

**Rules of Procedure for the ESO Council**

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## Rule 1. – Composition

1. The Council is composed of two delegates from each of the Member States, at least one of whom shall be an astronomer (Art. V 1)<sup>1</sup>.
2. The competent national authorities of each Member State shall notify the Director General in writing of the appointment or termination of appointment of their respective delegates and of the dates on which the appointment is to begin or to terminate. Notification of appointment shall be received not less than three weeks before the first meeting in which the delegate is to participate. The Director General shall inform the President of Council (Rule 2 Para. 1) thereof.
3. If an exceptional circumstance prevents a delegate from attending a meeting, (s)he may be represented by an alternate for the meeting concerned. The Director General shall be informed thereof in writing by the competent national authorities. The alternate shall hold full delegate's rights unless otherwise stated in the written notification. The Director General shall inform the President of all such notifications.
4. For the purpose of these Rules, "members of Council" refers to the President and the delegations. A "delegation" is composed of the two delegates from each of the Member States or their alternates. A delegation is considered to be present if at least one of the two delegates or their alternates is present.
5. Delegations may be accompanied by one expert. The names and professions of experts shall be notified to the Director General not less than two weeks before each meeting in which they are to take part. The Director General shall inform the members of Council thereof. Experts shall have no voting rights and unless decided otherwise by the President,

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<sup>1</sup> Numbers of Articles in brackets refer to the relevant Articles of the Convention for the Establishment of a European Organisation for Astronomical Research in the Southern Hemisphere signed on 5 October 1962.

they shall not attend restricted meetings or sessions (Rule 5 Para. 3) or closed sessions (Rule 5 Para. 4). The President may invite experts in attendance to present their views.

6. No remunerated member of the personnel of the Organisation may act as a delegate, an alternate or an expert of a Member State.

## **Rule 2. – President and Vice-President of the Council**

1. The Council shall elect from among its members a President (Art. V 8) and a Vice-President, who shall hold office for one year and may be re-elected twice for a further year. The Member State whose delegate has been elected President shall appoint a new delegate in her/his stead.
2. If the President is temporarily unable to fulfil her/his functions or has a conflict of interest during a meeting (Rule 7 Para. 2), the Vice-President shall act in her/his stead.
3. In the event of resignation or permanent unavailability of the President, the Vice-President shall act as President until the end of the term of office of the original President, unless the Council decides to elect a new President.
4. If the Vice-President is temporarily unable to fulfil her/his functions or has a conflict of interest during a meeting, the longest serving delegate shall act as Vice-President in her/his stead.
5. In the event of resignation or permanent unavailability of the Vice-President, the Council shall at its next meeting elect a new Vice-President.
6. In the event that neither the President nor the Vice-President is able to attend a meeting of the Council, the meeting shall be opened by the longest serving delegate, who shall immediately invite the Council to elect an ad hoc President. The ad hoc President shall then preside over the meeting while the President and Vice-President are absent.
7. If the positions of both the President and the Vice-President fall vacant, the Council shall at its next meeting elect a new President and a new Vice-President.

8. The President, or the Vice-President when acting as President, shall participate in the proceedings in an impartial way and not as the delegate of a Member State. In the exercise of their functions, they remain under the authority of the Council.
9. The Organisation shall assume the travel and subsistence expenses of the President attending the meetings of Council in this capacity and any other expenses derived from Council's mandate.

#### **Rule 3. – Council Secretariat**

1. The Director General shall provide the Secretariat for the Council.
2. The Secretariat shall draft the minutes (Rule 11) and assist the President in organising the proceedings of the Council.

#### **Rule 4. – Meetings**

1. The Council shall meet at least once a year (Art. V 3) and normally meets in ordinary meetings twice annually. It shall in any event meet between 1 September and 31 December each year to approve the budget and the scale of contributions for the subsequent financial year.
2. The President shall, in consultation with the Director General, convene extraordinary meetings of the Council, either on her/his own initiative or on a joint request of at least two Member States within a period of thirty days after having been notified of such request (Art. V 9). An extraordinary meeting may be conducted via teleconference unless three or more delegations object.
3. The Council shall, at each meeting, determine the venue (Art. V 3) and date of its next meeting. Meetings shall normally be held at the Organisation's Headquarters. If (s)he deems it necessary, the President may, in consultation with the Director General, alter the date fixed for a meeting.

4. Meetings of the Council shall be open (Rule 5 Para. 2.1) unless the President, in consultation with the Director General, decides that the whole meeting or an individual item or items shall be discussed in restricted (Rule 5 Para. 3) or closed (Rule 5 Para. 4) session.
- 5.1. To facilitate development of policy and to prepare for decisions, the Council may meet informally in Committee. Committee of Council normally meets twice annually. The venue of Committee of Council meetings shall be decided by Council.
- 5.2. No decisions will be taken during Committee of Council meetings. These meetings will neither be recorded nor be minuted, but a summary of conclusions will be provided within two weeks after the meetings. Rules 9, 10 and 11 concerning voting, written procedure and minutes respectively do not apply to Committee of Council meetings.

#### **Rule 5. – Attendance**

1. Meetings shall not be held in public unless otherwise decided by the Council.
- 2.1. An open meeting or session may be attended by the members of Council accompanied by their experts, the Director General assisted by such members of personnel of the Organisation as (s)he deems necessary and, at the invitation of the President after consultation with the Director General, by other persons whose presence is required to assist in the proceedings (e.g. external auditors, the Finance Committee Chair, the Scientific Technical Committee Chair, the member of the CERN Pension Fund Governing Board appointed by the ESO Council). These may include duly accredited observers from non-Member States or other international organisations. The President may, with the agreement of the Council, invite persons in attendance to present their views. Open meetings or sessions shall be recorded.
- 2.2. Attendance shall not convey the right to vote except, in the case of duly appointed observers from non-Member States, if such right to vote is provided for in the relevant agreements.
3. A restricted meeting or session may be attended only by members of Council, the Director General assisted by such members of personnel of the Organisation whose presence (s)he

deems necessary in relation to the relevant agenda item(s) and by any other person(s) invited by the President after consultation with the Director General. Restricted meetings or sessions shall be recorded.

4. To deal with matters of particular confidentiality the Council may meet in closed session. In this case only members of Council shall be present. The President may, however, permit the attendance of the Director General, the Secretariat and of persons other than delegations. Closed sessions shall not be recorded unless otherwise decided by the President. (S)he shall formulate the conclusions of closed sessions for the minutes (Rule 11), if appropriate.
5. The Director General or a member of the personnel assisting her/him may submit to the Council, orally or in writing, statements on any matter before the Council.
6. Exceptionally, a delegation or other persons participating in a Council meeting may, at the sole discretion of the President, attend via teleconference or videoconference subject to technical feasibility. They will be considered to be present.
7. Committee of Council meetings shall be attended by either or both of the Council delegates from each of the Member States, the President and the Director General. The President may, permit the attendance of other persons needed for specific agenda items.

## **Rule 6. – Agenda**

1. The Director General shall prepare a draft agenda in consultation with the President, and shall make it available to the members of Council not less than three weeks before each meeting. The Director General and the President shall jointly determine whether any items for discussion should be treated as confidential (Rule 13), and shall clearly indicate the confidentiality on the draft agenda and on any documents relating to those agenda items. Documents concerning matters on the draft agenda shall be made available to the members of Council at least two weeks before each meeting.
- 2.1. The draft agenda shall comprise, in particular, matters which at a previous meeting the Council had decided to include; any matter whose inclusion at least two delegations have

requested either during a previous meeting or in a written communication addressed to the Director General not later than three weeks before the meeting; matters proposed by the auxiliary bodies set up by Council; and any other matters which the Director General deems necessary to submit to the Council.

- 2.2. The draft agenda with any proposed modifications shall be discussed and approved by the Council immediately after the opening of each meeting. Other items may be added to the draft agenda, but a vote on the substance of such items may not be taken if two or more delegations object.
3. In the case of an extraordinary meeting, a detailed description of the items to be discussed shall be made available with the notice convening the meeting. Documents concerning the meeting shall be made available at least ten days before the date of the extraordinary meeting.
4. Proposals for the amendment of the Convention or of the Financial Protocol shall not be considered by the Council until at least three months after the Director General has notified all Member States of the proposed amendment (Art. VIII 1).

#### **Rule 7. – Conflict of Interest**

1. All members of Council are in a position of trust.
2. A conflict of interest arises *inter alia* when a member of Council or a closely connected associate or member of her/his immediate family has a professional, financial or commercial interest in a matter under consideration by Council.
3. It is the responsibility of all members of Council to recognize and declare to the Council any such actual or potential conflict of interest immediately they become aware of it.
4. If an actual or potential conflict of interest arises, the delegate or alternate concerned may be requested by the President to withdraw from the discussion of that item. For an actual or potential conflict of interest of the President see Rule 2 Para. 2.

5. The request to withdraw may be challenged, in which case it shall be put to a vote of the Council.
6. Council shall decide what action shall be taken in case of failure to report a conflict of interest.

#### **Rule 8. – Conduct of Meetings**

1. Before the beginning of a meeting the Director General shall verify whether all delegations have been duly appointed. (S)he shall circulate a list of participants based on information received from Member States in accordance with Rule 1.
- 2.1. The President shall, subject to the provisions of these Rules, control the proceedings of the Council and maintain order during its meetings.
- 2.2. (S)he shall declare the opening and closing of each meeting, direct the discussions and sum them up, ensure observance of these Rules, accord or withdraw the right to speak, decide points of order, put proposals to the vote and announce the decisions.
- 2.3. (S)he may adjourn or close a debate, or adjourn or suspend a meeting.
- 2.4. (S)he shall ascertain before each vote that a quorum (Rule 9 Para. 3.1 and 3.2) is present.
- 3.1. No one shall take the floor in the Council without first having obtained the President's authorisation. Subject to the provisions of Para. 4 below, the President shall call upon the speakers in the order in which they have asked to speak.
- 3.2. The President may call to order a speaker whose remarks are not pertinent to the subject at issue.
- 3.3. The amount of time to be allowed to each delegate or alternate and the number of times each delegate or alternate may speak on any question may at any time be limited by the President. This also applies to any other person attending Council meetings.
- 4.1. During the meeting a delegation may raise a point of order.
- 4.2. The President shall give an immediate ruling on the delegation's point of order.

- 4.3. Any delegation may appeal against the President's ruling, in which case the appeal shall be debated and put to the vote.
- 4.4. Unless the appeal is upheld by a majority of delegations present and voting, the President's ruling on the point of order shall stand.
- 4.5. Delegations speaking on a point of order may not deal with the substance of the point at issue.

5. Priority over all other motions shall be given, in the following order, to motions for:

- a) suspending the meeting,
- b) closing the meeting,
- c) adjourning the question under discussion,
- d) closure of the debate on the question under discussion.

6. Any proposal in its final form shall be put to the vote if supported at least by one other delegation. It shall be submitted to the meeting in writing if two or more delegations so request. In such case the President shall not put the proposal to the meeting until the delegations are in possession of the text of the proposal.

7.1. Whenever an amendment to a proposal is raised, the amendment shall be put to the vote first. If two or more amendments are raised, the Council shall vote first on the one which the President rules to be in substance farthest from the original proposal.

7.2. Where adoption of one amendment necessarily implies rejection of another amendment, the latter shall not be put to the vote.

7.3. Two or more delegations may request that parts of an amendment be put to the vote separately. If this request meets with objection, the motion to split the amendment shall be put to the vote.

7.4. If a delegation so requests and is supported by at least one other delegation, the Council shall then vote on the final proposal.

8. Where two or more proposals are raised in respect to one and the same matter, these proposals shall, unless the Council decides otherwise, be put to the vote in the order in which they were raised. After each vote the Council shall decide whether or not to vote on the next proposal.

### **Rule 9. – Voting**

1. Each Member State shall have one vote in Council (Art. V 4) except on questions concerning exclusively an approved supplementary program in which it does not participate (Art. VII 5).
2. A new Member State shall have voting rights from the date its instrument of approval, ratification or accession is deposited with the Ministry of Foreign Affairs of the French Republic, unless provided for otherwise in its accession agreement.
- 3.1. The presence of delegations from two-thirds of the Member States shall be necessary to constitute a quorum at any meeting of Council (Art. V 5).
- 3.2. On questions relating exclusively to a supplementary program the quorum shall be constituted by the presence of delegations from two-thirds of the Member States participating in the program.
4. Votes in Council shall be conducted in accordance with the majority conditions provided for in the Convention or in the Financial Protocol (Annex 1).
- 5.1. Delegations shall normally vote by a show of hands, including any delegations attending by videoconference. If requested by at least two delegations, a roll call shall then be taken in the English alphabetical order of the names of the Member States.
- 5.2. Delegations attending by teleconference shall confirm their vote to the Director General in writing within two weeks of the meeting. If such confirmation is not received, the delegation attending by teleconference shall be considered as not present for the vote.
- 5.3. In determining unanimity or the majorities stipulated, account shall not be taken of a Member State not having the right to vote.

- 5.4. When a decision requires any majority other than unanimity, an abstention shall not count as a vote.
- 5.5. When a decision requires unanimity, an abstention is to be treated as a negative vote.
- 6.1. A vote “ad referendum” will be considered as a provisional positive vote. It shall be confirmed in writing to the Director General, who will inform the President and the delegations not later than at the next meeting of the Council.
- 6.2. A vote “ad referendum” cannot result in a partial or conditional acceptance of the decision concerned.
7. Member States shall encourage their own delegates to attend meetings of Council in accordance with Rule 1. If, however, for exceptional reasons, any Member State cannot send its own delegates or alternates to a meeting, it may give to the delegation of another Member State the power to vote in its name, provided that each delegation may vote by proxy for one other Member State only. Such power to vote shall be granted in a written communication sent and signed by the competent national authorities of that Member State addressed to the Director General. The Director General shall inform the President thereof. In the absence of proxy nominations, and for the purposes of achieving unanimity, the President may invite a Member State who was not represented at a Council meeting to express in writing its vote or abstention within a period decided by the President.
- 8.1. Council may decide that decisions be taken by secret ballot upon request of at least two delegations present.
- 8.2. Voting by secret ballot shall take precedence over vote by roll call if both have been requested. In all votings by secret ballot, two tellers shall be appointed by the President from among the delegations to count the votes, assisted by the Secretariat.
- 8.3. The number of the positive, negative and blank votes as well as abstentions shall be included in the minutes.

- 8.4. A delegation has the right to change its vote up to the time the result is announced; after that the delegation can make the change only with the unanimous consent of other delegations present.
9. If the Council has been notified by the Director General that the amount of the arrears due from a Member State equals or exceeds the contribution due from that Member State for the preceding full year, Council may decide by unanimity of the other Member States to suspend the right of the Member State that is in arrears to vote in the Council and in all the auxiliary bodies until the Council has been notified by the Director General that the amount of the arrears has been fully paid.

#### **Rule 10. – Written Procedure**

1. If the Director General considers that a matter requires a decision before the next meeting of the Council but does not warrant an extraordinary meeting, (s)he may, with the agreement of the President, submit the matter to Council for decision in the written procedure.
2. If requested by at least three delegations, then the decision shall be deferred to the next ordinary or extraordinary meeting.
3. Any proposal submitted to a vote in written procedure shall be arranged so that independent questions are subject to separate votes.
4. The rules regarding a quorum for voting in written procedure shall be the same as at a meeting of Council (Art. V 5). Decisions on matters submitted in the written procedure shall be subject to the same voting majorities as required by the Convention.
5. Votes in written procedure shall only be valid if cast as either positive, negative or as an abstention and if received by the Director General within the deadline specified on the invitation to vote.
6. If the number of votes received by the Director General by the deadline does not reach the required quorum, the proposal shall be considered to be rejected. The Director General

may, however, in consultation with the President, resubmit the proposal at the next meeting of the Council.

7. The results of all votes taken in written procedure shall be communicated to all delegations not later than two weeks after the deadline, and shall be reported at the next Council meeting.

#### **Rule 11. – Minutes**

1. Within one month after each Council meeting the Secretariat shall prepare a summary of decisions recording the conclusions reached. After approval of the summary by the President, it shall be made available to the delegations for information.
2. Draft minutes shall be prepared giving the substance of the discussions and recording the decisions reached in the open and restricted meetings or sessions. Exceptionally draft minutes of closed sessions shall be prepared if so decided by the President. After approval by the President they shall be made available to the delegations, normally at least thirty days before the next Council meeting.
- 3.1. Proposals for amendment of the draft minutes shall be sent by the delegations to the Director General in writing within fifteen days after the date of their communication.
- 3.2. The Director General shall make the proposals for amendment(s) available to the other delegations before the next Council meeting.
- 3.3. Exceptionally, amendments may be proposed orally by a delegation during the Council meeting at which the minutes are due to be approved.
4. Where a decision is challenged by one or more delegations, reference shall be made to the tape recording and:
  - (a) If the decision is found to have been wrongly reported and there is no difference of opinion between delegations on the point, a corrigendum to the draft minutes shall be issued.

If the decision is found to have been correctly reported, and the delegation withdraws its objection, the minutes shall stand.

- (b) If the decision is found to have been correctly reported but the delegation(s) maintain their position, the President shall, in consultation with the delegation(s) concerned, formulate the decision. This procedure shall not, however, be applied to decisions requiring special majority votes, which are dealt with under Para. 5 below.
- 5. Where a tape recording of the decision is not available or is for any reason unclear, and in all cases of decisions requiring majority votes other than simple majority of the Member States represented and voting, the matter shall be referred to the next Council meeting for confirmation.
- 6. At the beginning of each meeting the draft minutes of the previous meeting, after consideration of any amendment(s) proposed, shall be approved by the Council.

## **Rule 12. – Auxiliary Bodies**

- 1. The Council has set up a Finance Committee with attributions determined in the Financial Rules, in accordance with the provisions of Art. 3 of the Financial Protocol to the Convention, and a Scientific Technical Committee.
- 2. The Council may set up such auxiliary bodies as may be necessary to accomplish the purposes of the Organisation, and shall define their terms of reference (Art. V 10).
- 3. These Rules shall, by analogy, also apply to the conduct of the auxiliary bodies set up by the Council, unless those bodies draw up their own rules of procedure. Rules of procedure drawn up by the auxiliary bodies shall correspond to the principles of the Council's Rules, unless explicitly decided otherwise by Council.

## **Rule 13. – Confidentiality and Access to Information**

- 1. Members of Council and all other persons attending Council meetings shall maintain the confidentiality of proceedings, votes and documents relating to all matters identified as

confidential, regardless of the manner of their transmission (see Rule 14). In particular, contractual matters shall not be disclosed to the firms involved nor to anyone else

- 2.1 Requests by members of Council for access to supporting documentation or information beyond that provided to Council or to the Finance Committee shall remain exceptional.
- 2.2 Such requests, providing a detailed and specific case for access to the information requested, shall be made by a written communication addressed to the President, who shall inform the Director General.
- 2.3 Council shall decide on the basis of the case made and after consultation with the Director General whether or not to grant the request in full or in part.
- 2.4 If the request is granted, the information to which access has been approved will be made available, in the presence of an expert designated by the Director General, to one of the delegates to the Council or the Finance Committee of the Member State concerned. The document consultation will take place at the Organisation's Headquarters for a duration of no more than one day. Notes may be made but documents may neither be reproduced nor transmitted outside the ESO premises by any means.

#### **Rule 14. – Communications**

1. In the interests of rapid and efficient communication among members of Council and other persons attending Council meetings, the Council shall whenever possible make use of generally available electronic communications facilities, especially electronic mail (e-mail) and the internet. The Secretariat shall maintain a list of e-mail addresses relevant to the work of the Council, and shall provide such information to the members of Council upon request.
2. Where documents and other communications subject to deadlines have to be transmitted, the relevant deadline shall be deemed to be met if within the time limit the documents or other communications are transmitted by e-mail or made available on the internet link provided by the Secretariat. The Secretariat shall notify the members of Council by e-mail when such documents have been made available on the internet.

## **Rule 15. – Press Releases**

Press releases concerning the proceedings of the Council shall be issued only by the President or, with her/his agreement, by the Director General, or with their specific approval.

## **Rule 16. – Interpretation of these Rules**

1. The Council shall be the sole authority for the interpretation of these Rules.
2. In the event of conflict between any provision of these Rules and the Convention, which includes the annexed Financial Protocol, the following order of precedence shall apply:
  - Convention and Financial Protocol
  - Rules of Procedure of the Council

## **Rule 17. – Entry into Force**

These Rules shall come into effect on the date of their approval by Council. As from the date of their entry into force, the hitherto applied Rules of Procedure for the ESO Council approved by Council on 7th June 1990 are repealed.

## Annex 1: Voting Majorities

Votes are only valid if the meeting has reached a quorum<sup>2</sup>. A quorum is reached if at least two thirds of all Member States are present (Art. V 5).

Decisions are taken by simple majority of the Member States represented and voting (Art. V 6) except in the following cases:

<u>Subject</u>	<u>Two thirds of all Member States</u>	<u>Unanimity of Member States present and voting</u>	<u>Unanimity of all Member States</u>	<u>Reference to the Convention or the Financial Protocol</u>
Supplementary programs	X			Art. II 3 Convention
Budget	X			Art. V 2 b Convention
Location of Observatory			X	Art. V 11 Convention
Appointment of Director General	X			Art. VI 1 a Convention
Relief of Director General	X			Art. VI 1 b Convention
Contribution schedule	X			Art. VII 1 a Convention
Reduction of maximum contribution		X		Art. VII 1 c Convention
Special contribution	X			Art. VII 3 Convention
Different use of special contribution		X		Art. VII 4 Convention
Amendment of the Convention and the Financial Protocol			X <sup>3</sup>	Art. VIII 2 Convention
Failure to fulfil obligations			X <sup>4</sup>	Art. XI Convention
Dissolution of ESO	X			Art. XII Convention
Admission of new Member States			X	Art. XIII 4 Convention
Financial Rules		X		Art. 8 Fin. Protocol

<sup>2</sup> For decisions where the Convention defines that unanimity of all Member States is required (see column labeled “*Unanimity of all Member States*”), the vote requires the presence of all Member States.

<sup>3</sup> Decision to be adopted upon recommendation of Council with the consent of all Member States in accordance with their own constitutional requirements.

<sup>4</sup> Except the Member State concerned.