of the Member States, the privileges and immunities provided for under the Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project, in particular with regard to taxation, immigration and registration, in anticipation of the formal establishment of the ITER Organization;

(c) abide by the provisions of the ITER Agreement; and in particular to observe the applicable national laws and regulations of the Host State in the fields of public and occupational health and safety, nuclear safety, radiation protection,

licensing, nuclear substances, environmental protection and protection from acts of malevolence.

This Decision is addressed to the Member States.

Done at Brussels, 17 November 2006.

*For the Commission*  
Janez POTOČNIK  
*Member of the Commission*