

DRAFT

ALMA BOARD

Terms of Reference

The ALMA Board (hereinafter the “Board”) is established by ESO and NSF, the Parties to the “Agreement concerning the joint Construction and Operation of the Atacama Large Millimeter Array (ALMA)” (hereinafter the “Bilateral Agreement”), as the supervisory and regulatory body for ALMA. It is the primary forum for interactions among, and for the decisions of, ESO and NSF concerning ALMA. The Board is not a legal entity.

The Board shall at all times work within the provisions of the Bilateral Agreement, and all Board decisions shall be consistent with the Bilateral Agreement and with the governing laws, regulations and contractual obligations of ESO, NSF, and AUI.

NSF and ESO shall each appoint four members to the Board. One member appointed by NSF represents the North American Executive, and one ESO Board member represents the European Executive. ESO shall designate one of its appointees to speak on behalf of ESO and NSF shall designate one of its appointees to speak on behalf of NSF.

The Board shall meet not less than two times per year.

The Board shall:

1. ensure that Construction, Commissioning, Early Operations, and Operations are carried out jointly by the Executives in accordance with the terms and provisions of the Bilateral Agreement.
2. exercise budgetary oversight and policy control over ALMA.
3. determine the dates of completion of Construction and of Commissioning , the date of the start of Early Operations, and any reapportionment of Value between Construction and Commissioning and Early Operations where those periods may overlap;
4. approve a Budget and Program Plan for the following year and endorse a Long Range Plan;
5. approve the award of contracts, the use of contingency, and the re-apportionment of Value, as provided for in the Bilateral Agreement;
6. report at least once per year in writing to ESO and NSF on the status of ALMA, including the financial situation, progress on Construction and Commissioning, and projected timescales, estimated cost to completion, and the status of Early Operations and Operations;

7. approve the appointment of Joint ALMA Office (JAO) Key Personnel;
8. review annually the job performance of all Key Personnel in consultation with the Director and the Executives;
9. approve, upon recommendation of the Executives, extensions to the appointment of all Key Personnel;
10. determine the policy and manner in which Early Operations and Operations will be carried out;
11. determine the policy and procedures for the allocation of Observing Time;
12. determine the policy and procedures for data rights and the proprietary period;
13. undertake such other duties and responsibilities as may from time to time be requested by ESO and NSF.

Rules of Procedure of ALMA Board

1. Composition and General Provisions

1. NSF and ESO shall each appoint four members to the Board. One member appointed by NSF shall represent the U.S. Executive, and one ESO Board member shall represent the European Executive. ESO shall designate one of its appointees to speak on behalf of ESO and NSF shall designate one of its appointees to speak on behalf of NSF on matters before the Board. Such designation shall be made in writing to the Secretary and shall be confirmed to the Chairperson before each meeting of the Board.
2. Board members shall serve for a period of three years. Members may be reappointed.
3. A Secretary to the Board shall be employed by the Executives to be responsible for the support of the Board including keeping records of the meetings and decisions of the Board.
4. ESO and NSF shall advise each other and the Secretary, in writing, of the members they have appointed to the Board and of the duration of the appointments. The Secretary shall be responsible for notifying the Chairperson and the other Board members.
5. ESO and NSF may change their appointed members by notifying in writing the Secretary, who shall be responsible for notifying the Chairperson, Board members, and the other Party.
6. NSF and ESO may each appoint up to 2 observers to attend Board meetings. .
7. ESO and NSF may appoint alternate members to attend and vote at specific Board meetings in place of any of their appointees by notifying the Secretary in writing, who shall be responsible for notifying the Chairperson, Board members, and the Parties. Alternates may not serve as either Chairperson or Vice Chairperson.
8. The Board may adopt common oversight and management activities chargeable to ALMA, and may request the Executives to arrange for the employment of staff to assist in such tasks. Expenses related to such oversight functions as may be required by an individual Party to this Agreement shall be the responsibility of that Party. Expenses for oversight and management activities undertaken at the request of the Board shall be equitably shared by the Parties.
9. The Rules of Procedure of the Board shall be drawn up by the Secretary and shall be subject to the unanimous agreement of the Board.
10. English shall be the working language of the Board.

2. Chairperson and Vice Chairperson

1. The Board shall designate one of its members as a Chairperson. The Chairperson shall rotate every 2 years between a Board member appointed by NSF and a Board member appointed by ESO, with the member designated by ESO serving as Chairperson from the date upon which the Bilateral Agreement entered into force. In the event that a Board member cannot complete a full 2-year term as Chairperson, a successor appointed by the Party that appointed the outgoing Chairperson shall be designated for the remainder of the outgoing Chairperson's term.
2. The Board shall designate one of its members as Vice Chairperson. The Vice Chairperson shall rotate every 2 years between a Board member appointed by ESO and a Board member appointed by NSF, with the member designated by NSF serving as Vice Chairperson from the date upon which this Agreement shall enter into force. In the event that a Board member cannot complete a full 2-year term as Vice Chairperson, a successor appointed by the Party that appointed the outgoing Vice Chairperson, shall be designated for the remainder of the outgoing Vice Chairperson's term.
3. Neither the Chairperson nor the Vice Chairperson may be an employee of either Executive.

3. Meetings

1. The Board shall meet in full face-to-face session not less than two times per year, at venues to be decided by the Board. Except where otherwise indicated, "meeting" in these Rules means a face-to-face session.
2. The meeting to approve a Budget and Program Plan for the following year and endorse a Long Range Plan shall normally take place no later than the first week of November.
3. Dates of meetings shall be fixed not less than six months in advance.
4. At least 30 days advance notice shall be given of extraordinary, videoconference, or teleconference meetings of the Board.
5. The Board shall normally meet via teleconference at bimonthly intervals. Participation in such meetings shall normally be restricted to the Board members, the Director and Project Manager, a representative of each of the Executives, and such other persons as may be required by the agenda items.
6. ESO and NSF are responsible for their own expenses incurred in pursuit of Board business by their appointees to the Board.

4. Attendees at Meetings of the Board

1. Other persons may be invited by the Board through the Chairperson to attend meetings. Such persons may only speak if invited to do so by the Chairperson. They may not vote, and may be excluded from the meeting by the Chairperson at any time.
2. Without prejudice to the right of the Board to determine attendees, such persons would normally include:
 - i. The Director, Project Manager, Project Scientist, and other senior staff as deemed appropriate by the Director;
 - ii. A representative of each of the Executives, of whom one shall normally be Secretary to the Board;
 - iii. The European Project Manager and the North American Project Manager;
 - iv. The Chairs of ASAC and AMAC;
 - v. The Secretary to the Board, and no more than 2 assistants.
3. The Board may at any time decide by simple majority to meet with restricted attendance.

5. Agenda and Papers

1. The Agenda for each meeting of the Board shall be prepared by the Secretary in consultation with the Chairperson, Vice Chairperson, and the Executives and Director.
2. The Draft Agenda shall be circulated to members not less than 21 days before the meeting, or not less than 15 days in the event of an extraordinary, teleconference or videoconference meeting.
3. Papers for the meeting shall be circulated not less than 15 days before the meeting, or not less than 7 days in the event of an extraordinary, teleconference or videoconference meeting. E-mail shall be the normal means of communication, and papers placed on the ALMA Web site with due notification shall be deemed to have been circulated.
4. With the agreement of the Chairperson, members may add items to the agenda. If a decision is requested, the time limits in 3 above shall be respected, unless the Board decides otherwise by unanimous decision.
5. The Agenda shall be adopted before the start of business at each meeting.

6. Conduct of Meetings

1. The Chairperson shall control the conduct of the meeting, the order of speaking, and the calling of votes.
2. Any challenge to the Chairperson's conduct of the meeting shall immediately be put to vote with a simple majority required.
3. A formal motion shall require a proposer and a seconder before it can be put to the vote.
4. Any amendment to a formal motion shall require a proposer and a seconder and shall be voted before the original motion.
5. At the request of any two members of the Board a formal motion shall be distributed to the meeting in writing before a vote is called.
6. A quorum comprises the Chairperson or Vice Chairperson, the representatives (or duly appointed alternates) of the two Executives, and the persons (or duly appointed alternates) designated by ESO and NSF to speak on their behalf.
7. Should neither the Chairperson nor the Vice Chairperson be present, the members present may elect an acting Chairperson to continue the meeting, but no formal decisions can be reached or votes taken.
8. Should a meeting not be quorate, the Chairperson or Vice Chairperson may decide to continue the meeting, but no formal decisions can be reached or votes taken.

7. Voting

1. Each member, including the Chairperson and duly appointed alternates, shall have one vote.
2. Members not present and not represented by an alternate may record a vote in advance in writing to the Chairperson, copied to the Secretary.
3. Decisions shall be carried by a majority of members present and voting, except that approval of financial matters, including a Budget and Program Plan for the following year and the endorsement of a Long Range Plan, shall require the support of the representatives of the two Executives (or duly appointed alternates) and of the persons (or duly appointed alternates) designated by ESO and NSF to speak on their behalf and of two other members of the Board.
4. Voting shall be by show of hands unless the Board decides unanimously to adopt a written secret ballot.

5. The Chairperson can decide that voting should take place in a restricted attendance session.
6. In the event of a tied vote the motion is not carried, unless both of the persons designated by ESO and NSF to speak on their behalf have voted in favour of the motion, which shall then be deemed to have been carried.
7. A vote “ad referendum” shall be considered an affirmative vote. Such a vote shall be confirmed in writing to the Secretary not later than 30 days before the next meeting of the Board. In the absence of such confirmation, the vote will be considered negative.
8. A vote “ad referendum” cannot result in partial or conditional acceptance of the decision concerned, nor can it be used to modify the original motion.

8. Written Voting

1. ESO, NSF, or AUI may, with the agreement of the Chairperson, put any matter to the vote in writing through the Secretary. E-mail will be the normal means of communication. Votes made in writing shall be acknowledged in writing by the Secretary of the Board.
2. Members shall be given at least 15 days to record their votes.
3. The voting rules in Article 7 above shall apply to written voting.

9. Decisions and Minutes

1. The Secretary shall circulate a draft summary of decisions and actions to members not later than 15 days following a meeting, and 15 days shall be allowed for comments and correction before the summary is circulated to all attendees.
2. The Secretary shall circulate draft minutes to members not later than 30 days following a meeting, and 15 days shall be allowed for comments and corrections before the draft minutes are circulated to all attendees.
3. Suggested amendments to the draft minutes shall be submitted to the Secretary in writing not less than 30 days before the following meeting.
4. The draft minutes shall be formally adopted at the following meeting after consideration of any suggested amendments.
5. Full minutes will not be kept of extraordinary, teleconference or videoconference meetings, but a draft summary of decisions and actions will be prepared and distributed as above.

