

AGREEMENT

BETWEEN

THE REPUBLIC OF LITHUANIA

AND

**THE EUROPEAN ORGANIZATION
FOR NUCLEAR RESEARCH (CERN)**

CONCERNING

**THE GRANTING OF THE STATUS OF ASSOCIATE MEMBER
AT CERN**

The Republic of Lithuania (“Lithuania”), represented by the Minister of Foreign Affairs,

on the one hand,

and

the European Organization for Nuclear Research (“CERN” or “the Organization”), an Intergovernmental Organization having its seat at Geneva, Switzerland, represented by the Director-General (“the Director-General”),

on the other hand,

hereafter jointly “the Parties”,

CONSIDERING

The Convention for the Establishment of a European Organization for Nuclear Research dated 1 July 1953 as amended on 17 January 1971 (“the Convention”), in particular its Articles II, III and V;

The increasingly global nature of the scientific community participating in the Organization’s activities and the need to seek the necessary resources to fund these activities;

The longstanding relationship between the Organization and Lithuania and the latter’s successful contributions to the realization of CERN’s scientific programme, particularly under the umbrella of the Co-operation Agreement between the Government of the Republic of Lithuania and the European Organization for Nuclear Research (CERN) concerning the Further Development of Scientific and Technical Co-operation in High Energy Physics of 9 November 2004 (“the Co-operation Agreement”);

In particular, Protocols P073/LHC of 22 November 2005 and P120 of 26 September 2014, to the Co-operation Agreement, which provided for an important participation of Universities and Scientific Institutions of Lithuania in CERN's scientific programme;

The Resolution by the CERN Council ("the Council") dated 17 June 2010 (as set out in Annex 3 to the "Report on Geographical Enlargement of CERN", CERN/2918/Rev.) by which, in particular, it has opened Membership of CERN to all States, irrespective of their geographical location, and created the status of Associate Member;

That the status of Associate Member comprises regular Associate Membership ("Associate Membership") as well as Associate Membership in the pre-stage to full Membership ("Associate Membership in the pre-stage to Membership"), it being understood that, subject to compliance with the applicable criteria and procedures, States that fall within the former category may transit to the latter status;

The decision taken by the Council at its Session of 16 December 2010 whereby it approved model agreements for the granting of the status of Associate Member and of Associate Member in the pre-stage to Membership;

The decision taken by the Council at its Session of 21 March 2013 whereby it approved revised model agreements for the granting of the status of Associate Member, replacing for all applicant States the previous version of the model agreements, and confirmed that the provisions of the model agreements as revised were standard provisions, save for aspects of the pre-amble, Article III.1 (always within the contribution framework set by the Council for Associate Membership in document CERN/2918/Rev., paragraphs 69 to 71), Article V.2, and the choice of language of the model agreements;

The application by Lithuania dated 1 March 2016 for the status of Associate Member;

The decision by the Council taken at its Session of 17 March 2016 appointing a fact-finding Task Force to carry out the technical verification and fact-finding related to Lithuania's application for the status of Associate Member;

The report by the said fact-finding Task Force (CERN/3266/RA of 5 September 2016), the discussion of the report by the Council at its Session of 15 September 2016 and the latter's decision to authorize the Director-General to submit the revised Model Agreement for the Granting of the Status of Associate Member to Lithuania, and to finalize its text once there is

agreement with Lithuania on its financial contribution, within the framework set out in document CERN/2918/Rev.

The letter dated 6 October 2016 addressed by the Director-General of CERN to the Permanent Representative of Lithuania to the United Nations Office and other international organizations in Geneva, conveying the revised Model Agreement;

The letter dated 8 May 2017 addressed by the Director-General of CERN to the Permanent Representative of Lithuania to the United Nations Office and other international organizations in Geneva, conveying the draft Associate Member Agreement as discussed by the two Parties;

The note verbale dated 12 May 2017 addressed by the Permanent Mission of Lithuania to the United Nations Office and other international organizations in Geneva to CERN communicating the endorsement by the Government of Lithuania of the draft Associate Member Agreement;

The Resolution by the Council dated 15 June 2017 (CERN/3315/RA/Rev.) granting Lithuania the status of Associate Member at CERN, subject to the provisions of this Agreement,

HAVE AGREED AS FOLLOWS:

ARTICLE I

Purpose

In application of the Council Resolutions and the decisions referred to above, this Agreement (including its Annex, which is an integral part of this Agreement) sets out the rights and obligations corresponding to the status of Associate Member at CERN. In entering into this Agreement, Lithuania accepts such rights and obligations as well as those resulting from the legal framework of the Organization, as laid down in particular in the Convention, the Organization's rules and regulations and the decisions of its organs.

ARTICLE II

Rights

II.1 Participation in CERN's Programmes

Lithuania may participate in the Organization's scientific programme as well as in its training and education, communication and other programmes.

II.2 Attendance at the Council and its Committees¹

Regular Council Sessions

Lithuania shall be entitled to be represented at regular Council Sessions, except at Closed Sessions, it being understood that its attendance of items dedicated to the European Strategy for Particle Physics is subject to invitation by the President of the Council.

The number and the qualifications of its representatives shall be in accordance with the rules applicable to Member State representation. Lithuania shall not have voting rights but may ask for the floor and make statements without having to be formally invited to do so.

Finance Committee Meetings

Lithuania shall be entitled to be represented at meetings of the Finance Committee. The number and the qualifications of its representatives shall be in accordance with the rules applicable to Member State representation. Lithuania shall not have voting rights but may ask for the floor and make statements without having to be formally invited to do so. It may also express an opinion on any matter that is the subject of a formal vote by the Finance Committee with a view to a recommendation to the Council, and this opinion will be recorded and transmitted to the Council, for information, together with the recommendation.

Scientific Policy Committee Meetings

The scientific representative of Lithuania to the Council may attend meetings of the Scientific Policy Committee in normal mode as an observer.

¹ In accordance with the provisions of Articles 73 to 81 of the "Report on Geographical Enlargement of CERN", CERN/2918/Rev.

II.3 Eligibility for Appointment as Staff Members, Fellows, Students and Associates

Subject to Article II.5 below, nationals of Lithuania may apply for appointment as staff members on contracts of limited duration and as fellows, students and associates. Their selection and appointment shall be subject to the Organization's standard principles and policies and to the Staff Rules and Regulations.

II.4 Eligibility for Industrial Participation

Subject to Article II.5 below, firms offering goods and services originating from Lithuania shall be entitled to bid for CERN contracts, subject to the application, *mutatis mutandis*, of the purchasing rules and procedures of CERN (as currently set out in Annex 1 to the Regulations for the Implementation of the Financial Rules). Lithuania may appoint an Industrial Liaison Officer.

II.5 Ceiling and Detailed Arrangements

The combined financial value of the appointments and the contracts referred to in Articles II.3 and II.4 above shall in no event exceed the amount of Lithuania's financial contribution under this Agreement. Detailed arrangements shall be determined by the Organization. This Article does not constitute any commitment as to whether the ceiling referred to in this Article can or will be reached.

ARTICLE III Obligations

III.1 Financial Contribution to the Organization

Lithuania shall contribute to the funding of the Organization's activities through annual contributions, expressed as a percentage of Lithuania's theoretical Member State contribution, to be determined on the basis of the formula and methodology for calculating Member State contributions and the scale of contributions, respectively. Lithuania's contribution shall be at least 10% of said theoretical contribution and in no event less than 1 MCHF. Except for the first year, the contribution in respect of which shall be calculated and pro-rated on per-quarter basis as from/including the quarter in which this Agreement enters into force, the contribution shall be due in full for each financial year, even if Lithuania's status of Associate Member covers a shorter period.

III.2 Granting of Privileges and Immunities

To ensure the unimpeded functioning of the Organization, equal treatment by and between the States involved in its activities, as well as the independence of the Organization's personnel, Lithuania hereby grants the privileges and immunities, and accepts the related obligations, set out in the Annex to this Agreement. Such privileges and immunities are granted in the interest, and for the benefit, of the Organization. If, in parallel or subsequently, Lithuania proceeds to accede without reservations to the Protocol on the Privileges and Immunities of the European Organization for Nuclear Research, adopted by the Council on 19 December 2003, the provisions of the Protocol shall cancel and replace the provisions of the Annex to this Agreement with effect from the date of such accession.

III.3 Periodic Review of the Status of Associate Member

The Council shall periodically, normally every five years, review Lithuania's continued fulfillment of the Associate Membership criteria and of its obligations as an Associate Member. To these ends, Lithuania shall, upon invitation by the Council, submit a file to a Task Force appointed by the Council that shall include the information specified in Annex 2 of the Report on Geographical Enlargement of CERN, and any other information requested by the Council. The Task Force shall conduct a fact-finding mission to Lithuania, examine the information supplied by Lithuania, and draw up a report setting out its findings. The report shall be sent to Lithuania for factual and other comments, and then submitted to the Council. The report may also address a possible transition by Lithuania to the status of Associate Member in the pre-stage to Membership.

ARTICLE IV Termination

IV.1 Termination upon Request by Lithuania

If so requested by Lithuania by written notification to the Director-General at any time during the period of validity of this Agreement, the Council shall terminate Lithuania's status of Associate Member. Except as agreed otherwise, the termination shall take effect at the end of the CERN financial year following the year of notification.

IV.2 Termination by Joint Initiative

The Parties may at any time during the period of validity of this Agreement decide by joint initiative that the Council terminate Lithuania's status of Associate Member. Except as agreed otherwise, the termination shall take effect at the end of the CERN financial year following the year in which the Parties agree to the termination.

IV.3 Termination upon Initiative by the Organization

The Council may at any time during the period of validity of this Agreement, and with a date of effect as it shall determine, decide to terminate Lithuania's status of Associate Member if Lithuania no longer fulfills the criteria of this status, or if it is in serious default of its obligations under this Agreement.

IV.4 Consequences of Termination

Except as agreed otherwise, termination of Lithuania's status of Associate Member shall not reduce any obligations incurred by Lithuania under this Agreement in respect of the period preceding the date of effect of the termination. The privileges and immunities granted by Lithuania shall remain in effect for the duration of its affiliation with the Organization at the level of an International Co-operation Agreement.

ARTICLE V**Miscellaneous Provisions****V.1 Representation of Lithuania**

Lithuania shall notify the Director-General of the names of the Authority and the officer(s) appointed to represent it for the execution of this Agreement, as well as of its representatives attending Sessions of the Council and meetings of its Committees.

V.2 Relationship with Other Agreements

With effect from the date of its entry into force, this Agreement cancels and replaces the Co-operation Agreement. It is understood however that such cancellation is without prejudice to the validity and execution of any Memorandum of Understanding governing Lithuanian participation in the Experiments at CERN. It is also understood that notwithstanding such cancellation, the provisions of the Protocols or of any other instruments to the Co-operation Agreement in force at the date of entry into force of this

Agreement shall continue to apply until the activities covered by such provisions have been fully executed.

V.3 Governing Law

The provisions of this Agreement shall be interpreted in accordance with their true meaning and effect, always subject to the legal framework of CERN, as laid down in particular in the Convention, the Organization's rules and regulations and the decisions of its organs, and the applicable rules of international law.

V.4 Entry into Force and Duration

This Agreement shall enter into force with effect from the date of receipt, through diplomatic channels, by the Director-General of notification by Lithuania that it has completed its internal approval procedures in respect of this Agreement without reservations. This notification shall be received no later than 24 months from the date of signature of this Agreement. This Agreement shall remain in force as long as required to give effect to its provisions.

V.5 Disputes

Any difference between Lithuania and the Organization concerning the application or interpretation of this Agreement that is not settled amicably may be submitted by either Party to an international Arbitration Tribunal in accordance with Article 14 of the Annex.

Done in duplicate, in the Lithuanian, English and French languages, it being understood that in case of issues of interpretation or conflict between the versions, the English version shall prevail.

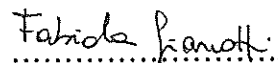
Signed in Vilnius on 27 June 2017.

For the Republic of Lithuania



.....
H.E. Mr Linas Linkevičius
Minister of Foreign Affairs

For the European Organization
for Nuclear Research (CERN)



.....
Dr Fabiola Gianotti
Director-General

ANNEX

**PRIVILEGES AND IMMUNITIES GRANTED BY LITHUANIA TO THE
EUROPEAN ORGANIZATION FOR NUCLEAR RESEARCH**

**Article 1
Definitions**

- 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.

**Article 2
International Legal Personality**

- 1. The Organization shall have international legal personality and legal capacity on the territory of Lithuania.
- 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 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 4
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) insofar 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 13 or 14 below;
 - 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) insofar as such immunity is waived in a particular case by the Council of the Organization;

- b) insofar as may be temporarily necessary in connection with the prevention or investigation of accidents involving motor vehicles belonging to, or operated on behalf of, the Organization;
- c) in the event of an attachment of salary, enforced for a debt of an official of the Organization, provided that such attachment results from a final and enforceable decision in accordance with the rules and regulations in force on the territory of enforcement.

Article 5

Fiscal and Customs arrangements

1. Within the scope of its official activities, the Organization, its property and income shall be exempt from direct taxes.
2. When, in the exercise of its official activities, the Organization makes purchases on the territory of Lithuania of, or uses, goods or services of substantial value, in the price of which taxes, duties or other charges are included, appropriate measures shall be taken by Lithuania to remit or reimburse the amount of such taxes, duties or other charges where they are identifiable.
3. The importation into and the exportation from the territory of Lithuania by or on behalf of the Organization of goods and materials in the exercise of its official activities shall be exempt from all import and export taxes, duties and other charges.
4. No exemption or reimbursement shall be granted for duties, taxes or other charges of any kind that only constitute remuneration for services rendered.
5. The provisions of paragraphs 2 and 3 of this Article are not applicable to the purchase or use of goods or services or the import of goods intended for the personal use of the officials and of the Director-General 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 except under the conditions laid down by Lithuania.

Article 6
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 7
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)
 - 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) Lithuania 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;
 - b) 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;

- c) 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;
 - d) in respect of transfers of funds and currency exchange and customs facilities, the privileges generally granted to the officials of international organizations.
3. Lithuania shall not be obliged to accord the privileges and immunities referred to in paragraphs 2 b), c) and d) of this Article to its own nationals or to persons who, at the moment of taking up their duties on the territory of Lithuania, are permanent residents of Lithuania.

Article 8 **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 9 **Privileges and Immunities of the Director-General**

1. In addition to the privileges and immunities provided for in Articles 7 and 8 above, 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. Lithuania shall not 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 on the territory of Lithuania, are permanent residents of Lithuania.

Article 10
Object and Limits of the Immunities

1. The privileges and immunities provided for in Articles 7 and 9 above 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;

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 11
Co-operation with Lithuania

The Organization shall co-operate with the competent Authorities of Lithuania 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 the privileges, immunities and facilities granted.

Article 12
Security and Public Order

1. The right of Lithuania to take precautionary measures in the interest of its security shall not be prejudiced by any of these provisions.

2. If Lithuania 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 Lithuania to avoid any prejudice to its security or public order resulting from its activities.

Article 13 **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 4 above;
 - 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 14

Disputes between Lithuania and the Organization

Any difference of opinion between Lithuania and the Organization concerning the application or interpretation of these provisions which is not settled amicably between them may be submitted by either Party to an international Arbitration Tribunal, in accordance with Article 15 below.

Article 15

International Arbitration Tribunal

1. The international Arbitration Tribunal referred to in Articles 13 and 14 above ("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 within three months from the date of their appointment 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. It shall render its award by a majority decision. The language of the proceedings shall be English.
5. There shall be no right of appeal against the award of the Tribunal, which shall be final and binding on the Parties. The Parties undertake to carry out the award without delay. 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 16
Particular Agreements

1. These provisions shall not limit or prejudice the provisions of any international Agreements concluded between the Organization and Lithuania by reason of the location on the territory of Lithuania of its offices, installations or other facilities. In case of conflict between these provisions and those of such an international Agreement, the provisions of that international Agreement shall prevail.
2. Nothing herein shall preclude Lithuania from concluding other international Agreements with the Organization confirming, supplementing, extending or amplifying these provisions.
