

No. 13668

MULTILATERAL

Agreement establishing the European Molecular Biology Laboratory (with annex). Concluded at Geneva on 10 May 1973

Authentic texts: French, English and German.

Registered by Switzerland on 14 November 1974.

MULTILATÉRAL

Accord instituant le Laboratoire européen de biologie moléculaire (avec annexe). Conclu à Genève le 10 mai 1973

Textes authentiques : français, anglais et allemand.

Enregistré par la Suisse le 14 novembre 1974.

AGREEMENT¹ ESTABLISHING THE EUROPEAN MOLECULAR BIOLOGY LABORATORY

The Republic of Austria
 The Kingdom of Denmark
 The French Republic
 The Federal Republic of Germany
 The State of Israel
 The Italian Republic
 The Kingdom of the Netherlands
 The Kingdom of Sweden
 The Swiss Confederation
 The United Kingdom of Great Britain and Northern Ireland,

being Parties to the Agreement establishing the European Molecular Biology Conference (hereinafter referred to as "EMBC"), signed at Geneva on 13 February 1969;²

Considering that the existing international co-operation in the domain of molecular biology should be further developed by establishing a European Molecular Biology Laboratory and taking note of the proposals to this end submitted by the European Molecular Biology Organisation (hereinafter referred to as "EMBO");

Having regard to the decision of 28 June 1972 by which EMBC approved the project for such a Laboratory in accordance with paragraph 3 of article II of the said Agreement under which Special Projects may be established;

Desiring to specify the terms and conditions under which the Laboratory shall be established and operated, in such a way that they would not be affected by any modification of the Agreement establishing EMBC;

Taking note of the acceptance by EMBC of those provisions of this Agreement which concern it;

¹ Came into force in respect of the following States on 4 July 1974, the date on which the majority of the States mentioned in the preamble of the Agreement, including the State in which the Laboratory's Headquarters are located (the Federal Republic of Germany), and whose total contributions represented at least seventy per cent of the total contributions shown in the scale annexed to the Agreement, had deposited their instruments of ratification, acceptance or approval with the Government of Switzerland, as indicated below, in accordance with article XV (4) (a):

<i>State</i>	<i>Date of deposit of instrument of ratification</i>
Denmark	12 November 1973
France	4 July 1974
Germany, Federal Republic of	10 October 1973
(With a declaration that the Agreement also applies to <i>Land Berlin</i> .)	
Israel	17 April 1974
Netherlands	13 March 1974
Sweden	15 February 1974
Switzerland	14 December 1973
United Kingdom of Great Britain and Northern Ireland	11 December 1973

² United Nations, *Treaty Series*, vol. 727, p. 309.

Have agreed as follows:

Article I. ESTABLISHMENT OF THE LABORATORY

(1) A European Molecular Biology Laboratory (hereinafter referred to as “the Laboratory”) is hereby established as an intergovernmental institution.

(2) The Headquarters of the Laboratory shall be situated at Heidelberg in the Federal Republic of Germany.

Article II. PURPOSES AND MEANS

(1) The Laboratory shall promote co-operation among European States in fundamental research, in the development of advanced instrumentation and in advanced teaching in molecular biology as well as in other areas of research essentially related thereto, and to this end shall concentrate its activities on work not normally or easily carried out in national institutions. The results of the experimental and theoretical work of the Laboratory shall be published or otherwise made generally available.

(2) In order to fulfil its purposes the Laboratory shall carry out a programme which provides for:

- (a) the application of molecular concepts and methods for the investigation of basic biological processes;
- (b) the development and use of necessary instrumentation and technology;
- (c) working accommodation and research facilities for visiting scientists;
- (d) advanced training and teaching.

(3) The Laboratory may establish and operate the facilities necessary for its programme.

The Laboratory shall include:

- (a) the necessary equipment for use in the programme carried out by the Laboratory;
- (b) the necessary buildings to contain the equipment referred to in (a) above and for the administration of the Laboratory and the fulfilment of its other functions.

(4) The Laboratory shall organise and sponsor international co-operation, to the fullest possible extent, in the fields and programme of activities defined in paragraphs (1) and (2) of this article, and in harmony with the General Programme of EMBC. This co-operation shall include in particular the promotion of contacts between, and the interchange of, scientists and the dissemination of information. So far as is consistent with its aims the Laboratory shall also seek to co-operate, to the fullest possible extent, with research institutions by collaborating with and advising them. The Laboratory should avoid duplication of work carried out in the said institutions.

Article III. MEMBERSHIP

The States Parties to this Agreement shall be Member States of the Laboratory.

Article IV. CO-OPERATION

- (1) The Laboratory shall maintain close co-operation with EMBC.
- (2) The Laboratory may establish formal co-operation with non-Member States, national bodies in those States, international governmental or non-governmental organisations. The establishment, conditions and terms of such co-operation shall be defined by the Council, by unanimous vote of the Member States present and voting, in each case according to the circumstances.

Article V. ORGANS

The organs of the Laboratory are the Council and the Director-General.

*Article VI. THE COUNCIL**Composition*

(1) The Council shall be composed of all Member States of the Laboratory. Each Member State shall be represented by not more than two delegates, who may be accompanied by advisers.

The Council shall elect a Chairman and two Vice-Chairmen who shall hold office for one year and may be re-elected on not more than two consecutive occasions.

Observers

(2) (a) States not Parties to this Agreement may attend sessions of the Council as observers as follows:

- (i) Members of EMBC as of right;
- (ii) States which are not Members of EMBC, on a decision of the Council taken by unanimous vote of the Member States present and voting.

(b) EMBO and other observers may attend sessions of the Council in accordance with the Rules of Procedure adopted by the Council under paragraph (3) (j) of this article.

Powers

(3) The Council shall:

- (a) determine the Laboratory's policy in scientific, technical and administrative matters, in particular by giving guidelines to the Director-General;
- (b) approve an indicative scheme for the realisation of the programme referred to in paragraph (2) of article II of this Agreement and specify its duration. In approving this scheme, the Council shall determine, by unanimous vote of the Member States present and voting, a minimum period of participation in the said programme and maximum credits that may be committed or spent during that period. This period and this amount may not be varied thereafter, unless the Council by unanimous vote of the Member States present and voting so decides. After the expiry of the said period the Council shall determine in the same manner the maximum credits for a new period to be defined by the Council;

- (c) adopt the annual budget by a two-thirds majority of the Member States present and voting provided that, either the contributions of such Member States constitute not less than two-thirds of the total contributions to the Laboratory budget, or that affirmative votes are cast by all but one of the Member States present and voting;
- (d) approve the provisional estimate of expenditure for the two following years by a two-thirds majority of the Member States present and voting;
- (e) adopt Financial Regulations for the Laboratory by a two-thirds majority of the Member States present and voting;
- (f) approve and publish audited annual accounts;
- (g) approve the annual report presented by the Director-General;
- (h) decide on the staff establishment required;
- (i) adopt, by a two-thirds majority of all the Member States, Staff Rules;
- (j) decide on the establishment of groups and facilities of the Laboratory outside its Headquarters by a two-thirds majority of the Member States present and voting;
- (k) adopt its Rules of Procedure;
- (l) have such other powers and perform such other functions as may be necessary for the purposes of the Laboratory as laid down in this Agreement.

(4) The Council may modify the programme referred to in paragraph (2) of article II of this Agreement by a decision taken unanimously by the Member States present and voting.

Sessions

(5) The Council shall meet at least once a year in ordinary session. It may also meet in extraordinary session. The sessions shall be held at the Laboratory's Headquarters, unless otherwise decided by the Council.

Voting

(6) (a) (i) Each Member State shall have one vote in the Council.

(ii) States which have signed but not yet ratified, accepted or approved this Agreement may be represented at the sessions of the Council and take part in its work, without the right to vote, for a period of two years after the coming into force of this Agreement in accordance with paragraph (4) (a) of article XV.

(iii) A Member State which is in arrears in the payment of its contributions shall have no vote at any Council session at which the Director-General states that the amount of its arrears equals or exceeds the amounts of the contributions due from it for the preceding two financial years.

(b) Except where otherwise stipulated in this Agreement, decisions of the Council shall be taken by a majority of the Member States present and voting.

(c) The presence of delegates of a majority of all Member States shall be necessary to constitute a quorum at any session of the Council.

Subordinate Bodies

(7) (a) The Council shall establish, by a decision taken by a two-thirds majority of all the Member States, a Scientific Advisory Committee, a Finance Committee and such other subordinate bodies as may prove necessary.

(b) The decision establishing the Scientific Advisory Committee shall include provisions concerning the membership, its rotation and terms of reference of that Committee in accordance with article VIII of this Agreement and shall determine the conditions of office of its members.

(c) The decision establishing the Finance Committee and other subordinate bodies shall include provisions concerning the membership and terms of reference of such bodies.

(d) Subordinate bodies shall adopt their own rules of procedure.

Article VII. DIRECTOR-GENERAL AND STAFF

(1) (a) The Council shall appoint, by a two-thirds majority of all the Member States, a Director-General for a defined period of time and may by the same majority dismiss him.

(b) The Council may postpone the appointment of the Director-General for such a period as it considers necessary, on the occurrence of a subsequent vacancy. In this event it shall appoint a person to act in his stead, the person so appointed to have such powers and responsibilities as the Council may direct.

(2) The Director-General shall be the chief executive officer and the legal representative of the Laboratory.

(3) (a) The Director-General shall present to the Council:

- (i) the draft indicative scheme referred to in paragraph (3) (b) of article VI of this Agreement;
- (ii) the budget and provisional estimate provided for in subparagraphs (c) and (d) of paragraph (3) of article VI of this Agreement;
- (iii) the audited annual accounts and the annual report called for in subparagraphs (f) and (g) of paragraph (3) of article VI of this Agreement.

(b) The Director-General shall transmit to EMBC for consideration the annual report approved by the Council in accordance with paragraph (3) (g) of article VI of this Agreement.

(4) The Director-General shall be assisted by such scientific, technical, administrative and clerical staff as may be authorised by the Council.

(5) The Director-General shall appoint and dismiss the staff. The Council shall approve the appointment and dismissal of the senior staff as that category is defined in the Staff Rules. Any appointment and its termination shall be in accordance with the Staff Rules. Any persons, not members of the staff, who are invited to work at the Laboratory shall be subject to the authority of the Director-General and to such general conditions as may be approved by the Council.

(6) Each Member State shall respect the exclusively international character of the responsibilities of the Director-General and the staff in regard to the

Laboratory. In the discharge of their duties they shall neither seek nor receive instructions from any Member State or any government or other authority external to the Laboratory.

Article VIII. SCIENTIFIC ADVISORY COMMITTEE

(1) The Scientific Advisory Committee established in accordance with paragraph (7) of article VI of this Agreement shall give advice to the Council, in particular with regard to proposals from the Director-General on the realisation of the programme of the Laboratory.

(2) The Committee shall be composed of distinguished scientists appointed in their own right, not as representatives of Member States. Membership of the Committee should be drawn from scientists in a wide range of relevant fields of science in order to cover as far as possible both the field of molecular biology and other appropriate scientific disciplines. The Director-General shall, after due consultations with, in particular, the Council of EMBO and appropriate national institutions, propose to the Council a list of candidates which the Council shall take into account in appointing the members of the Committee.

Article IX. BUDGET

(1) The financial year of the Laboratory shall run from 1 January to 31 December.

(2) The Director-General shall, not later than 1 October of each year, submit to the Council for consideration and approval a budget showing detailed estimates of the income and expenditure of the Laboratory for the following financial year.

(3) The Laboratory shall be financed by:

- (a) the financial contributions of Member States;
- (b) any gifts contributed by Member States in addition to their financial contributions, unless the Council, by a two-thirds majority of Member States present and voting, decides that any such gift is inconsistent with the purposes of the Laboratory; and
- (c) any other resources, in particular gifts offered by private organisations or individuals, subject to their acceptance by approval of the Council given by a two-thirds majority of Member States present and voting.

(4) The budget of the Laboratory shall be expressed in accounting units representing a weight of 0.88867088 grammes of fine [fine] gold.

Article X. CONTRIBUTIONS AND AUDITING

(1) Each Member State shall contribute annually to the capital expenditure and to the current operating expenses of the Laboratory an aggregate amount of convertible funds in accordance with a scale which shall be fixed every three years by the Council by a two-thirds majority of all the Member States, and shall be based on the average net national income at factor cost of each Member State for the three latest preceding calendar years for which statistics are available.

(2) The Council may decide, by a two-thirds majority of all the Member States, to take into account any special circumstances of a Member State and adjust its contribution accordingly. In applying this provision the term "special circumstances" shall include, in particular, a situation in which the per capita national income of a Member State is less than an amount which the Council shall fix by a two-thirds majority, or one by which any Member State is required to contribute more than thirty per cent of the aggregate amount of contributions assessed by the Council in accordance with the scale referred to in paragraph (1) of this article.

(3) (a) States which become Parties to this Agreement after the thirty-first of December following its entry into force, shall make a special contribution towards the capital expenditure of the Laboratory already incurred, in addition to contributing to future capital expenditure and current operating expenses. The amount of this special contribution shall be fixed by the Council by a two-thirds majority of all Member States.

(b) All contributions made in accordance with the provisions of subparagraph (a) of this paragraph shall be applied in reducing the contributions of the other Member States unless otherwise decided by the Council by a two-thirds majority of all Member States.

(4) If, after this Agreement has entered into force, a State becomes or ceases to be a Party thereto, the scale of contributions referred to in paragraph (1) of this article shall be modified. The new scale shall take effect as from the beginning of the financial year following.

(5) The Director-General shall notify Member States of the amounts of their annual contributions and, in agreement with the Finance Committee, of the dates on which payments shall be made.

(6) The Director-General shall keep an accurate account of all receipts and disbursements.

(7) The Council shall appoint auditors to examine the accounts of the Laboratory. The auditors shall submit a report on the annual accounts to the Council.

(8) The Director-General shall furnish the auditors with such information and help as they may require to carry out their duties.

Article XI. LEGAL STATUS

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. The State in which the Laboratory is situated shall conclude with the Laboratory a headquarters agreement, to be approved by the Council by a two-thirds majority of the votes of all the Member States, relating to the status of the Laboratory and such privileges and immunities of the Laboratory and its staff which are necessary for the fulfilment of its objectives and for the exercise of its functions.

Article XII. SETTLEMENT OF DISPUTES

Any dispute between two or more Member States concerning the interpretation or application of this Agreement which is not settled through the good

offices of the Council shall be submitted, at the request of any party to the dispute, to the International Court of Justice, unless the Member States concerned agree on another mode of settlement within three months from the date on which the President of the Council states that the dispute cannot be settled through the good offices of the Council.

Article XIII. AMENDMENTS

(1) A proposal by any Member State to amend this Agreement shall be placed on the agenda of the ordinary session of the Council which immediately follows the deposit of the proposal with the Director-General. Such a proposal may also be the object of an extraordinary session.

(2) Any amendment to this Agreement shall require unanimous acceptance by the Member States. They shall notify their acceptance in writing to the Government of Switzerland.

(3) Amendments shall come into force thirty days after the deposit of the last written notification of acceptance.

Article XIV. DISSOLUTION

The Laboratory shall be dissolved if at any time there are less than three Member States. Subject to any agreement which may be made between Member States at the time of dissolution, the State in which the Laboratory's Headquarters are located shall be responsible for the liquidation. Except where otherwise decided by the Member States, the surplus shall be distributed among those States which are Members of the Laboratory at the time of the dissolution in proportion to all payments made by them. In the event of a deficit, this shall be met by the said Member States in the same proportions as those in which their contributions have been assessed for the current financial year.

Article XV. SIGNATURE, RATIFICATION, ACCESSION, ENTRY INTO FORCE

(1) This Agreement shall be open for signature by the State Members of EMBC until the date of its entry into force in accordance with paragraph (4) (a) of this article.

(2) This Agreement shall be subject to ratification, acceptance or approval. The appropriate instruments shall be deposited with the Government of Switzerland.

(3) (a) Any State Member of EMBC not a signatory to this Agreement may accede at any later time.

(b) If the Agreement establishing EMBC terminates this shall not preclude a State, formerly party to it or in respect of which a decision has been taken under paragraph (2) of article III of that Agreement to permit that State to accede to it, from acceding to the present Agreement.

(c) The instruments of accession shall be deposited with the Government of Switzerland.

(4) (a) This Agreement shall enter into force when ratified, accepted or approved by the majority of States mentioned in the preamble to this Agree-

ment, including the State in which the Laboratory's Headquarters are located, and on condition that the total contributions of these States represent at least seventy per cent of the total of contributions shown in the scale annexed to this Agreement.

(b) After this Agreement enters into force as provided in paragraph (4) (a) of this article, it shall, as regards any signatory State subsequently ratifying, accepting or approving the Agreement, come into force on the date on which such signatory State's instrument of ratification, acceptance or approval is deposited.

(c) For any acceding State this Agreement shall come into force on the date of deposit of its instrument of accession.

(d) (i) This Agreement shall initially remain in force for a period of seven years. Thereafter it shall remain in force for an indefinite period unless the Council, not later than one year before the expiry of the seven year period, by a two-thirds majority of all the Member States provided the contributions of such Member States constitute not less than two-thirds of the total contributions to the Laboratory budget, decides to prolong this Agreement for a specific period or to terminate it.

(ii) Termination of the Agreement establishing EMBC shall not affect the validity of this Agreement.

Article XVI. DENUNCIATION

(1) After this Agreement has been in force for six years, a State Party to the Agreement may, subject to the provisions of paragraph (3) (b) of article VI of this Agreement denounce it by giving notification to that effect to the Government of Switzerland. Such denunciation shall take effect at the end of the following financial year.

(2) If a Member State fails to fulfil its obligations under this Agreement, it may be deprived of its membership by decision of the Council taken by a majority of two-thirds of all the Member States. Such decision shall be notified to signatory and acceding States by the Director-General.

Article XVII. NOTIFICATIONS AND REGISTRATION

(1) The Government of Switzerland shall notify signatory and acceding States of:

- (a) all signatures;
- (b) the deposit of any instrument of ratification, acceptance, approval or accession;
- (c) the entry into force of this Agreement;
- (d) all written acceptances of amendments notified under paragraph (3) of article XIII of this Agreement;
- (e) the entry into force of any amendment;
- (f) any denunciation of this Agreement.

(2) The Government of Switzerland shall, upon entry into force of this Agreement, register it with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations.

Article XVIII. TRANSITIONAL PROVISIONS

(1) For the period from the entry into force of this Agreement to 31 December following, the Council shall make budgetary arrangements and expenditure shall be covered by assessments upon Member States established in accordance with the following two paragraphs.

(2) States Parties to this Agreement upon its coming into force, and States which may become parties up to 31 December following, shall together bear the whole of the expenditure foreseen in the budgetary arrangements which the Council may adopt in accordance with paragraph (1) of this article.

(3) The assessments upon States covered by paragraph (2) of this article shall be established on a provisional basis according to the need and in conformity with paragraphs (1) and (2) of article X of this Agreement. On the expiry of the period indicated in paragraph (1) of this article a definitive sharing of costs as between these States shall be effected on the basis of actual expenditures. Any excess payment by a State, over and above its definitive share as thus established, shall be placed to its credit.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, having been duly authorised thereto, have signed this Agreement.

DONE at Geneva, this 10 May 1973, in the English, French and German languages, the three texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of Switzerland which shall transmit certified copies to all signatory and acceding States.

Pour la République fédérale d'Allemagne :
For the Federal Republic of Germany:
Für die Bundesrepublik Deutschland:

[JOSEF LÖNS]¹

Pour l'Autriche :
For Austria:
Für Österreich:

[RUDOLF MARTINS]

Pour le Danemark :
For Denmark:
Für Dänemark:

[ERIK THRANE]

Subject to ratification²

Pour l'Espagne :
For Spain:
Für Spanien:

Pour la France :
For France:
Für Frankreich:

[BERNARD DUFOURNIER]

Pour la Grèce :
For Greece:
Für Griechenland:

Pour l'Israël :
For Israel:
Für Israel:

[SHABTAI ROSENNE]

Pour l'Italie :
For Italy:
Für Italien:

[SMOQUINA]

Pour la Norvège :
For Norway:
Für Norwegen:

¹Names of signatories appearing between brackets were not legible and have been supplied by Switzerland — Les noms des signataires donnés entre crochets étaient illisibles et ont été fournis par la Suisse.

² Sous réserve de ratification.

Pour les Pays-Bas :
For the Netherlands:
Für die Niederlande:

[M. J. ROSENBERG POLAK]¹

Pour le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord :
For the United Kingdom of Great Britain and Northern Ireland:
Für das Vereinigte Königreich von Grossbritannien und Nordirland:

[FREDERICK MASON]

Pour la Suède :
For Sweden:
Für Schweden:

[RUNE FREMLIN]
11 mai 1973

Pour la Suisse :
For Switzerland:
Für die Schweiz:

[R. KELLER]

Sous réserve de ratification²

¹ Voir p. 377 du présent volume pour le texte de la déclaration faite lors de la signature — See p. 377 of this volume for the text of the declaration made upon signature.

² Subject to ratification.

A N N E X

TO THE AGREEMENT ESTABLISHING THE EUROPEAN MOLECULAR BIOLOGY LABORATORY

*Scale of contributions calculated on the basis of average national incomes, 1968–1970,
as published by the United Nations*

The scale is given here solely for the specific purposes of paragraph (4) (a) of article XV of this Agreement. It in no way prejudices the decisions which the Council will have to take under paragraph (1) of article X on the future scales of contributions.

	%
Austria	2.063
Denmark	2.282
France	22.585
Federal Republic of Germany	25.926
Israel	0.804
Italy	14.572
Netherlands	4.916
Sweden	5.039
Switzerland	3.305
United Kingdom of Great Britain and Northern Ireland	18.508
	100.000

DECLARATION MADE
UPON SIGNATURE*NETHERLANDS*

[TRANSLATION — TRADUCTION]

On the occasion of the signature today of the Agreement establishing the European Molecular Biology Laboratory, I have the honour to state, on behalf of the Government of the Kingdom of the Netherlands, that the Agreement shall apply provisionally only to the territory of the Kingdom situated in Europe, but that the Government of the Kingdom of the Netherlands, in view of the equality which exists from the point of view of public law between the Netherlands, Surinam and the Netherlands Antilles, reserves the right to extend, at the request of the Government of Surinam and/or the Government of the Netherlands Antilles, the application of the Agreement to those countries on or after the date of deposit of the instrument of ratification by the Kingdom.

DÉCLARATION FAITE
LORS DE LA SIGNATURE*PAYS-BAS*

A l'occasion de la signature, ce jour, de l'Accord instituant le Laboratoire européen de biologie moléculaire, j'ai l'honneur de déclarer, au nom du Gouvernement du Royaume des Pays-Bas, que l'Accord ne s'appliquera provisoirement qu'au territoire du Royaume situé en Europe, mais le Gouvernement du Royaume des Pays-Bas, vu l'égalité qui existe du point de vue du droit public entre les Pays-Bas, le Surinam et les Antilles néerlandaises, se réserve le droit d'étendre, à la demande du Gouvernement du Surinam et/ou du Gouvernement des Antilles néerlandaises l'application de l'Accord à ces pays à la date du dépôt de l'instrument de ratification du Royaume ou à une date ultérieure.