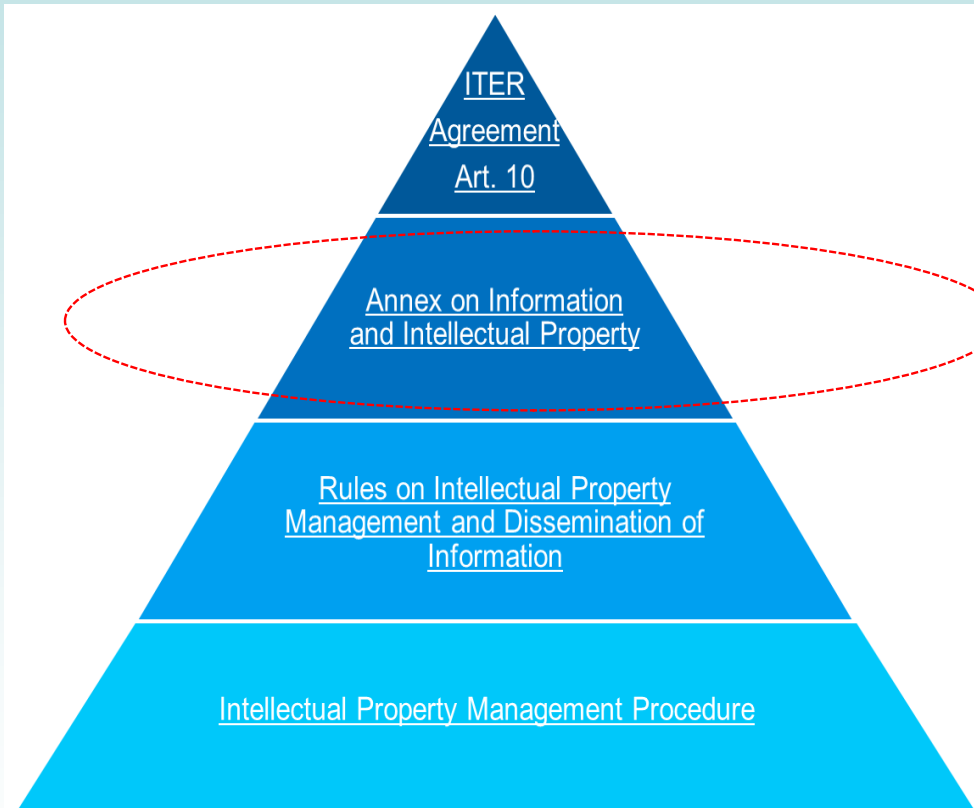
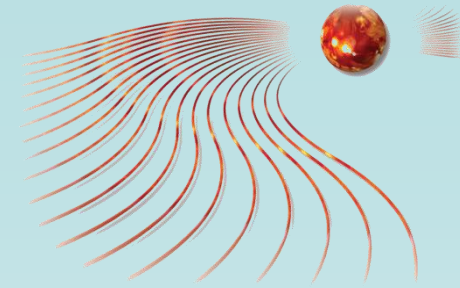


# **Intellectual Property in the ITER Legal Framework**

**Laetitia Grammatico  
Legal Advisor- ITER Organization**

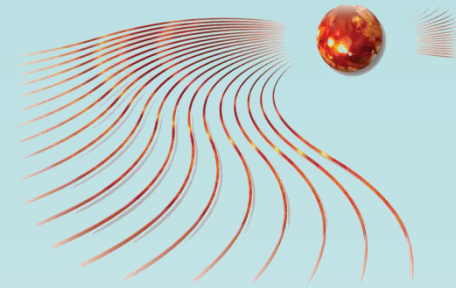
# Legal Framework: ITER Agreement and IIP Annex



**Information:** published data, description of inventions, discoveries etc., whether or not protectable by IP.

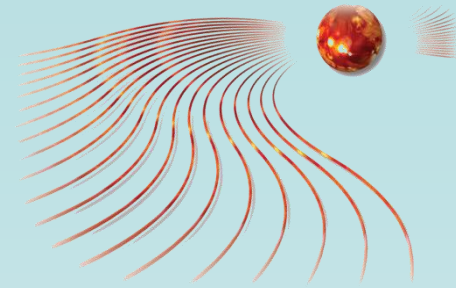
**Intellectual Property (IP)** : such as patents, utility models, industrial designs, trademarks as well as confidential information or trade secrets.

# Fundamental principles



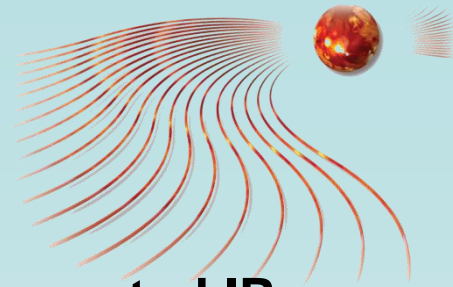
- ❑ IO and the Members shall support the **widest appropriate dissemination** of information and IP they generate in the execution of the ITER Agreement (Article 10-1).
- ❑ IO shall ensure that any **scientific results shall be published or otherwise made widely available** after a reasonable period of time to allow for the obtaining of appropriate protection. Any **copyright** on works based on those results shall be owned by the IO (Article 10-2).

# Fundamental principles



□ When placing contracts for work to be performed pursuant to the ITER Agreement, the IO and the Members:

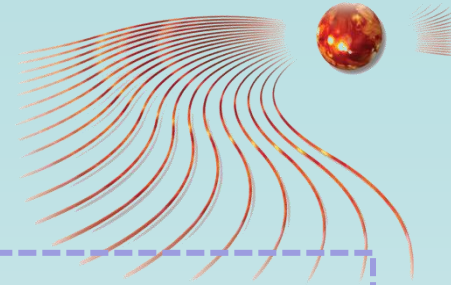
- ✓ shall **include provisions in such contracts on any resulting IP** which shall address inter alia rights of access to and
- ✓ shall be **consistent with the ITER Agreement and the IIP Annex** (Article 10-3)



# Implementation

- ❑ **Important distinction between Background and Generated IP.**
  
- ❑ Obligation to **identify the Background IP** used by the Members or the ITER Organization (and their contractors) in the course of the execution of ITER Agreement.
  
- ❑ Obligation **to declare Generated IP** in the course of the execution of ITER Agreement.
  
- ❑ The IO and the Members are required, under certain conditions, **to share Background and Generated IP by way of license agreements or commercial arrangements.**

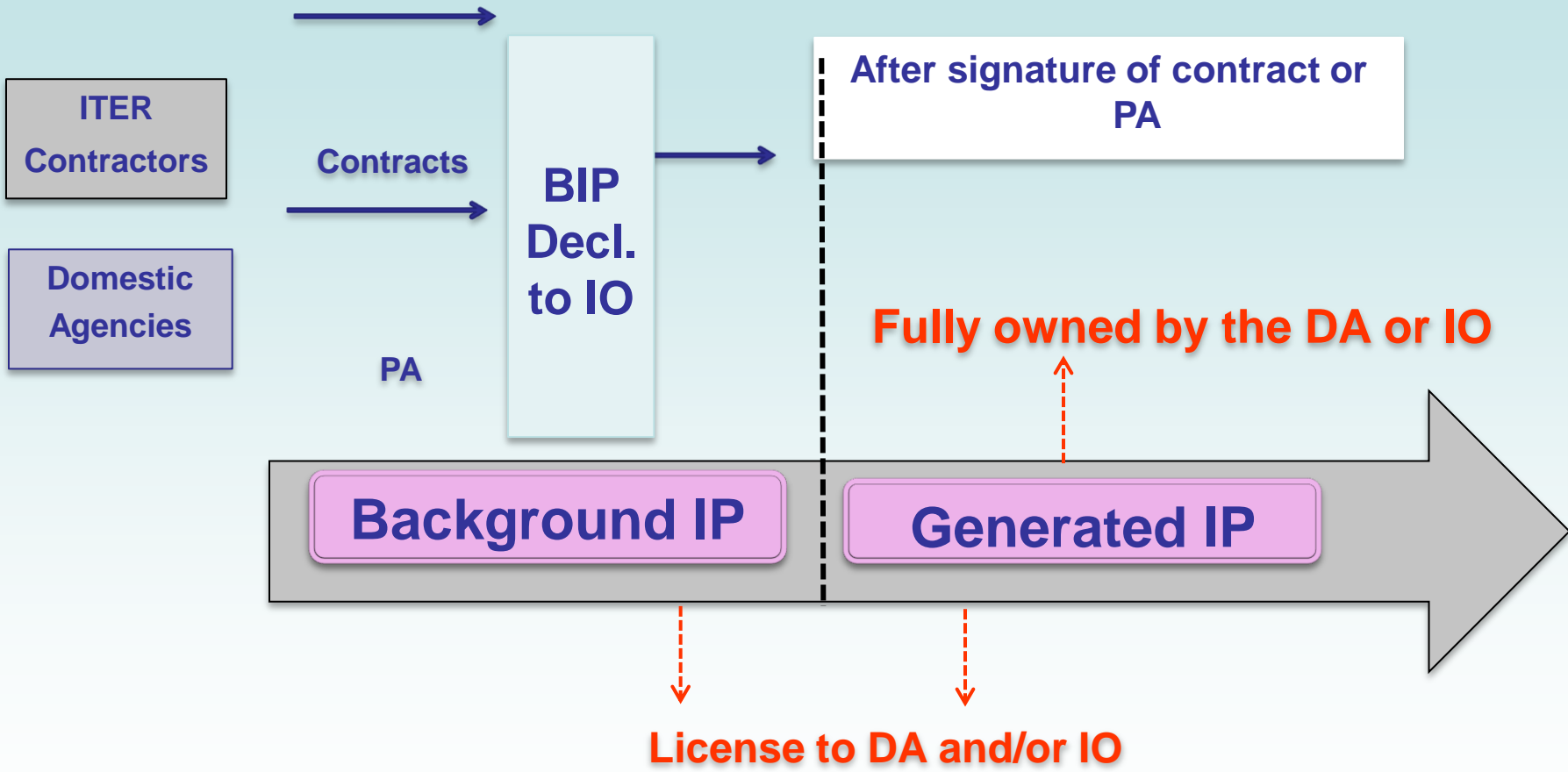
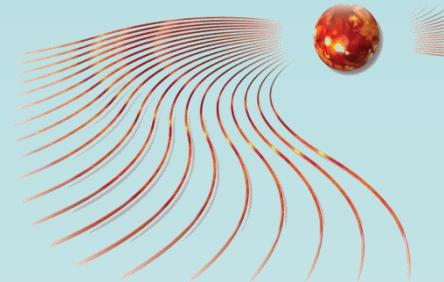
# Definition of BIP and GIP



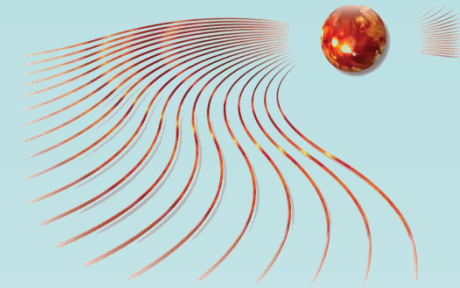
Background Intellectual Property shall mean Intellectual Property that has been or is **acquired, developed or produced**, before the entry into force of [the ITER] Agreement, or outside of the scope of [the ITER] Agreement (Article 1.4 of IIP Annex)

Generated Intellectual Property shall mean Intellectual Property that is **generated or acquired with full ownership** by a Member, acting through a Domestic Agency or Entity, or by the ITER Organization or jointly pursuant to and in the course of the performance of [the ITER] Agreement (Article 1.5 of IIP Annex)

# Background Intellectual Property and Generated Intellectual Property

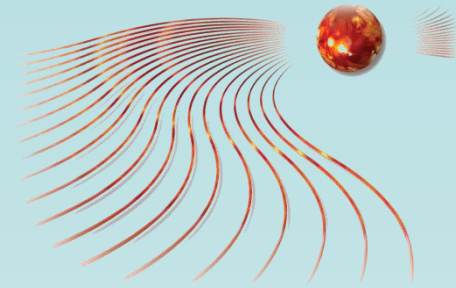


# Dealing with DA & IP creation



- ❑ Declaration of BIP from the potential contractor has to be given before the awarding of the contract by the DA and can only be adjusted later with justification agreed by the ITER Organization.
- ❑ DA Contractors cannot declare after the start of the Contract that Contractors reports are proprietary, i.e. confidential as they would contain know-how or trade secret as such elements must be declared and agreed with the ITER Organization before the award of the Contract.

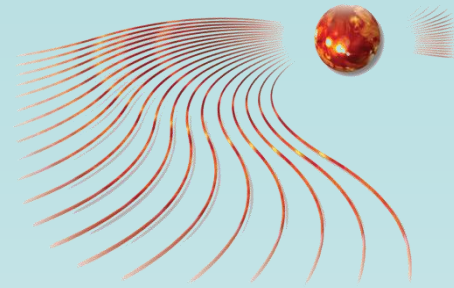




# Dealing with contractors & IP creation

**When using contractors, service/supply contracts should:**

- ✓ **Obtain contractor's guarantee** that the use of the works by the ITER Organization does not infringe IP of third parties.
- ✓ **Ensure** that the ITER Organization is in the possession of all rights and additional documentation needed for the exploitation of the works.



# QUESTIONS?