

EAB 03/03.

20.2.2003

**FOR
INFORMATION**

European ALMA Board

Garching, February 20th, 2003

Report on Council 18/19 December 2003

**99th Meeting of the ESO Council
held in Garching on December 17 and 18, 2002**

Agenda Item 4. Status of the ALMA Project

Council took note of the report by Dr. Kurz on the European Prototype Antenna.

France confirmed its interest in the ALMA Project but was not yet able to lift the ad referendum on the vote regarding the Council resolution adopted unanimously by Council on 9 July 2002 (ESO/Cou-842). Council took note of the issues considered by France as needing further consideration by France and unanimously granted the requested extra time to lift the ad referendum as soon as possible.

a) Report of Council ALMA Working Group (Cou-855 rev.)

Council took note of the Report by the Working Group.

b) ESO-Spain ALMA Agreement (Cou-862)

After comprehensive discussion, partly in the presence of Mr. Medina of the Spanish Ministry of Science and Technology, Council with two abstentions (Germany and Portugal) and eight votes in favour (France ad referendum) adopted the Resolution as set out in Attachment 1.

c) Bilateral Agreement (Cou-835 rev.)

Council unanimously (with France voting ad referendum) adopted the Resolution as set out in Attachment 2 authorising the Director General to sign the ALMA Bilateral Agreement.

d) Progress Report on Installation of ALMA in Chile (Cou-864 and 869)

Council took note of the information.

- Concession Decree (Add. 1 to Cou-864)

- Concession Contract (Add. 2 to Cou-864 including page 2 rev.)

Delegations were invited to send further comments on the Decree and Contract to the Executive in writing.

- Agreement with CONICYT (Add. 3 to Cou-864)

- Agreement with Region II (Add. 4 to Cou-864)

The two Agreements were endorsed.

e) European ALMA Board and ALMA Board (Cou-865)

With the modification as recorded in ESO/Cou-865, page 1 rev., Council unanimously approved the document including the appointment of R. Booth and R. Wade to membership of the ALMA Board. Following the election of Professor Piet van der Kruit as President of Council, the ESO appointees to the ALMA Board are:

Professor Piet van der Kruit
Dr Catherine Cesarsky
Professor Roy Booth
Professor Richard Wade

f) Appointments to ALMA-Japan Negotiating Team (Cou-847 rev.)

On the basis of the ACC Resolution on Japanese Participation in ALMA and with the understanding that the time schedule of the ALMA Project will not be compromised by the negotiations with Japan, Council unanimously nominated the President of Council and the Director General to the Negotiating Team.

Council Resolution on ESO-Spain ALMA Agreement

Council,

Welcoming the intention of MCYT/MF of Spain to participate in ALMA Phase 2 at the level of 7.5% of the European contribution;

Considering the draft “Collaboration Agreement between the Ministry of Public Works and the Ministry of Science and Technology, of the Kingdom of Spain, and the European Organisation for Astronomical Research in the Southern Hemisphere concerning participation in Phase 2 construction and operation of a large millimeter and sub-millimeter telescope in the Atacama Desert of Chile” (Cou-856), hereafter “the Agreement”;

Considering also the discussions in Council at its December 18, 2002 meeting and the concerns expressed by Delegations concerning the status of the Agreement, and the explanations offered by Mr Medina, representing MCYT:

Noting that MCYT/MF have been authorised by the Spanish Council of Ministers to commit the necessary funds to ALMA over the period 2003 – 2012;

Having regard to the legal status of ESO as an intergovernmental organisation established by the Convention of 1962 and noting that national law does not apply to an international agreement;

AUTHORISES the Director General to sign the Agreement on behalf of ESO, subject to making the following formal disclaimer:

“The “Collaboration Agreement between the Ministry of Public Works and the Ministry of Science and Technology, of the Kingdom of Spain, and the European Organisation for Astronomical Research in the Southern Hemisphere concerning participation in Phase 2 construction and operation of a large millimeter and sub-millimeter telescope in the Atacama Desert of Chile” contains in Articles 5.11, 5.12, 8.1, 11.1, and 13.1 explicit references to national budgetary provisions and General Budgetary Law.

ESO states that these are internal matters for Spain and that ESO is not bound by, nor implicated in, their application.

This disclaimer forms part of the ESO approval of the Agreement.”

Council Resolution on ALMA Bilateral Agreement

COUNCIL,

Recalling its Resolution Cou-842 adopted on July 9, 2002 which authorised the Director General to sign the ALMA Bilateral Agreement Cou-835;

Noting that for internal legal reasons the National Research Council (NRC) of Canada will not sign the ALMA Bilateral Agreement;

Noting that the National Science Foundation (NSF) of the United States of America will sign the ALMA Bilateral Agreement and so accept responsibility for one half of baseline ALMA Phase 2;

Noting that NSF will conclude an inter-agency agreement with NRC concerning its engagement in ALMA Phase 2;

Noting the changes to the draft ALMA Bilateral Agreement (Cou-835) which follow from the removal of NRC as a signatory;

Noting that the resultant text of the ALMA Bilateral Agreement (Cou-835 rev.) is agreed by NSF and State Department to be the final version of the text of the ALMA Bilateral Agreement;

States that these changes do not impact the rights and obligations of ESO, or the scope and timescale of ALMA Phase 2 as approved by Council on July 9 2002 in its Resolution Cou-842;

AUTHORISES

1. the President of Council to initial the ALMA Bilateral Agreement;
2. the Director General to sign the ALMA Bilateral Agreement on behalf of ESO.