

ORGANIZATION EUROPEENNE POUR LA RECHERCHE NUCLEAIRE  
**CERN** EUROPEAN ORGANIZATION FOR NUCLEAR RESEARCH

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Action to be taken

Voting Procedure

For Approval	<b>RESTRICTED COUNCIL</b> 155 <sup>th</sup> Session <b>17 June 2010</b>	Consensus of the Member States
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**Council Working Group on the  
Scientific and Geographical Enlargement of CERN**

**Report on  
Geographical Enlargement of CERN**

The Council is invited:

- to take note of this report;
- to adopt the Resolution set out in Annex 3 of this report.



## MEMBERSHIP OF THE WORKING GROUP ON SCIENTIFIC AND GEOGRAPHICAL ENLARGEMENT OF CERN

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                                     Prof. R. Petronzio (Italy)<sup>2</sup>

### Member State Representatives and Alternates:

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PORTUGAL	Prof. G. Barreira, LIP Mr J. Guedes de Sousa, Permanent Mission of Portugal
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UK	Mr P. Williams, Department for Business, Innovation & Skills (BIS) Prof. R. Wade, Science and Technology Facilities Council (STFC)

<sup>1</sup> As from September 2009, replacing Mrs Christina Kokkinakis

<sup>2</sup> As from February 2010, replacing Prof. Michel Spiro

<sup>3</sup> As from September 2009, replacing Mrs Christina Kokkinakis

<sup>4</sup> As from May 2010, replacing Prof. Jiri Niederle

<sup>5</sup> As from January 2010, replacing Prof. Michel Spiro

<sup>6</sup> As from January 2010, replacing Dr. Jean Pierre Ruder

## Members of the Preparatory Group:

Dr. J. Ellis, Non-Member States Advisor  
Prof. E. Fernandez, SPC Chairman  
Prof. F. Pauss, Coordinator for External Relations, Co-Chair  
Prof. S. Stapnes, Scientific Secretary European Strategy Sessions, Co-Chair

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CERN officials: Prof. R.-D. Heuer, Director-General  
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<sup>7</sup> As from January 2010, replacing Prof. T. Åkesson

## PREFACE

Science is becoming ever more international, with major projects becoming increasingly global as they address basic subjects of universal interest. Research infrastructures and laboratories have to evolve in order to meet these challenges. The LHC has marked a great step in the evolution of CERN, with the Member States investing unprecedented resources and has involved dozens of non-Member States. Some of these non-Member States have made significant contributions to the construction of the LHC accelerator, and others to the construction and operation of the LHC detectors. Now that the LHC has started operations, CERN is entering a new era of research, and it is the right time to prepare the Organization for the decades during which the LHC will be operated and upgraded. In parallel, the Organization must be prepared for major roles in the new, even more global projects that are emerging. New modes of participation in CERN's activities are needed, that on the one hand recognize the increasingly global nature of the scientific community using its facilities, while on the other hand placing the Organization, the LHC and future projects on a basis that is mutually beneficial to, and sustainable for, CERN's core of European Member States and its global partners. For these reasons, the time is now right to address the issues of institutional participation in CERN, participation in and governance of global projects, and the scope of CERN's scientific mission.

This document is the third in a series of three papers relating to these interlinked issues that have been drawn up by the Council Working Group on the Scientific and Geographical Enlargement of CERN in fulfilment of its remit. The first document, *Global Accelerator Projects and their Governance* (CERN/SPC/942/Rev.- CERN/2898/Rev.), was approved by the Council at its March 2010 Session. A revised version of the second document, *Scientific Enlargement of the CERN Programme* (CERN/SPC/943/Rev. – CERN/2899/Rev.), is submitted for approval by the Council in June 2010.

The proposals in this document relate principally to geographical enlargement and the framework for institutional participation in CERN. Nonetheless, they are to be understood within the broader strategic architecture sketched out by the trilogy of documents. Thus, they do not include mechanisms for the financing and governance of future projects nor for a possible scientific enlargement of the CERN programme. These issues will have to be addressed at the appropriate time within the framework outlined in the two above-mentioned documents.

The primary purpose of the proposals set out in this document is to encourage States that already participate in CERN's scientific programme to establish more formal institutional links with the Organization by becoming Member States or Associate Members. Nevertheless, International Co-operation Agreements must remain the basis for initial formal links to CERN and, together with their associated Protocols and with the Memoranda of Understanding, the cornerstone for participation in the Organization's scientific activities for those States that, for whatever reason, are not in a position to become Member States or Associate Members.

# GEOGRAPHICAL ENLARGEMENT OF CERN

## I. INTRODUCTION

1. The endeavour of science brings nations together towards a common goal. Although the Organization was created by European States only and its membership has so far remained exclusively European, CERN's openness, which enables scientists from anywhere in the world to participate in its scientific programmes, is in line with the mandate laid down in the CERN Convention (hereinafter referred to as the Convention) aimed at fostering international collaboration. CERN's relations with non-Member States have grown substantially over the past years and CERN's partnerships have thus expanded beyond its 20 Member States in Europe to include many other countries around the world. In the future it is reasonable to expect that particle physics projects and programmes at CERN and elsewhere will become more and more global.
2. In the framework of a discussion initiated in 2008 on the general policy and strategy to be followed for the conclusion of International Co-operation Agreements with Non-Member States, the CERN Council (hereinafter referred to as the Council) underlined in particular the importance of adapting the Organization's Membership policy to provide a basis for future global particle physics projects.
3. To this end, the Council decided, at its session in December 2008, to set up a dedicated Working Group on the Scientific and Geographical Enlargement of CERN. The Working Group hereby submits its report on geographical enlargement to the Council, which contains a review of present structures and proposals for future structures for institutional participation in CERN.

## II. CURRENT STRUCTURES FOR PARTICIPATION IN THE ORGANIZATION AND ITS PROGRAMMES

### Membership

4. CERN was set up in 1954 by twelve European States. Under Article III of the Convention, other States may, subject to unanimous decision by the Council, be admitted as Member States to the Organization. Even though the Convention does thus not formally limit the possibility of accession to European States, in practice the Council has until now decided to grant Membership exclusively to European States, which now number 20.
5. In its 1987 Report, the CERN Review Committee recognised that the Convention does not explicitly exclude Membership of non-European States and invited the Council to address the questions of whether Membership should be extended to non-European States as well as the desirability of creating new forms of institutional relationship between CERN and non-European States.
6. In 2001, when the question of Enlargement of CERN's Membership was re-discussed and the status of Candidate for Accession introduced as a prerequisite for Membership, the Council recalled that "CERN is an Intergovernmental Organization whose Members are European States" (CERN/CC/2368/Rev.). It thereby confirmed its past practice.

### **Frameworks for involvement of non-Member States in CERN's activities**

7. Over the past two decades, CERN's partnerships have expanded beyond its 20 Member States to include many other countries around the world. This globalization has been driven by CERN's flagship high-energy collider projects, LEP and LHC, but has also benefited other CERN facilities such as CNGS, ISOLDE, nTOF, the AD, and the fixed-target programme as a whole.
8. Having in practice limited Membership to date to European States, the Council, on the basis of its implied powers, has established other frameworks to accommodate involvement of non-Member States in the CERN programme.
9. Historically, the first framework for the institutional involvement of non-Member States in CERN's activities was the granting by the Council of the Observer Status, for which provision is made in the Rules of Procedure for the Council, and first granted to Turkey in 1961.
10. In 1967 CERN, in its capacity as an Intergovernmental Organization, formally entered into its first Co-operation Agreement with a non-Member State with the signature of an International Agreement providing for closer co-operation with the USSR.
11. In 1987, the CERN Review Committee underlined the importance of CERN adapting its structure to enable substantial participation by non-Member States in its major new projects, e.g. the LHC. In the wake of that report, in 1989, CERN defined a new international scientific policy with the purpose of developing links with non-European non-Member States (CERN/CC/1729). This policy provided for two developments. The first was co-operation with individual States, based on bilateral international agreements defining the conditions governing the presence of non-Member States' scientists at CERN and allowing contributions to be made to CERN projects. A model co-operation agreement was approved by the Council.
12. Secondly, the Organization envisaged the creation of an Associate Status for non-European States willing to make an important commitment to CERN activities. In the framework of the decisions on the LHC project, a proposal called "The Associate Status of CERN for non-European States" (CERN/CC/2091) was submitted to the Committee of Council on 22 June 1995.
13. However, this proposal was not implemented since the States potentially concerned by this proposal, Japan, the Russian Federation and the USA, expressed a preference for basing their participation in the LHC project on International Co-operation Agreements. Several non-Member States that made significant contributions to the construction of the LHC were granted Observer Status with enhanced rights.
14. In December 2002, in the framework of the "long-term issue of CERN becoming a world Organization in the context of a future new project" (CERN/CC/2320, page 16) the Council once again recognised the need for a new status for the purposes of institutional involvement of non-European non-Member States. Having reaffirmed its practice of limiting Membership to European States when introducing the Candidate for Accession status in 2001 (CERN/CC/2368/Rev.), the Council decided to create an Associate Status at CERN for those States that were situated outside the geopolitical borders of Europe and were not at that stage considered eligible for CERN Membership<sup>8</sup> (CERN/CC/2428/Rev.2).

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<sup>8</sup> i.e. those States that were not included in Council of Europe Recommendation 1247 (1994) (§54, document CERN/CC/2428/Rev.2)

15. Both previous examinations of Associate Status were based on the premise that non-European states were “ineligible to become members” (CERN/CC/2428/Rev.2, §12).

### **III. THE INITIATION OF A NEW REFLECTION ON THE ENLARGEMENT OF CERN IN 2008**

16. In the framework of its examination of a White Paper entitled “International Agreements between CERN and non-Member States” dated June 2008, the Council recognised the importance of CERN adapting its Membership policy and its arrangements for relations with non-Member States to meet the requirements of future global particle physics projects.
17. Considering, inter alia, that “The start of the commissioning of the LHC, the concentration on fewer and larger research infrastructures, the increasing participation of non-Member States and the CERN programmes and the widened role that CERN has taken for European particle physics, make the time ripe to address the scientific and geographical enlargement of CERN”, the Council decided to set up a Working Group with the remit proposed in document CERN/CS/9742<sup>9</sup>. The Council also decided to set up a Preparatory Group to prepare documentation for the Working Group’s meetings.

#### **Main deliberations of the Working Group with regard to geographical enlargement**

18. In line with its remit, the Working Group addressed at an early stage the scope for broadening Membership under the Convention. Following a re-examination of the question by the CERN Legal Service, it was reconfirmed that the Convention does not include a provision restricting CERN Membership to European States.
19. With a view to ensuring that subsequent proposals would be commensurate with both the Organization’s needs and the potential interest of non-Member States, the Working Group invited eight non-Member States from the three regions already strongly involved in the CERN programme to attend its September 2009 meeting: Brazil, Canada, China, India, Japan, Korea, the Russian Federation, and the USA. The discussions at the Working Group’s September meeting and the subsequent bilateral discussions by the Director-General have indicated that a number of States have a growing interest in Associate Membership with revised conditions, followed possibly in some cases by Membership at a later stage.
20. At its December 2009 Session, on the proposal of the Working Group, the Council decided by consensus to approve the “Guiding Principles for further work on Geographical Enlargement” (CERN/2881/RA) as a basis for further work by the Working Group, on the understanding that the issues raised by the Council, including Associate Status and utilization of new Member State contributions, would be further addressed. The guiding principles are as follows:

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<sup>9</sup> See Annex 1 for the Working Group’s remit



1. *There is an emerging consensus on the principle of global opening of the Organization, concerning both full and Associate Membership. However,*
    - i. *the concrete paths towards global opening of the Organization need to be examined further;*
    - ii. *further discussion is needed on the relationship between the status of Candidate for Accession to CERN as defined in document CERN/CC/2368/Rev. and the status of the Associate Membership;*
    - iii. *the Additional Membership Criteria proposed in the White Paper “Report by the Working Group on the Scientific and Geographical Enlargement” submitted to the Council on 17 September 2009 need to be reformulated;*
    - iv. *the current Associate Status should be revised with a view to greater flexibility, balancing obligations and benefits.*
  2. *Other options for participation in the Organization's activities will be streamlined (Observer Status, Co-operation Agreements etc.).*
  3. *Proposals to be elaborated shall focus on the long-term future of the Organization.*
21. The Working Group has therefore based its subsequent work on the emerging consensus on the principle of global opening of the Organization, which is the fundamental premise of those guiding principles.
  22. However, the Working Group also considers that the European foundation of the Organization should continue to be reflected in the Membership<sup>10</sup>.
  23. At the Working Group meetings on 12 and 22 February 2010, a consensus emerged to concentrate further work on a scenario merging the existing provisions for the route to Membership (Candidate for Accession) and those governing the existing Associate Status into a single newly defined Associate Membership status, which may lead to Membership.
  24. The primary goal of enlargement is to involve its partners in a closer institutional relationship with the Organization by becoming either Members or Associate Members, with a view to meeting the challenges of the increasing globalization of scientific projects. The Working Group recognizes that contributions from new Member States and Associate Members shall be used in ways to be decided by the Council.
  25. This document addresses specifically Membership and Associate Membership as aspects of Geographical Enlargement. In addition, other existing instruments for participating in CERN activities (Observer Status, International Co-operation Agreements) are re-examined.

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<sup>10</sup> European being defined in terms of membership of the Council of Europe

#### **IV. PROPOSALS RELATING TO MEMBERSHIP AND A NEW ASSOCIATE MEMBERSHIP STATUS**

26. The Working Group submits to the Council the following proposals relating to:

- eligibility for Membership;
- the introduction of a new Associate Membership status;
- the associated practical arrangements for accession to Membership and Associate Membership.

##### **A. MEMBERSHIP – PRINCIPLES AND CRITERIA**

27. The Working Group considers, that in the light of the increasing globalisation of science and the need for global financing of major future particle physics projects, limiting Membership to European States can no longer be justified and accession should be possible for any State, European or not.
28. However, recognizing the importance of respecting the European foundation and maintaining the European character of CERN through a core of European Member States, the Working Group also considers that the majority of Member States must be European. EU/EFTA States will be strongly encouraged to apply for Membership.
29. Submission of an application from any State to become a Member State will be subject to the Council first expressing by consensus its interest in considering an application from that State (cf. §45).
30. Associate Membership will henceforth be the obligatory pre-stage for Membership and Membership may only be granted to States once they have completed at least two years of Associate Membership. The current Candidate for Accession Status will therefore be abolished.
31. Changing the institutional relationship with the Organization from Membership to Associate Membership shall not be possible.
32. The rights and obligations related to Membership are those defined in the Convention. In particular, in accordance with Article VII, Member States have to pay their regular annual contributions to the CERN budget. In addition, Article VII 4 requires that new Member States make a special contribution towards the capital expenditure of the Organization, the amount of which shall be negotiated by the Director-General and approved by the Council.

##### **Eligibility**

33. Subject to the expression of prior interest by the Council specified in §45 below, all States shall be eligible to apply for Membership, irrespective of their geographical location.

### **Membership criteria**

34. In 2001, the Council agreed on a set of criteria whose fulfilment must be verified when assessing Membership applications (CERN/CC/2368/Rev., Article 17). One additional criterion (§35e below) must be added, reflecting the new possibility that all States may apply for CERN Membership. Furthermore, a distinction is made between those criteria where verification of fulfilment falls within the competence of the Council and those where verification of fulfilment falls within the sole competence and judgment of individual Member States.

### **Criteria within the competence of the Council**

35. For the purposes of its assessment of all Membership applications, the Council shall verify fulfilment of the following criteria:
- a) existence within the applicant State of a solid basis in elementary particle physics, both theoretical and experimental, adequately funded both for the support of the research within the country and also for payment of travel and living expenses to enable the scientists of that country to participate in CERN activities;
  - b) existence of a sufficiently developed industry within the applicant State to enable it to tender for contracts with CERN with a reasonable chance of success;
  - c) the will and economic capacity of the applicant State to support basic research and their awareness of the implications of participation in a common endeavour in the field of particle physics;
  - d) the mutual benefit which CERN and the applicant State can derive from the Membership;
  - e) the applicant State's long-term commitment to research in particle physics according to a roadmap that builds on the European Strategy for Particle Physics as developed by the Council, as well as on the complementary roadmaps in other regions.

### **Criterion within the competence of the Member States**

36. It is understood that the verification of the following political aspect belongs to the sphere of competence and to the judgment of the individual Member States: a stable political system within the applicant State guaranteeing democracy, the rule of law and human rights.

## **B. ASSOCIATE MEMBERSHIP - PRINCIPLES AND CRITERIA**

37. The Working Group proposes the introduction of a new Associate Membership status which will allow non-Member States to establish or intensify their institutional links with the Organization, including those States wishing to proceed to Membership. As mentioned above (cf. §30), Associate Membership shall also serve as the obligatory pre-stage to Membership (hereinafter: Associate Membership as the pre-stage to Membership). The rights and obligations of Associate Membership as the pre-stage to Membership are different from those of the standard Associate Membership (viz. §65-§86)
38. The current Associate Status (CERN/CC/2428/Rev.2) will be abolished.

**Eligibility**

39. All States shall be eligible to apply for Associate Membership, irrespective of their geographical location.
40. A Member State or former Member State shall not be eligible to apply for Associate Membership.

**Duration**

41. Associate Membership status is designed to allow a long-term institutional relationship with CERN. In principle, there is no limitation on the duration of Associate Membership.

**Associate Membership Criteria**

42. Associate Members must have a scientific, technical and industrial potential comparable to that required for CERN Member States.

**Criteria within the competence of the Council**

43. For the purposes of its assessment of all Associate Membership applications, the Council shall verify fulfilment of the following criteria:
  - a. existence within the applicant State of a solid basis in elementary particle physics, both theoretical and experimental, adequately funded both for the support of the research within the country and also for payment of travel and living expenses to enable the scientists of that country to participate in CERN activities;
  - b. existence of a sufficiently developed industry within the applicant State to enable it to tender for contracts with CERN with a reasonable chance of success;
  - c. the will of the national authorities of the applicant State to support basic research and their awareness of the implications of participation in a common endeavour in the field of particle physics.

**Criterion within the competence of the Member States**

44. It is understood that political aspects related to a State applying for Associate Membership belong to the sphere of competence and to the judgment of the individual Member States.

## **C. PROCEDURES**

### **i) Procedure for the granting of Membership**

45. Where Council has received indications that a State, whether or not it is already an Associate Member, is interested in becoming a Member State, the Council will first decide whether it considers that the accession of that State as a Member State would in principle be in the interest of CERN. This decision shall require consensus.
46. If the Council has decided that such interest exists, the Director-General shall inform the State concerned accordingly and also of the Membership criteria that the State must meet. The State may then submit an application for Membership to the President of the Council together with a file giving information for the purposes of establishing compliance with the Membership criteria (see guideline procedure in Annex 2).
47. A fact-finding Task Force set up by the Council shall examine the application and submit a report to the Director-General who shall transmit it to the President of the Council (see Annex 2).
48. As Associate Membership will be the obligatory pre-stage to Membership, the applicable procedure for States that have already been granted Associate Membership is different from that for States that do not have that status when applying for Membership.

### **States that do not have Associate Member status**

49. If the report of the Task Force shows that the Membership criteria are fulfilled, the Council may decide by consensus to admit the State to Associate Membership as the pre-stage to Membership.
50. Associate Membership as the pre-stage to Membership shall commence immediately after the State's internal procedures have been concluded. These include the signature and ratification of an Agreement that sets out the State's rights and obligations as Associate Member, based on a model to be approved by the Council. Its obligations shall include the granting of the fiscal and other privileges and immunities that are necessary for the functioning of the Organization, as laid down in the Protocol on the privileges and immunities of the European Organization for Nuclear Research, adopted by the Council on 19 December 2003 (CERN/2541).
51. At the earliest two years after the commencement of Associate Member status, subject to receipt by Council of confirmation by the State that the latter will be able to meet the financial obligations of Membership, as well as receipt by the Council of a report by a Task Force set up by the Council confirming (in accordance with the guideline procedure in Annex 2) that the State is in compliance with its obligations as an Associate State and continues to fulfil the Membership criteria, the Council may decide, by unanimous vote of all the Member States, to admit the State as a Member State.
52. Membership shall commence immediately after the State's internal procedures have been concluded. These include the ratification of the basic documents of the Organization, namely the Convention and the Financial Protocol, and, in accordance with Article IX of the Convention, the Protocol on the Privileges and Immunities of the European Organization for Nuclear Research.
53. Until the commencement of Membership, the State shall continue to have the status of an Associate Member State in the pre-stage to Membership, with the related rights and obligations.

54. As soon as Membership becomes effective, the payment of the full Membership contribution and of the special contribution referred to in §32 above shall become due.

**States that have Associate Member status**

55. If the Council has received indications that a State that is already an Associate Member is interested in becoming a Member State, the procedure set out in §45 – §47 above shall be applied.
56. Subject to receipt by Council of confirmation by the State that it will be able to meet the financial obligations of Membership, as well as receipt by the Council of a report by a Task Force set up by the Council showing that the State is in compliance with its obligations as an Associate State and fulfils the Membership criteria, the Council may decide, by unanimous vote of all the Member States, to admit the State as a Member State.
57. Once the Council has decided to admit the State as a Member State and the State concerned has agreed to the corresponding increase in contribution, the State shall have the status of Associate Member State in the pre-stage to Membership, with the related rights and obligations, until the commencement of Membership.
58. Membership shall commence immediately after the State's internal procedures have been concluded. These include the ratification of the basic documents of the Organization, namely the Convention and the Financial Protocol, and, in accordance with Article IX of the Convention, the Protocol on the privileges and immunities of the European Organization for Nuclear Research.
59. As soon as Membership becomes effective, the payment of the full Membership contribution and of the special contribution referred to in §32 above shall become due.

**ii) Procedure for the granting of and reviewing Associate Membership**

60. If a State wishes to become an Associate Member of CERN, the State concerned must submit an application for Associate Membership to the President of Council together with a file giving information for the purposes of establishing compliance with the Associate Membership criteria (see guideline procedure in Annex 2).
61. A fact-finding Task Force set up by the Council shall examine the application and submit a report to the Director-General who shall transmit it to the President of the Council (see Annex 2).
62. Subject to fulfilment of the criteria for Associate Membership set out in §42 – §44 above, the applicant State may be granted Associate Membership. The decision to admit an applicant State to the status of Associate Member shall be taken by the Council by consensus.
63. The Associate Membership status shall commence immediately after the State's internal procedures have been concluded. These include the signature and ratification of an Agreement that sets out the State's rights and obligations as Associate Member, based on a model to be approved by the Council. Its obligations shall include the granting of the fiscal and other privileges and immunities that are necessary for the functioning of the Organization, as laid down in the Protocol on the privileges and immunities of the European Organization for Nuclear Research, adopted by the Council on 19 December 2003 (document CERN/2541).

64. The Council shall review a State's Associate Membership every five years. To this end, the State concerned submits a file giving information for the purposes of establishing its continued fulfilment of the Associate Membership criteria (in accordance with the guideline procedure in Annex 2). A fact-finding Task Force set up by the Council shall monitor the State's compliance with its obligations as an Associate State and, under the guideline procedure, establish whether it continues to fulfil the Associate Membership criteria and report to the Council. In this framework the potential interest of that State to become a Member State shall also be addressed.

## **D. OBLIGATIONS AND RIGHTS OF ASSOCIATE MEMBERS**

### **OBLIGATIONS**

#### **Contributions towards CERN's expenditures**

65. An Associate Member State shall contribute to the funding of the Organization through an annual contribution to its budget to be paid in accordance with the same arrangements, including calculation methods that apply to Member States' contributions.

#### **Criteria for determining the level of contributions for Associate Membership**

66. The starting contribution level should not be so high as to discourage States from applying for Associate Membership. On the other hand, Associate Membership should have a tangible impact on the CERN budget and a minimum level of contribution should be defined.
67. Various possible scenarios for calculating the contributions of Associate Member States were studied, including simple scaling with the NNI at factor cost, as done currently for Member States, or rescaling the NNI by the GDP per capita, by government R&D spending, or by the number of users.
68. As these rescaling factors raise questions of equity, transparency and reliability, e.g. different governments use different definitions of R&D spending, the contribution shall be defined as a (fixed or step-wise increasing) percentage of the theoretical Member State contribution, using the formula for calculation of Member State contributions based on NNI and in line with the current methodology for calculating the scale of contributions of Member States.

#### **Contributions of Associate Member States in general**

69. The annual contribution for an Associate Member State shall be subject to bilateral agreements and shall be at least 10% of the State's theoretical Member State contribution. The annual contribution shall amount to not less than 1 MCHF.
70. The contribution of such a State may remain at the agreed starting level or may increase over time according to a schedule negotiated with the State concerned and approved by the Council.

### **Contributions of Associate States in the pre-stage to Membership**

71. The initial annual contribution of an Associate Member State in the pre-stage to Membership shall be subject to bilateral agreements and shall be at least 25% of the State's theoretical Member State contribution. The annual contribution shall amount to not less than 1 MCHF and shall increase from its initial value at a rate to be agreed by the Council.

## **RIGHTS**

### **Participation in CERN's programmes**

72. In addition to participation in the scientific programme of the Organization, Associate Members States shall also be entitled to participate in CERN's Training and Education Programmes.

### **Attendance at the Council and its Committees**

73. Associate Member States shall be granted the right to attend Council's Open and Restricted Sessions, at which they shall be represented by no more than two duly accredited representatives.
74. Associate Member States shall not be entitled to be represented at Closed Sessions of the Council.
75. Associate Member States shall also be entitled to send accredited representatives to meetings of the CERN Finance Committee.
76. An Associate Member State shall not enjoy voting rights in the Council and its Committees since, under the Convention, such rights are reserved exclusively for Member States. However, an Associate State is entitled to ask for the floor and to make statements without having to be invited to do so.
77. Where the Finance Committee takes a formal vote with a view to a recommendation to the Council, the accredited representative of an Associate Member State attending the meeting shall be entitled to express an opinion on the matter concerned, which will be recorded and transmitted to the Council, for information, together with the recommendation.
78. Associate Member States that are in the pre-stage to Membership shall be entitled to participate in straw votes at the Finance Committee.
79. Membership of the Scientific Policy Committee (SPC) is *ad personam* and not by national representation. However, the Council Scientific Delegates may attend SPC meetings as observers. This arrangement shall be extended to scientific representatives of Associate Member States.
80. Associate Member States in the pre-stage to Membership shall be entitled to attend the Council's European Strategy Sessions.
81. Associate Member States that are members of the Council of Europe but are not in the pre-stage to Membership can be invited by the President of Council on an *ad hoc* basis to attend the Council's European Strategy Sessions as observers.



### **Eligibility for posts as members of the CERN personnel**

82. Nationals of Associate Member States shall be eligible to apply for appointment as staff members on contracts of limited duration, and as fellows. Such recruitment shall be subject to the Staff Rules and Regulations and to application of the CERN's usual recruitment principles and policies. The number of such appointments shall be limited, with a ceiling that takes account of the State's percentage contribution to the CERN budget.
83. In exceptional and well-justified cases, staff members who are nationals of Associate Member States that are in the pre-stage to Membership shall be eligible to apply for indefinite contracts. Such appointments shall be subject to the Staff Rules and Regulations and to application of CERN's usual personnel contract principles and policies. The number of indefinite contracts shall be limited, within the same ceiling as that referred to in §82 above.

### **Industrial participation**

84. Firms in Associate Member States shall be entitled to bid for CERN contracts.
85. The purchasing rules and procedures set out in Annex 1 to the Regulations for the Implementation of the Financial Rules (CERN/FC/5305-CERN/2822) shall apply *mutatis mutandis* for firms of Associate Member States.
86. The industrial return and the total value of contracts shall be limited, with a ceiling that takes account of the State's percentage contribution to the CERN budget.

## **E. OTHER PROVISIONS RELATING TO ASSOCIATE MEMBERSHIP**

### **Non-fulfilment of obligations**

87. If the results of the fact-finding exercise referred to in §64 above demonstrate that a State no longer fulfils the criteria for Associate Membership and/or has seriously defaulted on its obligations, the Council may decide to terminate Associate Membership unilaterally or by mutual agreement with the State concerned.
88. As in the case of Membership, the Council's decision to terminate Associate Membership shall require a two-thirds majority of all the Member States.

### **Withdrawal of the Associate Member State from the Organization**

89. By analogy with Article XII of the Convention, a State shall be entitled to withdraw from its Associate Membership of the Organization. Withdrawal shall be subject to a notice of termination. The withdrawal shall take effect at the end of the financial year following the financial year during which it has been notified.

## **V. PROPOSALS RELATING TO OBSERVER STATUS AND INTERNATIONAL CO-OPERATION AGREEMENTS**

90. CERN has established collaborations with many States that do not have Member or Associate status. As decided by the Council in 1989 (CERN/CC/1729), the basis for the participation of these non-Member States in CERN activities are provided in most cases by International Co-operation Agreements (ICAs) concluded with governments or funding agencies. Some of the non-Member States with ICAs have Observer Status, as provided for by Article 4 of the Rules of Procedure for the Council, introduced in 1955. In addition, some International Organizations also have Observer Status.

### **OBSERVER STATUS**

91. Council decided in 1961 that Observer Status implied that the Observer would receive an invitation to attend the public sessions of the Council and the relevant documents of these sessions together with the draft agendas. An Observer would not be entitled to join in any decisions taken at the Council sessions but might be invited by the President to contribute to the discussions.
92. Until the introduction of the Associate Status in 2002, the Observer Status was the only option for non-Member States to engage in institutional participation and to be kept informed about the Organization's activities.
93. During the LHC construction era, Council decided that Observer Status should henceforth be granted exclusively to non-European countries making significant contributions to CERN's infrastructure, in particular to the construction of the LHC, with a value to the Organization of 15 MCHF or more. The Council further decided to give countries that make substantial contributions to the construction of the LHC, with a value to the Organization of 50 MCHF or more, the right to contribute to the LHC decision-making process by attending Committee of Council (now Restricted Council) whenever major LHC policy issues are under discussion. This privilege of the so-called "Observership with special rights" was so far granted to four States.<sup>11</sup>
94. In view of the new options now available to all non-Member States, including Membership, Associate Membership and participation in global projects, the Working Group makes the following proposals for the future of the Observer Status:
- i. The current Observer Status arrangements concluded with States shall be phased out over a period of time sufficient to enable them to conclude alternative, mutually beneficial arrangements for their future relations with CERN.
  - ii. Observer Status shall be maintained as an option for International Organizations.

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<sup>11</sup> Currently the following States have Observer Status: India, Israel, Japan, Russian Federation, Turkey, and USA. The following States were granted Observer Status with special rights: Israel, Japan, Russian Federation and USA.

### **INTERNATIONAL CO-OPERATION AGREEMENTS AND PROTOCOLS**

95. The Council agreed in CERN/1753 (23 June 1989) and CERN/CC/2413/Rev. (21 June 2002) to mandate the Director-General to develop and formalize relations with non-Member States by concluding International Co-operation Agreements (ICAs), in particular with the aim of getting these States involved in the realization of CERN's accelerators.
96. CERN currently has ICAs in place with 45 countries. Together with the Memoranda of Understanding that govern the construction and exploitation of experiments carried out at CERN, these ICAs constitute the basic legal and operational framework for participation by the scientific institutes from non-Member States in CERN's scientific programme, and for their contributions, in terms of funds, manpower and materials, for the machine (LHC, its injector chain, CLIC studies, LHC Computing Grid, etc.) and its detectors.
97. ICAs provide a platform that may be instrumental, or even essential, for securing support for that country to collaborate with CERN. In addition, for States with an emerging particle physics community, the ICAs represent a platform for increased exposure by this community to the 'big science' offered by CERN, as a first step to a broader participation in CERN activities. ICAs also are a platform for the Organization's Host States for the delivery of residence permits and for other administrative purposes.
98. As mentioned in the preface, the proposals presented in this document are designed to encourage States that participate in CERN's scientific programme to establish formal institutional links with the Organization by becoming Member States or Associate Members. In such cases, there is no longer any need for an ICA. The same may hold true for States participating in global projects. However, the Working Group considers that ICAs continue to be an indispensable instrument for structuring CERN's relations with non-Member States.
99. The Working Group therefore proposes that ICAs be maintained.

### **CONCLUSION**

The Council is invited:

- to take note of this report;
- to adopt the Resolution set out in Annex 3 of this report.



## ANNEX 1

**The “Working Group on the Scientific and Geographical Enlargement of CERN”, established by the Council at its December 2008 session, has the following remit, set out in document CERN/CS/9742:**

To work out scenarios for the strategic development of the Organization and its Geneva laboratory in terms of scientific fields as well as geographical enlargement. The geographical enlargement will include considerations about new Member States and relationships with countries that are not Members.

The Working Group should discuss a number of scenarios between the two extreme positions of (1) CERN becoming a world organisation (in a laboratory sense and/or in a political-organisational sense), open to all countries interested in joining, and (2) remaining what it is now, a European organization. In between these two extreme positions, a number of forms of non-European participation should be assessed (like collaborations, co-operations, states participating in experiment, associate states, member states).

Each scenario should address first the compatibility with the European Strategy for Particle Physics approved in Lisbon, then the benefit for Europe resulting from the relation proposed, and, finally, the criteria for entering any such relation. The considerations should focus on the scientific benefits.

Each scenario should also address and define (if need be) the legal instruments that the Organisation would need in order to formalize its relation and the organization of the work with the non-Member States considered.

It should address if changes are needed regarding decision making and, if so, at which level such changes have to be introduced.

In order to get a broad view of opinions, experience and expectations from around the globe, inputs from the following organisations, entities and groups need to be collected, screened and analyzed:

- the European Commission;
- the Observer States;
- other relevant states with large engagement in the CERN programme;
- the large laboratories working in the scientific fields considered (accelerator-based particle physics, and others);
- CERN based on its practical experience with Non-member States.



## ANNEX 2

### **Guideline procedures for evaluation of Membership and Associate Membership applications and for periodic review of Associate Membership**

1. The report of which this annex forms part stipulates that the Council shall, on a case-by-case basis, set up a Task Force to perform the following duties:

- to examine, under §47, §51 and §56, the fulfilment or continued fulfilment of the Membership criteria specified in Section IV, §35;
- to examine, under §51, §56, §61 and §64, the fulfilment or continued fulfilment of the Associate Membership criteria specified in Section IV, §43.

To allow the Task Force to carry out its examination, the information provided by the State must include the following:

- the status and organization of research and particle physics in the State concerned, including the current level of expenditure in research;
- the current level of expenditure in research and the anticipated impact of CERN Membership or Associate Membership, as the case may be, on domestic particle physics research;
- a projection of the evolution of the economy and the research funding level over a 5-year timescale;
- official data on the State's economic situation and forecasts;
- any other information which the State may deem appropriate.

2. The Task Force will examine the information submitted by the State referred to in §2 above and verifies fulfilment of the relevant criteria falling within the competence of the Council. To this end the Task Force will conduct a fact-finding mission in particular on:

- the administrative structure, decision-making procedures, funding mechanisms and organization of physical sciences and the education system in general in the applicant State;
- the status of high-energy physics in the applicant State, the existing institutions, the level of funding, the personnel and recruitment situation, its track record over the last five years and strategies/plans for the near future;
- previous CERN experience of participation of the State's institutions in the Organization's experiments, the State's potential for contributing constructively to the CERN programme in the long-term;
- the level and structure of high-tech industry in the State, the existing potential for that industry's participation in CERN activities.

3. The Task Force will seek verification of the data and information submitted concerning the economic situation by authoritative external competent bodies (i.e. OECD, etc).

4. The Task Force will produce a written report of its findings.

5. This report will first be sent to the State's authorities for factual verification and possible comments and then submitted by the Director-General to the Council.





**ANNEX 3****COUNCIL RESOLUTION  
ON  
THE GEOGRAPHICAL ENLARGEMENT OF CERN****THE COUNCIL,****RECALLING**

the CERN Convention, dated 1 July 1953 as amended on 17 January 1971, in particular its Articles II, III and V;

that in the past it has been its practice to limit Membership to European States;

its decision of 14 June 2001 to create the status of “Candidate for Accession” as a prerequisite for Membership (CERN/CC/2368/Rev.);

its Resolution on the creation of the “Associate Status at CERN for non-European States” adopted on 12 December 2002 (CERN/CC/2428 Rev.2).

**CONSIDERING**

the increasingly global nature of the scientific community participating in the Organization’s activities;

the importance of adapting CERN’s Membership policy and its arrangements for relations with non-Member States to meet the challenges of this development;

that the “Associate Status for non-European States” created in 2002 has not proved attractive;

the decision by the Council in December 2008 to set up a Working Group on Scientific and Geographical Enlargement of CERN;

the approval by the Council in December 2009 of the “*Guiding Principles for further work on Geographical Enlargement*” recognizing an emerging consensus on the principle of global opening of the Organization in respect of both Membership and Associate Membership.

## TAKING INTO ACCOUNT

the Report on Geographical Enlargement by the Working Group on Scientific and Geographical Enlargement of CERN (CERN/2918/Rev.) submitted to the Council on 17 June 2010

## DECIDES

1. to approve the proposals set out in sections IV and V of document CERN/2918/Rev. relating to Membership, a new Associate Membership status, Observer Status and International Co-operation Agreements, and in particular:
  - to open Membership of CERN to all States irrespective of their geographical location and to grant Membership under the relevant conditions and arrangements set out in section IV of document CERN/2918/Rev.;
  - to create the status of Associate Membership, open to all States irrespective of their geographical location, defined in the relevant paragraphs of section IV of document CERN/2918/Rev.;
  - that the granting of Associate Membership will be subject to a decision by the Council taken by consensus and the conclusion of an Agreement setting out the rights and obligations as Associate Member, on the basis of a model Agreement to be approved by the Council;
  - to phase out the current Observer Status arrangements concluded with States over a period of time sufficient to enable them to conclude alternative, mutually beneficial arrangements for their future relations with CERN in accordance with §94 of document CERN/2918/Rev.;
2. to abolish the status of “Candidate for Accession” as created in 2001 (CERN/CC/2368/Rev.), on the understanding that this shall not affect the Council’s decision of 11 December 2008 to admit Romania as a Candidate for Accession (CERN/2831 item 12), provided that Romania completes its internal procedures for approval of the related Agreement signed on 11 February no later than 31 December 2010;
3. to abolish the Associate Status at CERN for non-European States created in 2002 (CERN/CC/2428/Rev.2).