



AGREEMENT

BETWEEN

**THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA**

AND

**THE INTERNATIONAL CENTRE FOR
GENETIC ENGINEERING AND
BIOTECHNOLOGY (ICGEB)**

ON

**THE ESTABLISHMENT OF AN ICGEB
COMPONENT IN THE REPUBLIC OF SOUTH
AFRICA**

Preamble

The Government of the Republic of South Africa and the International Centre for Genetic Engineering and Biotechnology (hereinafter referred to as “the ICGEB”)

RECALLING the thirteenth session of the ICGEB Board of Governors held in New Delhi, India from 30 November to 1 December 2006, which approved the establishment, in Cape Town, of the third Component of the ICGEB (hereinafter referred to as “the Cape Town Component”), and the Protocol to the Statutes of the ICGEB (hereinafter referred to as “the Protocol”), adopted by the Conference of the Parties to the ICGEB Statutes on 24 October 2007 and entered into force on 29 May 2008, as notified by the United Nations Depository Notification C.N. 432.2008.TREATIES-2 of 11 June 2008, which made the Cape Town Component a part of the seat of the ICGEB;

RECALLING FURTHER the Statutes of the ICGEB, which entered into force for the Government of the Republic of South Africa, on 6 February 2004;

RECOGNISING the benefits of establishing a third Component of the ICGEB within the Republic of South Africa, in view of the potential benefits that the whole African continent could derive from the activities of the ICGEB;

HEREBY AGREE as follows:

ARTICLE 1

Definitions

In this Agreement, unless the context otherwise indicates:

- (a) “appropriate authorities” means such national or other authorities in the Republic of South Africa as may be responsible, in the context and in accordance with the domestic law applicable in the Republic of South Africa;

- (b) “archives of the ICGEB” includes all records, correspondence, documents, manuscripts, computer records, still and motion pictures, films and sound recordings, belonging to or held by the ICGEB in furtherance of its constitutional functions;
- (c) “Cape Town Component” means that part of the seat of the ICGEB established in the Republic of South Africa for the conduct of its mandate, in accordance with the Protocol to the Statutes of the ICGEB on the Seat of the Centre;
- (d) “the Convention” means the Convention on the Privileges and Immunities of the United Nations adopted by the United Nations General Assembly on 13 February 1946;
- (e) “the Country” means the Republic of South Africa;
- (f) “the Director” means the person appointed as the head of the Cape Town Component;
- (g) “the Government” means the Government of the Republic of South Africa;
- (h) “members of the family” means the dependants of officials of the ICGEB, and includes their spouses, minor children and other members of their family forming part of their households who reside with, and are dependent on, such officials for financial support and are officially recognised as such by the ICGEB;
- (i) “officials of the ICGEB” means the officers, employees and other persons recruited by the ICGEB or assigned to serve at the Cape Town Component in accordance with the ICGEB Staff Regulations and the applicable domestic law of the Country, excluding all persons recruited according to the local laws or terms of the Government and assigned to hourly rates;
- (j) “the Parties” means the Government and the ICGEB;

- (k) “property of the ICGEB” means all property, including funds, incomes and other assets, belonging to the ICGEB or held or administered by the ICGEB in furtherance of its constitutional functions;
- (l) “telecommunications” means any emission, transmission or reception of written or verbal information, images, sound or information of any nature by wire, radio, satellite, optical fibre or any other electronic or electromagnetic means.
- (m) “permanent resident in South Africa” refers to a person who is the holder of a permanent residence permit as contemplated in Section 25 of the Immigration Act 2002 (No. 13 of 2002).

ARTICLE 2

Competent Authorities

The Competent Authority responsible for the implementation of this Agreement shall be—

- (1) in the case of the Government of the Republic of South Africa, the Department of Science and Technology; and
- (2) in the case of the International Centre for Genetic Engineering and Biotechnology, the Headquarters.

ARTICLE 3

Juridical Personality

The Government recognises the juridical personality of the ICGEB as an international organisation, and in particular its legal capacity to:

- (1) contract;
- (2) acquire and dispose of immovable and movable property; and
- (3) institute judicial proceedings.

ARTICLE 4
General Treatment

The ICGEB shall enjoy, in the furtherance of its official functions, treatment not less favourable than that accorded to any other international organisation, notwithstanding any other provision of this Agreement.

ARTICLE 5
Inviolability of the Cape Town Component

- (1) The premises of the ICGEB in the Country shall be provided free of charge by the Government and be inviolable, provided that the premises are not used in any manner incompatible with the mandate of the ICGEB, and the domestic law of the Country. The property and assets of the Cape Town Component, and in general those of the ICGEB, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process, except insofar as in any particular case immunity shall have been expressly waived by the Board of Governors. It is understood that no waiver of immunity from legal process shall constitute or imply waiver of immunity in respect of any measure of execution, for which a separate waiver shall be necessary.
- (2) No officer or official of the Country, or person exercising any public authority within the Country shall enter the premises of the Cape Town Component to perform any duties therein except with the consent of, and under conditions approved by, the Director. The Director's consent to such entry shall be presumed in the event of fire or other analogous emergency requiring urgent action.
- (3) The archives of the ICGEB in the Country shall be inviolable.
- (4) The ICGEB shall have the right to display the flag of the ICGEB on its premises, vehicles, aircraft and vessels.

ARTICLE 6

Exemption from Taxation

- (1) With respect to all official activities, the ICGEB, its assets, income and property shall be exempt from all forms of direct taxation; however, the ICGEB shall not claim exemption from taxes which are no more than charges for public utility services subject to South African tax legislation.
- (2) The ICGEB shall be exempt from customs duties, prohibitions and restrictions on goods imported or exported for its official purposes, including publications; however, articles imported under such exemption will not be sold or gifted in the Country except under conditions agreed to with the Government.

ARTICLE 7

Financial Transactions

The ICGEB may hold and use funds or negotiable instruments of any kind, freely transfer its funds into the Country and may also, at any time, freely transfer all or part of the balance thereof out of the Country, through a non-resident bank account, which, for that purpose, may be switched into any foreign currency for ICGEB related activities only, including, but not limited to, the payment of services, salaries, fees, pensions, equipment, consumables, etc. subject to South African Exchange Control laws.

ARTICLE 8

Communications

- (1) No censorship shall be applied to the official correspondence and other official communications of the ICGEB.
- (2) The ICGEB shall have the right to use codes and to dispatch and receive correspondence by courier or in sealed bags, which shall have the same

immunities and privileges as diplomatic couriers and bags acquired in terms of South African legislation.

- (3) Nothing in this Article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between the Parties.

ARTICLE 9

Officials of the ICGEB

- (1) The Government shall accord the following to officials of the ICGEB:
 - (a) The Director and Deputy Director of the Cape Town Component, if not nationals or permanent residents of the Country, together with members of their family, shall be accorded the same privileges and immunities, exemptions and facilities as accorded to diplomatic staff forming part of diplomatic missions, as indicated in the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001).
 - (b) Officials of the ICGEB who are not nationals or permanent residents of the Country, shall have the following privileges and immunities:
 - (i) Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
 - (ii) Immunity from personal arrest or detention for acts performed in their official capacity;
 - (iii) Inviolability of official papers and documents;
 - (iv) Exemption from taxation on the salaries and emoluments paid to them by the ICGEB;
 - (v) Exemption, together with members of their family, from immigration restrictions and alien registration;

- (vi) The same privileges in respect of exchange facilities as are accorded to the officials of comparative ranks forming part of diplomatic missions to the Country;
 - (vii) Together with members of their families, the same repatriation facilities in time of international crises or national emergencies as diplomatic envoys;
 - (viii) The right to import, free of duty taxes, their furniture and personal effects within a period of six months following their assumption of duty at the Cape Town Component.
 - (c) The Director, Deputy Directors and other officials of the Cape Town Component, who are nationals or permanent residents of the Country, shall be afforded the immunities referred to in sub-Article 9 (1)(b)(i), (ii), and (iii), provided that in implementing the taxation of income of nationals and permanent residents of South Africa appointed or employed by the ICGEB, the ICGEB shall not be required to withhold, collect or pay such taxes.
 - (d) Visiting Officials employed in another Component of the ICGEB shall be afforded the immunities referred to in sub-Article 9(1)(b)(i), (ii), (iii), (vi) and (vii).
- (2) The ICGEB shall communicate to the Government the names of those Officials and members of their family to whom the provisions of the present Article are applicable.
- (3) The Director, Deputy Director and Officials, shall be provided by the Government with a special identity card which shall serve to identify the holder to the Government authorities and to certify that the holder enjoys the privileges and immunities specified in this Agreement. The Officials, upon the termination of employment or reassignment from the Country, shall return promptly to the Government, the special identity card for cancellation.

- (4) Privileges and immunities are granted to officials in the interests of the Cape Town Component only and not for the personal benefit of the individuals themselves. The Director-General of the ICGEB shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the ICGEB.
- (5) The ICGEB shall, at all times, cooperate with the appropriate authorities of the Country to facilitate the proper administration of justice, secure the observance of domestic law and prevent the occurrence of any abuses in connection with the privileges, immunities and facilities mentioned in this Article.
- (6) The Director shall have the right to take charge of and remove the remains of an official who dies in the Country with due consideration of the relevant South African domestic law.
- (7) The Director shall also have the right to remove the personal property of a deceased official from the Country.

ARTICLE 10

Representatives of Members

- (1) Representatives of members of the ICGEB at meetings convened by the Cape Town Component shall, subject to the Diplomatic Immunities and Privileges Act, 2001, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:
 - (a) Immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind;
 - (b) Inviolability of official papers and documents;

- (c) The right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (d) Exemption in respect of themselves and their spouses from immigration restrictions, alien registration or national service obligations;
- (e) The same facilities in respect of currency or exchange restriction as are accorded to representatives of a foreign government on temporary official missions;
- (f) The same immunities and facilities in respect of their personal baggage as are available to diplomatic envoys; and
- (g) Such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.

- (2) In order to secure, for the representatives of Member States to the ICGEB and to conferences convened by the ICGEB, complete freedom of speech and independence in the discharge of their duties, the immunities from legal process in respect of words spoken or written and all acts done by them in discharging their duties, shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Member States.
- (3) Where the incidence of any form of taxation depends upon residence periods during which the representatives of Member States to the ICGEB and to conferences convened by the ICGEB, are present in a state for the discharge of their duties, such periods shall not be considered as periods of residence.
- (4) Privileges and immunities are accorded to the representatives of Member States not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with ICGEB. Consequently a Member State not only has the right, but is also under a duty, to waive the immunity of its representative in any case where, in the opinion of the Member State, the immunity would impede the course of

justice, and it can be waived without prejudice to the purpose for which the immunity was accorded.

- (5) The provisions of this Article are not applicable to representatives who are South African nationals.

ARTICLE 11

Experts on Missions for the ICGEB

- (1) Experts, other than Officials falling within the scope of Article 9, who are not nationals or permanent residents of the Country, and who are performing missions for the ICGEB, shall be accorded the following immunities and privileges as are necessary for the independent exercise of their functions during the period of their mission, including time spent on journeys in connection with their mission subject to the Diplomatic Immunities and Privileges Act, 2001. In particular, they shall:
- (a) be immune from personal arrest or detention for acts in their official capacity;
 - (b) enjoy inviolability for official papers and documents;
 - (c) in respect of words spoken or written and acts done by them in the course of the performance of their mission, enjoy immunity from legal process of every kind;
 - (d) be accorded the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
 - (e) be accorded the same protection and repatriation facilities with respect to themselves, their spouses and relatives dependent on and living with them as are accorded in time of international crises or national emergencies to diplomatic envoys; and
 - (f) for the purpose of their communication with the ICGEB, have the right to use codes and to receive papers or correspondence by courier or in sealed bags;

- (2) Experts who are nationals or permanent residents of the Country, shall be afforded the immunities referred to in Article 11(1)(a), (b), (c) and (f) above.
- (3) The privileges, immunities, exemptions and facilities accorded in this Agreement are granted in the interests of the ICGEB and not for the personal benefit of the individuals themselves. The Director-General of the ICGEB shall have the right and the duty to waive the immunity of any expert of the ICGEB in cases where, in his or her opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the ICGEB.

ARTICLE 12

General provisions

- (1) This Agreement may be amended by written agreement between Parties hereto.
- (2) The Parties will complement and complete this Agreement with an Operational Agreement, detailing the operational support including capital requirements of the Cape Town Component for a five-year period.

ARTICLE 13

Settlement of Disputes

Any disputes arising out of the interpretation, application or implementation of this Agreement shall be settled amicably through consultation or negotiations between the Parties.

ARTICLE 14

Entry into Force, Duration and Termination

- (1) This Agreement shall enter into force when both Parties have notified each other in writing through diplomatic channels that their respective domestic

law requirements for entry into force of this Agreement have been met. The date of entry into force shall be the date of last notification.

- (2) This Agreement shall remain in force for an indefinite period, unless terminated by either Party in accordance with sub-Article (3).
- (3) This Agreement may be terminated by either Party by giving sixty (60) days' written notice, in advance to the other Party of its intention to terminate this Agreement.
- (4) The obligations assumed by the Government shall survive the termination of this Agreement in respect of, and to the extent necessary to permit, orderly withdrawal of the property, funds and assets of the ICGEB and officials of the ICGEB by virtue of this Agreement and to protect the immunities granted hereunder.

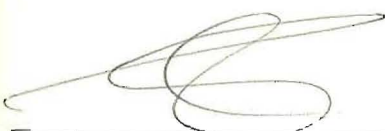
ARTICLE 15

Compliance with South African law

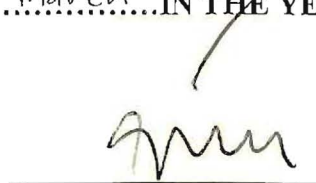
Without prejudice to the privileges and immunities accorded by this Agreement, the ICGEB and its officials shall respect the domestic law within the Country and not interfere in the internal affairs of this State.

IN WITNESS WHEREOF the undersigned, being duly authorised representatives of the respective Parties, have on behalf of the Parties signed and sealed this Agreement in duplicate in the English language, all texts being equally authentic.

DONE AT RSA **ON** 18th **DAY OF** March **IN THE YEAR 2019.**



**FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA**



FOR THE ICGEB

