

**HEADQUARTERS AGREEMENT
BETWEEN THE
PORTUGUESE REPUBLIC
AND THE
INTERNATIONAL IBERIAN NANOTECHNOLOGY LABORATORY**

The Portuguese Republic and the International Iberian Nanotechnology Laboratory, hereinafter referred to as the “Parties”,

Considering that the International Iberian Nanotechnology Laboratory (the “Laboratory”) has its seat in Braga, Portugal;

Bearing in mind the Statute of the International Iberian Nanotechnology Laboratory, adopted in Badajoz, on the 25th of November of 2006, namely its Article 5, paragraph 2 on the conclusion of a headquarters agreement between the Laboratory and the State of seat;

Wishing to establish the status, privileges and immunities of the Laboratory and of the persons connected with it,

Agree on the following:

CHAPTER I
INTRODUCTION

Article 1

Object

The purpose of the present Agreement is to provide the Laboratory with all the necessary conditions for the full, efficient and independent discharge of its objectives, functions and obligations at its headquarters, and to regulate adequately the relation between the Laboratory and the Portuguese Republic as State of seat.

Article 2

Headquarters

The seat of the Laboratory shall be on the land in respect of which the State has been conveyed the use of property, located in Braga, with access through Avenida Mestre José Veiga, and of which the Laboratory has full use and no limitations.

CHAPTER II
IMMUNITIES AND PRIVILEGES OF THE LABORATORY

Article 3

Inviolability of the premises and archives

1. The premises and archives of the Laboratory shall be inviolable.

2. The property and goods of official use of the Laboratory, including archives, wherever located and by whomsoever held, shall be exempt from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.
3. The Portuguese authorities shall exercise due diligence and take all appropriate steps to protect the premises of the Laboratory against any intrusion or damage.
4. The Director-General of the Laboratory shall inform the Portuguese Government of the location of the premises and archives of the Laboratory and keep it informed of any changes as well as of any temporary occupation of the premises.
5. Where premises are temporarily used or occupied by the Laboratory for the fulfilment of its official functions these premises shall be accorded the status of premises of the Laboratory.
6. Officials of the Portuguese Government or of public authorities are not allowed to enter the premises of the Laboratory without prior authorisation from the Director-General of the Laboratory and under the terms established by him, except in case of fire or other situation that seriously endangers public safety and requires immediate intervention.
7. Execution of a judicial decision or similar action, such as the seizure of private property in the premises of the Laboratory, is not permitted except

when authorised by the Director-General of the Laboratory and under the terms established by him.

8. The Laboratory shall not allow its premises to be used as a refuge for individuals fleeing justice or for whom an extradition or deportation order has been issued by the competent authorities.

Article 4

Flag and emblem

The Laboratory is entitled to display its flag and emblem at its premises and on vehicles and other means of transportation used for official purposes.

Article 5

Immunity from jurisdiction and from execution

1. Within the scope of its official activities, the Laboratory and its property shall benefit from jurisdictional immunity and immunity from execution, except:
 - a) When the Laboratory expressly waives those immunities;
 - b) When a third party initiates a proceeding which relates to pecuniary compensation for death or injury suffered in an accident caused by a vehicle belonging to the Laboratory or being used by the Laboratory or in case such vehicle is involved in a traffic violation;
 - c) In respect of an enforcement of an arbitral decision rendered in accordance with Articles 21 and 22 of the present Agreement;

- d) In a proceeding which relates to a contract of employment between the Laboratory and an individual for work performed or to be performed, in whole or in part, in the territory of the Portuguese Republic and that individual is a Portuguese national or a permanent resident in that territory.
2. In the event of a request to waive their immunity in a judicial proceeding instituted by a third party, the Laboratory so requested shall make a declaration claiming immunity within fifteen days of its receipt, the absence of which being regarded as a waiver of immunity.
3. Without prejudice to paragraph 2 of Article 3, vehicles belonging to the Laboratory may be temporarily subject to judicial or administrative measures of search or seizure if needed for the investigation of the accidents referred to above in sub-paragraph b) of paragraph 1 of this Article.

Article 6

Facilities in respect of communications

The Laboratory shall enjoy in the territory of the Portuguese Republic, for the purposes of its official communications and correspondence, treatment no less favourable than that accorded by the Portuguese Republic to diplomatic missions in the matter of priorities, rates and taxes applicable to mail and the various forms of communication and correspondence.

Article 7
Circulation of publications

The circulation of publications and other information issued by the Laboratory or relating to their official activities shall not be restricted in any way.

Article 8
Direct tax exemptions

The property and income resulting from the official activities of the Laboratory are exempt from all direct taxes, including corporate income tax, capital tax and capital gains tax, conveyance tax and local tax on real estate.

Article 9
Indirect tax exemptions

1. The goods and services acquired by the Laboratory for official activities are exempt from all indirect taxes, including value added tax (VAT), automobile tax, taxes concerning petroleum products and alcoholic beverages tax.
2. Relating to VAT, the Laboratory, on acquiring new automobiles, goods and services from the national market for their official activities, shall be reimbursed if the value of each acquisition exceeds Euros 270,00 taxes included.
3. The acquisition of goods and services referred to in the previous paragraph, purchased in other member States of the European Union, are not subject to the payment of VAT in Portugal.

4. On purchasing in the national market new automobiles for official use, the Laboratory shall be exempt from paying the automobile tax.

Article 10

Import and export exemptions

1. The Laboratory shall be exempt from import and export duties and from any other taxes, prohibitions and restrictions on goods of whatsoever nature imported or exported by it as the result of its official activities.
2. Imported, exported or transferred goods, if transported as luggage, may be declared to the custom offices by using the diplomatic pouch, labels and forms.

Article 11

Alienation to third parties

1. The goods acquired in accordance with Articles 8 and 9, or imported in accordance with Article 10 of the present Agreement, shall not be donated, sold, rented or otherwise disposed of within five years of their acquisition.
2. If the period specified in the previous paragraph is not respected, the competent authorities will be notified and any necessary taxes or import duties shall be paid.

Article 12

Funds, foreign currency and assets

1. Without being restricted by controls, regulations or moratoria of any kind the Laboratory may:
 - a) Hold funds, currency or movable valuables of any kind and operate accounts in any currency;
 - b) Transfer freely its funds, currency or movable valuables from one country to another or within any country and convert any currency held by it into any other currency.
2. The Laboratory shall be exempt from paying stamp duties on banking operations.

CHAPTER II

IMMUNITIES AND PRIVILEGES OF REPRESENTATIVES, THE DIRECTOR-GENERAL, STAFF MEMBERS AND EXPERTS

Article 13

Representatives

1. The representatives of the Member States attending the meetings of the Laboratory shall, while exercising their official functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

- a) Immunity from any legal proceedings, including both civil and criminal, even after the termination of their mission, in respect of words spoken or written, and all acts performed by them in their official capacity;
 - b) Inviolability of all official papers and documents in whatever form;
 - c) When required by Portuguese or European Union legislation, issuance of passport visas for the representatives and their spouses or partners free of any cost and as rapidly as possible.
2. The representatives of the Laboratory shall enjoy the same treatment as accorded to diplomatic representatives in the same circumstances, including customs privileges, unless they have residence in Portugal.
 3. The provisions of the above paragraph are without prejudice to any other immunity to which the representative may be entitled under international law.
 4. The privileges and immunities mentioned in paragraph 1 and 2 of this Article may not be enjoyed by representatives of the Portuguese Government or Portuguese nationals.
 5. The Laboratory shall inform the Portuguese Government of the names of the representatives before they enter the Portuguese territory.

Article 14
Director-General and Staff

1. The Director-General of the Laboratory shall be included in the diplomatic list organised by the Ministry of Foreign Affairs.

2. The Director-General and the Staff members shall be entitled to the following privileges:
 - a) Immunity from legal proceedings in respect of acts performed by them in the course of the performance of their functions for the Laboratory, including words spoken or written;

 - b) Inviolability of papers and documents in whatever form and materials relating to their functions for the Laboratory;

 - c) When required by Portuguese or European Union legislation, issuance of passport visas for the Director-General and the Staff members and their spouses, partners, as well as to other dependants such as ascendants or descendants in direct line and first degree, including adoptive children in the same circumstances, free of any cost and as rapidly as possible;

 - d) The same facilities in respect to currency exchange as the ones given to members of the diplomatic missions of comparable rank, except when the Director-General or the Staff member has Portuguese nationality or permanent residence in Portugal;

- e) Exemption from taxes on income and complementary remuneration to be paid by the Laboratory; however, the Portuguese Government shall take into consideration the value of all such remuneration for the purposes of estimating the taxation to apply relatively to income derived from other sources;
- f) As they commence their functions in Portugal, the Director-General and the Staff members shall be exempt from importation duties, VAT and special consumer taxes, except for costs incurred with the payment of services, relative to the importation of furniture and other personal goods they own or shall acquire within six months of changing their residence to Portugal;
- g) The imported goods that are exempt from importation duties cannot be sold or otherwise alienated within one year after importation and are subject to European Union legislation on this matter;
- h) The right to import temporarily an automobile for personal use, while working in Portugal, exempt from importation duties, VAT, and automobile tax; the temporary importation request shall be presented to the customs authorities within six months from the beginning of functions;
- i) The Director-General may import, under the same conditions, a second automobile to be used by his family;
- j) The alienation of automobiles imported under sub-paragraphs h) and i) above shall be subject, with the necessary modifications, to the rules

in force under Portuguese legislation, applicable to automobiles owned by members of diplomatic missions and consular posts;

k) Neither the Laboratory nor the Director-General and the Staff members are obliged to contribute to the Portuguese National Social Security System, provided that they have chosen to contribute only to the Laboratory' provident fund scheme.

3. The regularisation of the status of the Laboratory's Director-General and Staff members as foreign nationals, as well as spouses or partners, dependent ascendants or descendants in direct line and first degree, as well as adoptive children in the same circumstances, is subject to the same regime as applied to the members of diplomatic missions.

4. The conditions of work of the Director-General and of the Staff members shall be governed by the provisions of the staff rules and regulations of the Laboratory. The Director-General and the Staff members cannot claim additional rights than those defined in the said rules and regulations.

Article 15

Experts

Paragraphs a), b) and c) of paragraph 1 of article 13 shall apply to experts who are not the Director-General or Staff members during the exercise of their functions while on a mission for the Laboratory.

Article 16

Accidents involving vehicles

There shall be no immunity from jurisdiction in case of an accident involving vehicles.

Article 17

Purpose of privileges and immunities

1. Privileges and immunities provided by the present Agreement to representatives, the Director-General, the Staff members and experts are accorded not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their activities in connection with the work of the Laboratory.
2. Each Member State should consider waiving the immunity of its representatives whenever this immunity could obstruct the course of justice, providing that, in the sole opinion of the Member State, this waiving of immunity does not prejudice the purposes for what the immunity was accorded.
3. The Director-General shall have the right and the duty to waive those privileges and immunities accorded to any Staff member or expert in any case where they would impede the course of justice and can be waived without prejudice to the purpose for which the privileges and immunities are accorded.
4. The Council may waive the immunities of the Director-General.

Article 18

Notification of appointments and identity cards

1. The Laboratory shall inform the Portuguese Government of the beginning and cessation of the activities of the Director-General, Staff members and experts, and shall regularly provide the Portuguese Government with the list of all active Staff members and experts, indicating whether they have Portuguese nationality or if they are foreign citizens with permanent residence in Portugal.
2. The Portuguese Government shall issue an identity card with photographs to the Director-General, the Staff members and experts. This document shall be recognised by all official authorities.
3. The Laboratory shall return the identity cards of the Director-General, the Staff members and experts that have ceased their activities.

Article 19

Co-operation between the Laboratory and the Portuguese Government

1. The Laboratory shall cooperate at all times with the competent authorities of the Portuguese Government to facilitate the enforcement of the legislation of the Portuguese Republic and to prevent the occurrence of any abuse in connection with the privileges and immunities referred to in the present Agreement.
2. Without prejudice to their privileges and immunities, it is the duty of all persons or entities enjoying privileges and immunities under the present

Agreement to respect the legislation of the Portuguese Republic. They also have a duty not to interfere in the internal affairs of the Portuguese State.

3. The present Agreement does not prejudice the right of the Portuguese Government to take all measures consistent with international law to guarantee national security.

CHAPTER III SETTLEMENT OF DISPUTES

Article 20

Settlement of disputes with third parties

Disputes arising out of contracts and other disputes of a private law character to which the Laboratory and a Portuguese person or entity are a party shall be submitted to arbitration under Portuguese law, except if the contract or Portuguese law provides for submission to other jurisdiction, namely the Portuguese courts.

Article 21

Submission to international arbitration

When requested by the Portuguese Government, the Laboratory shall submit to international arbitration all disputes that:

- a) Result from damages caused by the Laboratory;

- b) Involve any other non-contractual liability of the Laboratory;

- c) Involve the Director-General, a Staff member or an expert of the Laboratory, in which the person concerned can claim immunity from jurisdiction under the present Agreement, where such immunity has not been waived.

Article 22

Settlement of disputes between the Laboratory and the Portuguese Republic

1. Any dispute between the Laboratory and the Portuguese Republic concerning the interpretation or application of the present Agreement shall be settled, if possible, through negotiation or other agreed form of settlement.

2. If the dispute cannot be settled within six months, it shall be submitted, at the request of either Party, for decision to an *ad hoc* arbitral tribunal.

3. The arbitral tribunal shall be constituted of three arbitrators appointed in the following manner:
 - a) Each Party shall appoint an arbitrator within two months of the receipt of the written request for arbitration;

 - b) The two arbitrators so appointed shall together within two months appoint a national of a third State with whom both Parties have diplomatic relations as president of the arbitral tribunal.

4. If the arbitral tribunal is not constituted within four months of the receipt of the written request for arbitration, either Party may request the President of the International Court of Justice to make the necessary appointments.
5. If the President of the International Court of Justice is a Portuguese national or is prevented from making the appointments for any other reason, the next member in the hierarchy of the International Court of Justice who is not a Portuguese national or who is not prevented shall be requested to make the appointments.
6. The arbitral tribunal shall determine its own rules of procedure and shall render its decisions in accordance with the provisions of the present Agreement and the International Law.
7. The decision of the arbitral tribunal, which shall be binding and final on both Parties, shall be by majority vote.
8. In the event of dispute as to the meaning or scope of a decision, the arbitral tribunal shall construe it upon the request of any Party.
9. Each Party shall bear the cost for its arbitrator and its representation before the arbitral tribunal, being the costs with the president and with the tribunal shared equally between the Parties.

CHAPTER IV
FINAL PROVISIONS

Article 23
Entry into force

The present Agreement shall enter into force thirty days after the date of receipt of the later of the notifications, in writing and through diplomatic channels, conveying the completion of the internal procedures of each Party required for that purpose.

Article 24
Amendments

1. The present Agreement may be amended by request of one of the Parties.
2. The amendments shall enter into force in accordance with the terms specified in Article 23 of the present Agreement.

Article 25
Duration and Termination

1. The present Agreement shall remain in force for an unlimited period of time.
2. Either Party may, at any time, terminate the present Agreement upon a prior notification in written and through diplomatic channels.

3. The present Agreement shall terminate six months after the receipt of such notification.
4. In the event of termination of the Statute of the International Iberian Nanotechnology Laboratory, adopted in Badajoz, on the 25th of November of 2006, or of dissolution of the Laboratory, the present Agreement shall cease to be in force.

Article 26
Registration

After the entry into force of the present Agreement, the Portuguese Government shall transmit it for registration to the Secretariat of the United Nations, according to article 102 of the Charter of the United Nations, and shall notify the Laboratory of the conclusion of this proceeding, indicating the respective number of registration.

IN WITNESS THEREOF, the undersigned, being duly authorised thereto, have signed the present Agreement.

Done in Braga, on the 19th of January 2008, in two originals, in Portuguese and English languages, all texts being equally authentic.

For the Portuguese Republic

For the International Iberian
Nanotechnology Laboratory

José Mariano Gago

*Minister of Science, Technology and
Higher Education*

José Rivas Rey

Director-General