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PRIVILEGES AND
IMMUNITIES



Treaty No. 29 (1995)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the European Molecular Biology Laboratory

concerning the European Bioinformatics Institute

London, 26 July 1994

[The Agreement entered into force on 26 July 1994]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
April 1995*

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**AGREEMENT
BETWEEN THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE EUROPEAN MOLECULAR BIOLOGY LABORATORY
CONCERNING THE EUROPEAN BIOINFORMATICS INSTITUTE**

The Government of the United Kingdom of Great Britain and Northern Ireland and the European Molecular Biology Laboratory;

Having regard to the Agreement Establishing the European Molecular Biology Laboratory;¹

Noting that the Council of the European Molecular Biology Laboratory has established as one of its outstations the European Bioinformatics Institute which is to be located in the United Kingdom;

Desiring to define the privileges and immunities of the Laboratory in respect of the Institute;

Have agreed as follows:

ARTICLE 1

Use of Terms

For the purpose of this Agreement:

- (a) "Laboratory Agreement" means the Agreement establishing the European Molecular Biology Laboratory signed at Geneva on 10 May 1973, and any amendments thereto;
- (b) "Laboratory" means the European Molecular Biology Laboratory;
- (c) "Institute" means the European Bioinformatics Institute established by the Council;
- (d) "Government" means the Government of the United Kingdom of Great Britain and Northern Ireland (the "United Kingdom");
- (e) "Members of staff" means the members of the personnel of the Laboratory, as defined by the Laboratory's Staff Rules and Regulations assigned to work at the Institute in the United Kingdom; "established members of staff" means the established members of the personnel of the Laboratory, as defined by the Laboratory's Staff Rules and Regulations assigned to work at the Institute in the United Kingdom;
- (f) "Representatives of Member States" means heads of delegations of Member States, their alternates and advisers participating in meetings convened by the Institute or by the Laboratory at the Institute;
- (g) "Member State" means a State Party to the Laboratory Agreement;
- (h) "Director-General" means the Director-General of the Laboratory or the person referred to in paragraph 1(b) of Article VII of the Laboratory Agreement;
- (i) "Expert" means a person other than a member of staff, appointed by the Council or the Director-General to carry out a specific task for or on behalf of the Laboratory;
- (j) "Council" means the Council of the Laboratory.

ARTICLE 2

Legal Personality

The Laboratory shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property and to institute legal proceedings.

¹ Treaty Series No. 12 (1975) Cmnd. 5835.

ARTICLE 3

Inviolability of Archives

The archives of the Laboratory in respect of the Institute shall be inviolable, wherever they may be.

ARTICLE 4

Immunity from Jurisdiction and Execution

1. Within the scope of the official activities of the Institute, the Laboratory shall enjoy immunity from jurisdiction and execution, except:

- (a) to the extent that the Laboratory shall have expressly waived such immunity in a particular case;
- (b) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Laboratory or in respect of a motor traffic offence involving such a vehicle;
- (c) in respect of a civil action relating to death or personal injury caused by an act or omission in the United Kingdom;
- (d) in respect of contracts (other than those concluded in accordance with the Staff Rules and Regulations) which do not include an arbitration clause as referred to in Article 21;
- (e) in respect of the enforcement of an arbitration award made under Article 21 or 24;
- (f) in respect of an attachment order against the salaries, wages and emoluments owed by the Laboratory to a member of staff;
- (g) in respect of any counter-claim directly connected with court proceedings initiated by the Laboratory.

2. Except as provided in paragraph 1 of this Article, property and assets of the Laboratory used for the purposes of the Institute shall, wherever situated, be immune from any form of requisition, confiscation or sequestration. They shall also be immune from any form of administrative or provisional judicial constraint, except insofar as may be temporarily necessary in connection with the prevention of, and investigation into, accidents involving motor vehicles belonging to, or operated on behalf of, the Laboratory.

ARTICLE 5

Exemption from Taxation

1. Within the scope of the official activities of the Institute, the Laboratory, its property, assets and income shall be exempt from all direct taxes, except those taxes which are no more than payment for services rendered.

2. When the Laboratory makes substantial purchases of goods or services necessary for the exercise of the official activities of the Institute, in the price of which taxes or duties are included, appropriate measures shall be taken by the Government to refund or remit such taxes or duties.

3. The Laboratory shall be accorded a refund of duty (whether of customs or excise) and Value Added Tax paid on the importation of hydrocarbon oils (as defined in Section 1 of the Hydrocarbon Oil Duties Act 1979) purchased by it and necessary for the exercise of the official activities of the Institute.

4. The Laboratory, within the scope of the official activities of the Institute, shall be granted relief from non-domestic rates, or any other local taxes or duties or rates in substitution therefore or in addition thereto, levied on the premises of the Institute with the exception of the proportion which, as in the case of diplomatic missions, represents a charge for public services. The rates, or any other local taxes or duties

or rates levied in substitution therefore or in addition thereto, referred to in this paragraph shall in the first instance be paid by the Government, which shall recover from the Institute the proportion which represents a charge for public services.

ARTICLE 6

Customs Provisions

Goods imported or exported by the Laboratory and necessary for the exercise of the official activities of the Institute shall be exempt from all customs duties and taxes on import and export, except those charges which are no more than payment for services rendered, and from all prohibitions and restrictions on import or export.

ARTICLE 7

Official Activities

For the purposes of Articles 4, 5, 6 and 10 of this Agreement, the official activities of the Institute shall include its administrative activities and those undertaken in pursuance of the purposes of the Institute.

ARTICLE 8

Goods for Members of Staff

No exemption shall be accorded under Articles 5 or 6 in respect of goods purchased or imported for the personal benefit of the members of staff.

ARTICLE 9

Disposal or Transfer of Goods

Goods belonging to the Laboratory which have been acquired under Article 5 or imported under Article 6 shall not be transferred, sold, given away, lent or hired out except in accordance with conditions determined by the Government. However, this prohibition shall not apply to the transfer of goods between different establishments of the Laboratory.

ARTICLE 10

Circulation of Publications

The circulation of publications and other information material sent by or to the Laboratory within the scope of the official activities of the Institute shall not be restricted in any way.

ARTICLE 11

Communications

1. With regard to the official communications of the Laboratory and the transfer of all its documents, the Laboratory shall enjoy treatment not less favourable than that accorded by the Government to other international organisations.
2. No censorship shall be applied to official communications of the Institute by whatever means of communication.

ARTICLE 12

Representatives of Member States and Experts

1. Representatives of Member States shall enjoy, while exercising their functions and in the course of their journeys to and from the place of meeting, the following privileges and immunities:

- (a) immunity from jurisdiction, even after the termination of their mission, in respect of acts, including words spoken and written, performed by them in their official capacity and within the limits of their authority; this immunity shall not apply, however, in the case of a motor traffic offence committed by a representative of a Member State, nor in the case of damage caused by a motor vehicle belonging to or driven by such a representative;
- (b) inviolability for all their official papers and documents;
- (c) exemption for themselves and their spouses from all immigration restrictions and alien registration and from registration formalities for the purposes of immigration control.

2. The Government shall facilitate the entry into the United Kingdom of experts on mission. They shall enjoy, while exercising their functions and in the course of their journeys to and from the place of meeting, exemption from alien registration and from registration formalities for the purposes of immigration control. This exemption shall not apply to nationals or permanent residents of the United Kingdom.

3. The privileges and immunities described in paragraph 1 of this Article shall not be accorded to any Representative of the Government nor the members of their delegation.

ARTICLE 13

Members of Staff

1. The members of staff shall:

- (a) have, even after they have left the service of the Laboratory, immunity from jurisdiction in respect of acts, including words written and spoken, performed by them in their official capacity and within the limits of their authority; this immunity shall not apply, however, in the case of a motor traffic offence committed by a member of staff of the Laboratory, nor in the case of damage caused by a motor vehicle belonging to or driven by a member of staff;
- (b) be exempt from all obligations in respect of military service and all other compulsory service in the United Kingdom;
- (c) enjoy inviolability for all their official papers and documents;
- (d) be exempt, together with members of their families forming part of their households, from immigration restrictions and alien registration and from registration formalities for the purposes of immigration control;
- (e) enjoy, together with the members of their families forming part of their households, the same facilities for repatriation as diplomatic agents in time of international crises;
- (f) have the right to import duty-free their furniture and personal effects (including one motor vehicle each) at the time of first taking up their post and the right on the termination of their functions to export free of duty their furniture and personal effects, subject in both cases, to the conditions governing the disposal of goods imported into the United Kingdom free of duty and to the general restrictions applied in the United Kingdom to all imports and exports.

2. The privileges and immunities set out in subparagraphs (b), (d), (e) and (f) of paragraph 1 of this Article shall not apply to members of staff who are nationals or permanent residents of the United Kingdom and none of the privileges and immunities set out in paragraph 1 of this Article shall apply to locally recruited members of staff in the domestic service of the Laboratory.

ARTICLE 14

The Director-General

In addition to the privileges and immunities granted to members of staff, the Director-General shall, provided that he is not a national or a permanent resident of the United Kingdom, enjoy the same privileges and immunities as are accorded to diplomatic agents in accordance with the Vienna Convention on Diplomatic Relations.

ARTICLE 15

Income Tax

1. Under the conditions and according to the procedure determined by the Council, the members of staff shall be subject to an internal effective tax, for the benefit of the Laboratory, on the salaries and emoluments paid by the Laboratory. From the date on which this tax shall be applied, these salaries and emoluments shall be exempt from United Kingdom income tax, but the Government shall retain the right to take these salaries and emoluments into account for the purpose of assessing the amount of taxation to be applied to income from other sources.

2. Insofar as the Laboratory operates a system for the payment of pensions and annuities to former members of staff, the provisions of paragraph 1 of this Article shall not apply to such pensions or annuities.

ARTICLE 16

Notification of Appointments

1. The Laboratory shall inform the Government when a member of staff takes up or relinquishes his or her duties at the Institute. Furthermore the Laboratory shall from time to time send to the Government a list of all members of staff assigned to the Institute indicating in each case whether or not the individual is a national or permanent resident of the United Kingdom.

2. Before employing as a member of staff any person who is present in the United Kingdom at the time of such employment, the Laboratory shall take all reasonable steps to ascertain that such person is not present in the United Kingdom in violation of the relevant immigration laws or is not subject to a prohibition thereunder from taking employment in the United Kingdom. If the Government determines that any member of staff was at the time of taking up his employment in violation of the immigration laws or was subject to such a prohibition, the Laboratory and the Government shall consult with a view to agreeing on the appropriate remedy, including, where appropriate, termination of such employment.

ARTICLE 17

Social Security

Insofar as the Laboratory operates a social security scheme, the Institute, the Director-General and established members of staff, shall, with respect to services rendered for the Laboratory, be exempt from all compulsory contributions to any social security scheme established by the United Kingdom.

ARTICLE 18

Object of Privileges and Immunities; Waiver

1. The privileges, immunities and exemptions accorded in this Agreement are not designed to give the Director-General, experts and members of staff personal advantage. They are provided solely to ensure, in all circumstances, the unimpeded functioning of the Laboratory and the complete independence of the persons to whom they are accorded.

2. The Director-General shall have the right and the duty to waive any immunity, privilege or exemption in respect of members of staff when the immunity, privilege or exemption would impede the course of justice and when it is possible to dispense with the immunity, privilege or exemption without prejudicing the interests of the Institute. In similar circumstances and under the same conditions, whichever of the Council, or the Director-General made the appointment shall have the right and the duty to waive any exemption in respect of experts, and the Council shall have the right and the duty to waive any immunity, privilege or exemption of the Director-General.

3. Privileges and immunities accorded to Representatives of Member States under paragraph 1 of Article 12 are provided in order to assure complete independence in the exercise of their functions, and may be waived by the Member State concerned.

ARTICLE 19

Co-operation with United Kingdom Authorities

1. The Laboratory shall co-operate at all times with the appropriate authorities of the United Kingdom in order to facilitate the proper administration of justice, to ensure the observance of police, public health and labour regulations and to prevent any abuse of the privileges, immunities and facilities provided for in this Agreement.

2. In order to facilitate the application of this Agreement, the Laboratory shall closely co-operate with the representatives designated by the Government and with the local authorities.

ARTICLE 20

National Security

The provisions of this Agreement shall not affect the right of the Government to take measures it considers necessary for the security of the United Kingdom and for the maintenance of public order.

ARTICLE 21

Contracts

1. The Laboratory may include in all written contracts, other than those concluded in accordance with the Staff Rules and Regulations, into which it enters, an arbitration clause whereby any disputes arising out of the interpretation or execution of the contract may at the request of either party be submitted to arbitration. This arbitration clause shall specify the method of nomination of the arbitrators, the applicable law and the country where the arbitrators shall sit. The arbitration procedure shall be that of the country where the arbitrators shall sit.

2. The enforcement of the award of such arbitration shall be governed by the rules in force in the State in which it is to be executed.

ARTICLE 22

Disputes between the Laboratory and its Staff

Disputes between the Laboratory and members of staff shall be settled in accordance with the Staff Rules and Regulations of the Laboratory.

ARTICLE 23

Recourse in case of International Liability

If the United Kingdom should incur, by reason of the activities of the Institute on its territory, any international legal responsibility for acts or omissions of the Institute or of its agents acting or abstaining from acting within the limits of their functions, it shall have the right of recourse to the Laboratory.

ARTICLE 24

Liability for Damage

1. The Laboratory shall be responsible for any loss or damage arising from the activities of the Institute in the United Kingdom.
2. At the request of the Government the following shall be submitted to the settlement of disputes procedure as set out in Article 30:
 - (a) disputes relating to any non-contractual responsibility of the Laboratory; or
 - (b) disputes involving any person who may claim immunity from jurisdiction under paragraph 1(a) of Article 13 or under Article 14, if this immunity is not waived in accordance with the provisions of paragraph 2 of Article 18. In disputes where immunity from jurisdiction is claimed under paragraph 1(a) of Article 13 or under Article 14, the Laboratory shall be responsible for the acts and omissions of the persons referred to in the above-mentioned Articles.

ARTICLE 25

Liability Insurance

1. The Laboratory shall carry insurance sufficient to cover its liabilities under Article 24.
2. The terms of the insurance contract shall be determined after consultation with the appropriate authorities of the Government.

ARTICLE 26

Entry into force

This Agreement shall enter into force on signature.

ARTICLE 27

Interpretation

This Agreement shall be interpreted in the light of its primary purpose of enabling the Institute fully and efficiently to discharge its responsibilities and fulfil its purposes.

ARTICLE 28

Revision and Termination

1. Negotiations for the revision or termination of this Agreement shall take place at the request of either Contracting Party.
2. Should these negotiations not have led, after one year, to an understanding, this Agreement can be terminated by either Contracting Party after two years' notice.

ARTICLE 29

Duration of the Agreement

Subject to the provisions of paragraph 2 of Article 28, the present Agreement shall remain in force so long as the Laboratory maintains the Institute in the United Kingdom.

ARTICLE 30

Settlement of Disputes

1. Any dispute between the Government and the Laboratory arising out of the interpretation or application of this Agreement which cannot be settled directly between the Contracting Parties, may be submitted by either Contracting Party to an arbitration tribunal. If a Contracting Party intends to submit a dispute to an arbitration tribunal, it shall so notify the other Contracting Party.

2. The Government and the Laboratory shall each appoint one member of the said tribunal. These two members shall designate a third member who shall be their chairman.

3. If within three months from the date of the notification referred to in paragraph 1 of this Article, either Contracting Party fails to make the appointment referred to in paragraph 2 of this Article, the choice of the arbitrator shall, upon invitation of the other Contracting Party, be made by the President of the International Court of Justice or by the person acting in his stead. This shall also apply upon the request of either Contracting Party if within one month from the date of the appointment of the second arbitrator the first two arbitrators are unable to agree on the chairman to be appointed by them.

4. The tribunal shall determine its own procedure.

5. No appeal shall lie against the award of the arbitration tribunal, which shall be final and binding on the parties. In case of dispute concerning the import or scope of the award it shall be incumbent upon the arbitration tribunal to interpret it at the request of either party.

ARTICLE 31

Applicable Law

Except as otherwise provided in the Laboratory Agreement or in this Agreement the activities of the Institute in the United Kingdom shall be governed by English law.