

ORGANISATION EUROPÉENNE POUR LA RECHERCHE NUCLÉAIRE
CERN EUROPEAN ORGANIZATION FOR NUCLEAR RESEARCH

<i>Action to be taken</i>		<i>Voting Procedure</i>
For recommendation	FINANCE COMMITTEE 382 nd Meeting 28 September 2022	Two-thirds majority of all Member States
For decision	RESTRICTED COUNCIL 209 th Session 29 September 2022	Two-thirds majority of all Member States

TERMS OF REFERENCE OF THE CERN FINANCE COMMITTEE

The Finance Committee is invited to recommend and, pursuant to Article V, paragraph 12, of the CERN Convention, the Council is invited to approve, the Terms of Reference of the CERN Finance Committee, set out in the annex to this document, for entry into force on 1 October 2022.

TERMS OF REFERENCE OF THE CERN FINANCE COMMITTEE

I. INTRODUCTION

In December 2019, the CERN Council adopted the Terms of Reference of a Council Working Group on the Governance of CERN (“the Working Group”) (CERN/3471/C). The Working Group was mandated to “*discuss issues pertaining to the governance of CERN raised by Member State delegations, and, if necessary, make recommendations thereupon to the Council*”. It was initially tasked with “*collecting [such] issues from the delegations and establishing a list of subjects to be addressed, which the Working Group [was to] submit to the Council for endorsement at its subsequent Session*”.

The list of subjects to be discussed was identified by the Working Group at its first meeting, in February 2020, and was approved by the Council in March 2020 (CERN/3488/C).

The subjects were classified under three headings, by order of priority:

- i. decision-making and voting within the Council;
- ii. functioning of the Council and its subordinate bodies; and,
- iii. future global projects.

In the context of item (ii), the Working Group has focussed, *inter alia*, on whether the terms of reference of the subordinate bodies meet the Council’s needs in respect of the advice it wishes to receive.

Pursuant to article V, paragraph 12, of the CERN Convention:

“The Council shall establish a Scientific Policy Committee and a Finance Committee, and such other subordinate bodies as may be necessary for the purposes of the Organization, and in particular for the execution and co-ordination of its different programmes. The creation and the terms of reference of such bodies shall be determined by the Council by a two-thirds majority of all the Member States. Subject to the provisions of this Convention and of the Financial Protocol annexed thereto, such subordinate bodies shall adopt their own rules of procedure.”

In practice, not all of the subordinate bodies have terms of reference and rules of procedure, and the format and the terminology of the existing documents are somewhat inconsistent. In order to address this situation and to enhance the clarity of the applicable provisions, as well as facilitating the role of the Chairs in the conduct of meetings, the Working Group commenced a revision of the terms of reference, starting with those of the Finance Committee.

Under the guidance of the Chair of the Finance Committee, the Working Group first established a comprehensive document setting out distinct draft Terms of Reference and Rules of Procedure of the Finance Committee. The document was submitted to the Finance Committee for feedback in December 2021 (FC/6525/RA). Taking due account of such feedback and discussion of the approval procedure by the Council, the Working Group reformulated the entire text as Terms of Reference to follow the approximate format of the recently adopted Terms of Reference of the Audit Committee ([CERN/3561/Rev.](#)). The document was then submitted to both the

Finance Committee and the Council for feedback in June 2022 (CERN/FC/6525/RA/Rev, CERN/3655/RA). It was again revised to reflect such feedback.

The content is primarily driven by the traditional responsibilities and practices of the Finance Committee. In one notable departure, the Working Group proposes that the Staff Rules and Regulations both henceforth be adopted by the Council on the recommendation of the Finance Committee (article 4 (x)). Today, the Staff Regulations are adopted by the Finance Committee and the Staff Rules are adopted by the Council, on the recommendation of the Finance Committee. This practice has its origins in a time when the Finance Committee met more regularly than the Council but is no longer necessary. The Staff Association is in agreement with the proposal. Furthermore, whilst the Committee expects to normally meet in person, the possibility of remote attendance has been introduced in article 17.

II. PROPOSAL

The Finance Committee is invited to recommend and, pursuant to Article V, paragraph 12, of the CERN Convention, the Council is invited to approve, the Terms of Reference of the CERN Finance Committee, set out in the annex to this document, for entry into force on 1 October 2022.

ANNEX

CERN Finance Committee

Terms of Reference

The Terms of Reference of the CERN Finance Committee, as approved by the Council at its 209th Session (CERN/FC/6525/RA/Rev.2, CERN/3655/RA/Rev.), on the recommendation of the Finance Committee, entered into force on 1 October 2022.

I. General Remit and Authority

1. The CERN Finance Committee (hereinafter referred to as “the Committee”), a subordinate body established by the Council in accordance with article V, paragraph 12, of the CERN Convention, advises the Council on all matters relating to the financial management of the Organization, including its Pension Fund, and exercises any other duties conferred upon it by the Council, including the taking of certain decisions. In so doing, the Committee exercises its authority pursuant to the Financial Protocol, which is annexed to the CERN Convention, and to the CERN Financial Rules.¹
2. The Director-General of CERN and the Chief Executive Officer of the Pension Fund provide the Committee with all the support and all the information at their disposal that the Committee may require to fulfil its remit.

II. Detailed Responsibilities

3. The responsibilities of the Committee are the following:
 - a) **Advisory responsibilities**
4. To assist the Council, the Committee monitors the overall financial situation of the Organization and provides a recommendation on items requiring a decision, in particular:
 - i. the Budget (article 3, Financial Protocol; article 7, Financial Rules);
 - ii. the Financial Rules and Regulations, including the Procurement Rules (article 7, Financial Protocol);
 - iii. the Medium-Term Plan (article 5, Financial Rules);
 - iv. projects subject to a specific approval process outside the framework of the Medium-Term Plan (article II, 2, Convention; article 5, Financial Rules; CERN/3545/C/Rev., recommendations 4 and 5);

¹ At the time of approval of these Terms of Reference, the most recent version of the CERN Financial Rules was that approved by the Council in June 2017 ([CERN/3313/RA](#)).

- v. the annual report on budget execution (article V, 2 (f), Convention; article 8, Financial Rules);
- vi. long-term loans required for the funding of approved investments (article 12, Financial Rules);
- vii. the cost-variation index applicable to the personnel and material components of the Budget (article 3, Financial Protocol; article 7, Financial Rules);
- viii. the Financial Statements of CERN (article V, 2 (d), Convention; article 18, Financial Rules);
- ix. the annual report and the Financial Statements of the Pension Fund (article 2, Section 1, Financial Regulations of the Pension Fund);
- x. the Staff Rules and Regulations (article VI, 3, Convention; Staff Rules S I 1.01 and S I 1.02); and,
- xi. the Rules and Regulations of the Pension Fund, where any proposed amendments have financial implications (article I 1.03, Rules and Regulations of the Pension Fund).

b) Decision-making responsibilities

5. The Committee has decision-making responsibilities in respect of its own functioning and the establishment of time-limited working groups to study specific items falling within its remit.
6. Following consultation with the Director-General, the Committee establishes the terms for the payment of Member State contributions (article 4 (5), Financial Protocol; article 10, Financial Rules).
7. Acting under delegated authority from the Council, the Committee, in particular:
 - i. approves the award of contracts (article 11.1, Procurement Rules);
 - ii. approves the sale of property for an amount exceeding 750 000 Swiss francs, or 200 000 Swiss francs in the case of contracts without competitive tendering (article 14, Financial Rules); and,
 - iii. may request that the External Auditors undertake specific audits (article 21, Financial Rules).

c) Other responsibilities

8. In addition, the Committee performs any other activities that the Council may request it to perform.

III. Composition

a) Membership

9. The Committee is composed of representatives of the CERN Member States, who are referred to as members of the Committee. Each Member State must appoint one or two

such representatives.

b) Chair and Vice-Chair

10. The Chair of the Committee is appointed by the Council, normally from amongst the Committee members, for a period of one year, renewable for not more than two consecutive periods of one year each. During this term of office, the Chair cannot be a representative of a Member State.
11. The Vice-Chair of the Committee is appointed by the Council upon the recommendation of the Committee, from amongst the Committee members, for a period of one year, renewable for not more than two consecutive periods of one year each.
12. If the Chair of the Committee is unable to attend all or part of a meeting, or has a conflict of interest on a particular agenda item, the Vice-Chair acts in the Chair's stead. In the event that both the Chair and the Vice-Chair are unable to attend all or part of a meeting, or have a conflict of interest on a particular agenda item, the President of Council acts as Chair.

IV. Meetings and Attendance

a) Conduct of meetings

13. The Committee meets at least once prior to each ordinary Council Session, on dates decided by the Council.
14. The Committee may convene additional meetings at the request of the Council, the Chair or at least five Member States.
15. The Committee has three operating modes, Normal, Restricted and Closed.
16. The Committee usually meets in Normal mode but can meet in Restricted or Closed operating mode at the request of the Council, the Chair or a majority of the Member States.
17. The Committee normally meets in person, with the possibility of remote attendance. It is expected that at least one representative of each Member State attends in person. Where necessary, the Chair, following consultation with the President of Council, may decide on a remote-only meeting.
18. For the discussion of and any decision on a matter, the presence of representatives from a majority of the Member States entitled to vote on that matter constitutes the required quorum (article V, 9, Convention; article 3 (2), Financial Protocol).

b) Agenda, documents and minutes

19. The Chair prepares the agenda of each meeting in consultation with the Director-General and the Director in charge of finance and human resources, following discussion in the

President's Group.

20. All documents and information submitted to or produced by the Committee remain confidential, unless otherwise determined.
21. Minutes are produced in accordance with the established procedures for the minutes of the Council and its subordinate bodies.

c) Attendance

22. The Member State representatives, as referred to in article 9 above, may be accompanied by up to two advisers appointed by the Member States concerned in Committee meetings conducted in Normal and Restricted operating modes.
23. Associate Member States and Associate Member States in the pre-stage to Membership of CERN are entitled to be represented in Committee meetings conducted in Normal and Restricted operating modes. Each Associate Member State and Associate Member State in the pre-stage to Membership of CERN is entitled to appoint up to two representatives to attend such meetings, as well as up to two advisers to accompany the said representatives.
24. The Chair may decide to invite individuals to be present for specific agenda items.
25. The attendance rights for Committee meetings conducted in each of the three operating modes are set out in annex 1.

V. Decision making

26. In reaching its recommendations and decisions, the Committee strives for consensus.
27. Where a formal vote is taken, each Member State is entitled to one vote (article V, 4, Convention; article 3 (2), Financial Protocol).
28. Associate Member States and Associate Member States in the pre-stage to Membership of CERN are not entitled to take part in formal votes. Associate Member States in the pre-stage to Membership of CERN are entitled to participate in straw votes, if any.
29. Certain decisions, as set out in annex 2, are subject to a double majority voting scheme whereby, in addition to the formal voting majorities established by the CERN Convention, a financial majority of Member State contributions is required.²
30. In exceptional circumstances, if it would be detrimental to CERN's interests to defer the award of a contract for which the Finance Committee's approval is required until the Committee's next meeting, the accelerated, written decision-making procedure set out in Article 11.3 of the CERN Procurement Rules shall apply.

² [CERN/1902](#); [CERN/2074/Final](#); [CERN/2335](#); [CERN/2450](#); [CERN/3545/C/Rev.](#), recommendation 5.

31. In compliance with the Organization's Code of Conduct as well as its conflict of interest policy, participants in Finance Committee meetings contribute to a constructive climate of discussions that is conducive to consensus building.

VI. Reporting

32. The Chair of the Committee reports to the Council at each Session, summarising the discussions and conveying the recommendations and decisions taken at its preceding meeting.

VII. Rules of Procedure of the Council

33. Pursuant to Rule 21 of the Rules of Procedure of the Council, the latter Rules of Procedure apply *mutatis mutandis* to the Committee unless the present document contains specific provisions covering the issue(s) concerned.³

³ At the time of approval of this document, the most recent version of the Council Rules of Procedure was that approved by the Council in June 2019 ([CERN/3388/Rev.2](#)).

Annex 1

CERN Finance Committee Terms of Reference

Attendance in the three operating modes of the Committee (article 25)

Normal operating mode	Restricted operating mode	Closed operating mode
<ul style="list-style-type: none"> - Chair and Vice-Chair - Member State representatives and advisers - President of Council - Chairs of AC, PFGB, SPC and TREF - Representatives and advisers from Associate Member States and Associate Member States in the Pre-stage to Membership - Director-General - CEO of the Pension Fund - Directors - Department Heads - Chair of ILO Forum - Chair of ECFA - Up to five representatives of the Staff Association - Any other person invited by the Chair to attend 	<ul style="list-style-type: none"> - Chair and Vice-Chair - Member State representatives and advisers - President of Council - Representatives and advisers from Associate Member States and Associate Member States in the Pre-stage to Membership - Director-General - Directors - Any other person invited by the Chair to attend 	<ul style="list-style-type: none"> - Chair and Vice-Chair - Member State representatives - President of Council - Any other person invited by the Chair to attend
CERN support: - Council secretariat - Legal Counsel - Minute-writers - Interpreters - Audio-visual technicians		

Annex 2

CERN Finance Committee Terms of Reference

Voting majorities for key decisions (article 29)

	Simple majority of Member States represented and voting [abstentions not counted]	Two-thirds majority of Member States represented and voting [abstentions not counted]	Two-thirds majority of all Member States	51% of the contributions of all Member States	70% of the contributions of Member States represented and present for voting [abstentions counted as votes against] <u>and</u> 51% of the contributions of all Member States
Individual components of the CVI	•				
Contract adjudications	•				
Overview of service contracts, where modifications required	•				
Annual Progress Report	•			•	
Financial Statements	•			•	
Annual Report and Financial Statements of the Pension Fund	•			•	
Amendments to the Rules and Regulations of the Pension Fund	•			•	
Amendments to the CERN Health Insurance Scheme	•			•	
Finance Committee Terms of Reference			•		
Amendments to the Staff Rules and Regulations			•	•	
Scale of contributions			•	•	
Medium-Term Plan	•				•
Budget		•			•
Approval of projects outside framework of Medium-Term Plan			•		•