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SPACE



Treaty Series No. 11 (2003)

Convention

establishing a

European Organization for Astronomical Research in the Southern Hemisphere

with

Financial Protocol

Paris, 5 October 1962

[The United Kingdom instrument of accession was deposited on 24 June 2002 and the Convention and Financial Protocol entered into force for the United Kingdom on 24 June 2002]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
March 2003*

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**CONVENTION ESTABLISHING A EUROPEAN ORGANIZATION FOR
ASTRONOMICAL RESEARCH IN THE SOUTHERN HEMISPHERE**

THE GOVERNMENTS OF THE STATES parties to this convention,

Considering

That the study of the Southern celestial hemisphere is much less advanced than that of the Northern hemisphere,

That the data on which the knowledge of the Galaxy is based are accordingly by no means of the same standing in the different parts of the sky and that it is essential to improve and supplement them in all instances where they are inadequate,

That, in particular, it is deeply regrettable that systems with no equivalent in the Northern hemisphere are almost inaccessible to the largest instruments currently in use,

That it is therefore urgent to install instruments in the Southern hemisphere comparable in power to those of the Northern hemisphere but that such a project can only be accomplished through international co-operation,

Desirous of jointly creating an observatory equipped with powerful instruments in the Southern hemisphere and accordingly promoting and organizing co-operation in astronomical research,

Agree to the following provisions:

ARTICLE I

Establishment of the Organization

1. This Convention hereby establishes a European Organization for Astronomical Research in the Southern Hemisphere, hereinafter called the Organization.
2. The headquarters of the Organization shall be provisionally established in Brussels. The final location of the headquarters shall be determined by the Council established in accordance with the provisions of Article IV of this Convention.

ARTICLE II

Purposes

1. The purpose of the Organization shall be to build, fit out and operate an astronomical observatory situated in the Southern hemisphere.
2. The initial programme of the Organization shall comprise the construction, installation and operation of an observatory in the Southern hemisphere, consisting of:
 - a.* a telescope with an aperture of about 3 metres;
 - b.* a Schmidt telescope with an aperture of about 1,20 metre;
 - c.* not more than three telescopes with a maximum aperture of 1 metre;
 - d.* a meridian circle;
 - e.* the auxiliary equipment needed to carry out research programmes with the instruments listed in sub-paragraphs *a, b, c* and *d* above;
 - f.* the buildings needed to house the equipment listed in sub-paragraphs *a, b, c, d* and *e* above, as well as the administration of the observatory and the accommodation of personnel.

3. Any supplementary programme shall be submitted to the Council established under the provisions of Article IV of this Convention, and shall be approved by a two-thirds majority of the Member States of the Organization. States which have not approved the supplementary programme shall not be required to contribute to its execution.

4. The Member States shall facilitate the exchange of staff and of scientific and technical information serving a useful purpose for the implementation of the programmes in which they take part.

ARTICLE III

Members

1. The States parties to this Convention shall be Members of the Organization.
2. Other States shall be admitted to the Organization in accordance with the procedure set forth in Article XIII, paragraph 4 of this Convention.

ARTICLE IV

Statutory Bodies

The Organization shall consist of the Council and the Director.

ARTICLE V

The Council

1. The Council shall be composed of two delegates from each of the Member States, at least one of whom shall be an astronomer. The representatives may be assisted by experts.
2. The Council shall:
 - a.* determine the policy of the Organization with respect to scientific, technical and administrative matters;
 - b.* approve the budget by a two-thirds majority of the Member States and shall draw up financial arrangements in conformity with the Financial Protocol attached to this Convention;
 - c.* supervise expenditure and approve and publish the audited annual accounts of the Organization;
 - d.* decide on the composition of the staff and approve the recruitment of the Organization's senior personnel;
 - e.* publish an annual report;
 - f.* approve the by-laws of the Observatory submitted by the Director;
 - g.* be vested with the authority to take the measures necessary to ensure the day-to-day operation of the Organization.
3. The Council shall meet at least once a year and shall decide on the venue of its meeting.
4. Each Member State shall have one vote in the Council. However, a Member State may vote on the implementation of a programme other than the initial programme set forth in Article II, paragraph 2, only if it has agreed to make a financial contribution to that programme or if the vote is concerned with installations to the purchase of which it has agreed to contribute.

5. The decisions of the Council shall be binding only if the representatives of at least two-thirds of the Member States are present.
6. Unless otherwise provided for in this Convention, decisions of the Council shall be taken by an absolute majority of the Member States represented and voting.
7. The Council shall draw up its own rules of procedure, subject to the provisions of this Convention.
8. The Council shall elect a Chairman from among its members for a term of office of one year. The Chairman may not be re-elected for more than two consecutive terms of office.
9. The Chairman shall convene the meetings of the Council. He shall be required to convene a meeting of the Council within a period of 30 days after at least two of the Member States have requested such a meeting.
10. The Council may set up such auxiliary bodies as may be necessary to accomplish the purposes of the Organization. The Council shall define the terms of reference of such bodies.
11. The Council shall, with the unanimous approval of the Member States, decide on the choice of State on whose territory the Observatory shall be established, together with its location on that territory.
12. The Council shall conclude the Headquarters Agreements needed to implement this Convention.

ARTICLE VI

Director and Staff

1.
 - a. The Council shall appoint the Director for a fixed term of office by a two-thirds majority of the Member States. The Director shall be answerable to the Council alone. He shall be responsible for the general direction of the Organization and shall represent it in civil actions. He shall submit an annual report to the Council and shall attend Council meetings in a consultative capacity unless the Council otherwise decides.
 - b. The Council may, by a two-thirds majority of the Member States, relieve the Director of his duties.
 - c. In the event of the Director's post falling vacant, the Chairman of the Council shall represent the Organization in civil actions. In such an eventuality, the Council may appoint a person whose powers and responsibilities it shall determine, to take the place of the Director.
 - d. On the terms set forth by the Council, the Chairman and the Director may delegate their power of signature.
2. The Director shall be assisted by such scientific, technical and administrative personnel as the Council authorizes.
3. Subject to the provisions of Article V, paragraph 2*d* and to the budget appropriations, staff shall be engaged and dismissed by the Director. Appointments shall be made and terminated in accordance with the staff regulations adopted by the Council.
4. The Director and staff of the Organization shall perform their duties in the interests of the Organization. They may only seek and receive information from the competent bodies of the Organization. They shall refrain from any act incompatible with the nature of their duties. Each Member State shall undertake not to influence the Director and staff of the Organization in the performance of their duties.

5. Research workers and their collaborators who are called upon to work at the observatory with the Council's authorization but who are not members of the Organization's staff shall be placed under the Director's authority and shall be subject to the general rules established or approved by the Council.

ARTICLE VII

Financial Contributions

1. *a.* Each Member State shall contribute to the Organization's capital investment and fitting-out costs and to its current operating costs in accordance with a schedule which shall be drawn up by the Council once every three years and shall be approved by a two-thirds majority of the Member States on the basis of the average net national income calculated in accordance with the rules laid down in Article VII, paragraph 1*b*, of the Convention Establishing a European Organization for Nuclear Research signed in Paris on 1 July 1953¹

b. These provisions shall only apply to the initial programme set forth in Article II, paragraph 2, of this Convention.

c. However, no Member State shall be required to pay annual contributions exceeding one-third of the total amount of the contributions determined by the Council. This maximum contribution may be reduced by unanimous decision of the Council in the event of a State not mentioned in the Annex to the Financial Protocol becoming a Member of the Organization.

2. In the event of a supplementary programme being set up as provided for in Article II, paragraph 3, the Council shall draw up a special schedule in order to determine the contributions to the cost of the supplementary programme which Member States participating in that programme shall be required to make. This special schedule shall be drawn up in accordance with the rules specified in paragraph 1 above without regard to the conditions set forth in sub-paragraph *c* thereof.

3. States becoming Members of the Organization after the date on which this Convention comes into force shall be required to make a special contribution representing their share in capital investment and fitting-out costs already incurred in addition to their contribution to future capital investment and fitting-out costs and current operating costs. The amount of this special contribution shall be determined by the Council by a two-thirds majority of the Member States.

¹Treaty Series No. 3 (1960) Cmnd 928. The paragraph in question is to be found below:

1. Each Member State shall contribute both to the capital expenditure and to the current operating expenses of the Organization:

a. for the period ending on the thirty-first of December, 1956, as set out in the Financial Protocol annexed to this Convention; and, thereafter,

b. in accordance with scales which shall be decided 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 years for which statistics are available, except that,

i. in respect of any programme of activities, the Council may determine, by a two-thirds majority of all the Member States, a percentage as the maximum which any Member State may be required to pay of the total amount of contributions assessed by the Council to meet the annual cost of that programme; once any such maximum percentage has been so determined, the Council may, by the same majority, change it, provided that no Member State participating in that programme votes to the contrary;

ii. 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; for the purpose of applying this provision it shall be considered to be a special circumstance, in particular, when the national income "per capita" of a Member State is less than an amount to be decided by the Council by the same majority.

4. All special contributions made in accordance with the provisions of paragraph 3 above shall have the effect of reducing the contributions of the other Member States accordingly unless the Council shall unanimously decide otherwise.

5. No State shall be entitled to participate in activities to which it has not made a financial contribution.

6. The Council may accept gifts and bequests made to the Organization provided they are not on terms that are incompatible with the purposes of the Organization.

ARTICLE VIII

Amendments

1. The Council may recommend to the Member States that this Convention and the attached Financial Protocol be amended. Any Member State wishing to propose an amendment shall notify the Director of its proposal. The Director shall circulate any such proposals communicated to him at least three months before they are considered by the Council.

2. Amendments recommended by the Council may only be adopted with the agreement of all the Member States in accordance with their own constitutional requirements. Such amendments shall come into force thirty days after the last notification of acceptance of the proposed amendment has been received. The Director shall inform the Member States of the date of entry into force of the amendment.

ARTICLE IX

Disputes

Unless Member States agree to some other manner of settlement, all disputes arising between Member States with respect to the interpretation or application of this Convention or of the Financial Protocol which cannot be settled by the Council's mediation shall be submitted to the Permanent Court of Arbitration of the Hague in accordance with the provisions of the Convention for the peaceful settlement of international disputes dated 18 October 1907.

ARTICLE X

Withdrawal

Any Member State of the Organization may, after a period which shall not be less than ten years from its date of entry into the Organization, notify the Chairman of the Council in writing of its withdrawal from the Organization. Such withdrawal shall take effect at the end of the financial year following that in which notification of withdrawal is given. Any State withdrawing from the Organization shall have no claim on the assets of the Organization or on the amount of the contributions it has already made.

ARTICLE XI

Failure to fulfil obligations

If one of the Members of the Organization ceases to fulfil the obligations arising out of this Convention or of the Financial Protocol, it shall be called upon by the Council to abide by their provisions. If the said Member does not respond to that invitation in the time imparted to it, the other Members may decide unanimously to continue co-operating within the Organization without that Member. In such an eventuality, that State shall have no claim on the assets of the Organization or on the amount of the contributions it has already made.

ARTICLE XII

Dissolution

The Organization may be dissolved at any time by a resolution adopted by a two-thirds majority of the Member States. In the event of there not being unanimous agreement among the Member States at the time of dissolution, a liquidator shall be appointed under the terms of the same resolution. Assets shall be distributed among the Member States of the Organization at the time of dissolution pro rata in proportion to the contributions they have actually made since they became party to this Convention. In the event of there being any liabilities, they shall be borne by the same Member States pro rata in proportion to the contributions laid down for the ongoing financial year.

ARTICLE XIII

Signature—Accession

1. This Convention and the attached Financial Protocol shall be open for signature by all the States having participated in the preparatory work on this Convention.
2. This Convention and the attached Financial Protocol shall be submitted for approval or ratification by each State in accordance with its constitutional requirements.
3. The instruments of approval or ratification shall be deposited with the Ministry of Foreign Affairs of the French Republic.
4. The Council may, by the unanimous vote of the Member States, approve the admission into the Organization of States other than those covered by paragraph 1 of this Article. The States thus admitted shall become Members of the Organization by depositing an instrument of accession with the Ministry of Foreign Affairs of the French Republic.

ARTICLE XIV

Entry into force

1. This Convention and the attached Financial Protocol shall enter into force on the date on which the fourth instrument of approval or ratification is deposited provided that the total contributions in accordance with the schedule in the Annex to the Financial Protocol amount to at least 70 per cent.
2. With respect to any State depositing its instrument of approval, ratification or accession after the date of entry into force provided for in paragraph 1 of this Article, the Convention and the Financial Protocol shall enter into force on the date the said instrument is deposited.

ARTICLE XV

Notification

1. The Ministry of Foreign Affairs of the French Republic shall notify the signatory or acceding States and the Director of the Organization of the deposit of each instrument of approval, ratification or accession and of the entry into force of this Convention.
2. The Chairman of the Council shall notify all Member States whenever a State withdraws from the Organization or ceases to be a party to it by virtue of the provisions of Article XI.

ARTICLE XVI

Registration

As soon as this Convention and the attached Financial Protocol enter into force, the Ministry of Foreign Affairs of the French Republic shall have them registered with the Secretary-General of the United Nations in accordance with Article 102 of the United Nations Charter.

In witness whereof the undersigned, being thereunto duly authorized, have signed this Agreement.

Done at Paris on 5 October 1962, in a single copy in the German, French, Dutch and Swedish languages, the French text being authoritative in the event of dispute. This copy shall be deposited in the Archives of the Ministry of Foreign Affairs of the French Republic.¹

Here follow the signatures

¹It has not been possible to obtain a full status list for the Convention.

English translation

**FINANCIAL PROTOCOL ANNEXED TO THE CONVENTION ESTABLISHING A
EUROPEAN ORGANIZATION FOR ASTRONOMICAL RESEARCH IN THE
SOUTHERN HEMISPHERE**

THE GOVERNMENTS OF THE STATES PARTIES to the Convention Establishing a European Organization for Astronomical Research in the Southern Hemisphere, hereinafter called the Convention,

Desirous of making provision for the financial administration of the said Organization,
Have agreed as follows:

ARTICLE 1

Budget

1. The financial year of the Organization shall run from the first of January to the thirty-first of December.
2. Not later than the first of September of each year, the Director shall submit detailed estimates of income and expenditure for the subsequent financial year for the Council's consideration and approval.
3. Estimates of income and expenditure shall be broken down under chapter headings. Transfers within the budget shall not be permitted except by authorization of the Finance Committee provided for in Article 3 hereinafter. The exact form of the estimates shall be determined by the Finance Committee on the recommendation of the Director.

ARTICLE 2

Supplementary Budget

The Council may require the Director to present a supplementary or revised budget if circumstances so warrant. No resolution involving additional expenditure shall be deemed to have been approved by the Council until it shall have also approved an estimate submitted by the Director in respect of the additional expenditure involved.

ARTICLE 3

Finance Committee

The Council shall set up a Finance Committee composed of representatives of all the Member States and its attributions shall be determined in the Financial rules provided for in Article 8 hereinafter. The Director shall submit the budget estimates to the Committee and they shall subsequently be forwarded to the Council with the Committee's report thereon.

ARTICLE 4

Contributions

1. With respect to the period terminating on the thirty-first of December of the year in which the Convention shall enter into force, the Council shall draw up provisional budget estimates and the relevant expenditures shall be met by contributions fixed in accordance with the provisions of the Annex to this Protocol.

2. With effect from the first of January of the following year, expenditures in the budget approved by the Council shall be met by the contributions of Member States in accordance with the provisions of Article VII, paragraph 1, of the Convention.

3. If a State becomes a Member of the Organization after the thirty-first of December of the year in which the Convention shall enter into force, the contributions of all the Member States shall be reassessed and the new scale shall take effect as from the beginning of the current year. If necessary, repayments shall be made to adjust the contributions of all the Member States to the new scale.

4. (a) On the Director's recommendation, the Finance Committee shall determine the terms on which payment of contributions shall be made, in order to ensure the sound financial management of the Organization.

(b) The Director shall thereafter notify the Member States of the amounts of their contributions and the dates on which payment should be made.

ARTICLE 5

Currency of Contributions

1. The Council shall determine the currency in which the budget of the Organization will be drawn up. The contributions of the Member States shall be payable in that currency in accordance with current payment arrangements.

2. However, the Council may require the Member States to pay part of their contribution in any other currency which may be required for the Organization's purposes.

ARTICLE 6

Revolving Fund

The Council may establish a Revolving Fund.

ARTICLE 7

Accounts and Auditing

1. The Director shall ensure that an account is kept of all income and expenditure and that an annual balance-sheet is drawn up for the Organization.

2. The Council shall appoint external auditors who shall serve for a period of three years in the first instance and may be re-appointed. The external auditors shall be commissioned to examine the accounts and balance-sheets of the Organization, in particular with a view to certifying that expenditure has conformed, within the limits specified in the Financial Rules, to the budget appropriations. They shall also discharge such other functions as are laid down in the said Financial Regulations.

3. The Director shall provide the external auditors with such information and assistance as they may require in order to perform their duties.

ARTICLE 8

Financial Regulations

The Financial Rules shall lay down all the other terms and conditions relating to the Organization's budget, accounting system and finances.

It shall be subject to the unanimous approval of the Council.

In witness whereof, the undersigned representatives, being thereunto duly authorized, have signed this Protocol.

Done at Paris on 5 October 1962 in a single copy in the German, French, Dutch and Swedish languages, the French text being authoritative in the event of dispute. This copy shall be deposited in the Archives of the Ministry of Foreign Affairs of the French Republic.

This Ministry shall transmit a certified true copy to a signatory or acceding States.

Annex

CONTRIBUTIONS FOR THE PERIOD TERMINATING ON THE THIRTY-FIRST OF DECEMBER OF THE YEAR IN WHICH THE CONVENTION SHALL ENTER INTO FORCE

- (a) The States parties to the Convention on the date of its entry into force and States which become Members of the Organization during the above period shall together defray all the expenditures covered by the provisional budget estimates drawn up by the Council in accordance with Article 4, paragraph 4 of the Financial Protocol.
- (b) Contributions of States becoming Members of the Organization during the above period shall be provisionally determined in such a way that the contributions of all the Member States shall be proportional to the percentages given in paragraph (d) of this Annex. As provided for in paragraph (c) hereinafter, the contributions of these new Members shall be used either for the subsequent repayment of part of the provisional contributions already made by the other Member States or to cover the additional budget appropriations entailed in the implementation of the initial programme approved by the Council during that period.
- (c) The final amount of contributions outstanding for the above period shall be determined with retroactive effect on the basis of the overall budget for the said period in such a way that that amount shall be equivalent to what it would have been if all the Member States had been parties to the Convention at the time it entered into force. Any amount which a Member State may have paid over and above that determined retroactively shall be credited to that State.
- (d) If all the States mentioned in the schedule given below have become Members of the Organization before the above period, their contributions for the overall budget for that period shall be at the following rates:

| | |
|-----------------------------|-----------------------|
| Federal Republic of Germany | 33.33 per cent |
| Belgium | 11.32 per cent |
| France | 33.33 per cent |
| Netherlands | 10.49 per cent |
| Sweden | 11.53 per cent |
| Total | <hr/> 100.00 per cent |

- (e) In the event of any change in the maximum contributions as provided for in Article VII, paragraph 1c, of the Convention, the above schedule shall be amended accordingly.



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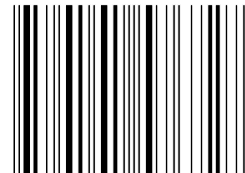
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