



Overview

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The Convention establishing the SKA Observatory

- Following Cabinet approval SA, Australia, China, Italy, the Netherlands, Portugal and the UK signed the Convention establishing the SKA Observatory on 12 March 2018 in Rome, Italy. India and Sweden will sign the Convention in the coming months.
- This historic event paved a way to create an international organisation to govern the world's largest radio astronomy facility operating two telescopes, in Australia and South Africa, with the HQ in the UK.

Purpose of the SKA Convention Observatory

- To establish under international law, an inter-governmental organisation (IGO), to be called the SKA Observatory (SKAO), to govern the construction and operational phases of the SKA project.
- The current pre-construction phase of the global project is governed through a company limited by guarantee, incorporated in the United Kingdom (HQ in Manchester) – a governance model not deemed suitable for the next phases of the project.

Why an IGO? and IGOs - Science

- To enable relevant diplomatic privileges and immunities to be afforded to facilitate implementation of the project;
- Provide the project with the flexibility to design policies, such as procurement, best suited for the project (otherwise UK legislation would have to be followed, as the Headquarters established in the UK); and
- Embed at the highest political level inter-governmental commitment to the project – Governments will be members of the IGO (as opposed to organisations).
- The SKA Observatory is in many instances modelled on the example of CERN – the renowned European Organisation for Nuclear Research.
- The SKA Observatory will be unique in that it will be the first science-focused IGO which will comprise membership from Africa, the Americas, Asia, Australasia and Europe.

Architecture of the Convention

- In addition to the main text, the Convention also comprises two Protocols:
 - Protocol on Privileges and Immunities of the Square Kilometre Array Observatory
 - Financial Protocol of the Square Kilometre Array Observatory
- The Convention does not deal with the details of any policies (e.g. Intellectual Property, Procurement) or rules (financial, human resources) of the IGO – these so-called “Tier 2 documents” will be approved by the Council of the SKA Observatory once the IGO is established.

Architecture of the Convention cont.

- The Convention itself does not involve any financial commitment for the signatories – funding decisions with regard to the construction and operation of the SKA will be taken by the future SKA Observatory Council – *the Convention is focused on establishing the mechanism to take these decisions.*
- Details of South Africa (and Australia and the United Kingdom's) hosting of the telescopes and the headquarters will be governed by separate bilateral "hosting agreements" to be concluded in future between the hosting countries and the IGO.

Main provisions of the Convention

- Sets out the purpose of the SKAO
- Defines Membership and other forms of cooperation
- Defines roles of Organs (Council), DG and staff
- Sets out high-level principles with regard to finance, intellectual property, procurement, access, etc.
- Standard Convention provisions with regard to:
 - Dispute settlement
 - Withdrawal
 - Amendment
 - Entry into force
 - Termination

P&I Protocol

- Immunity from legal process
- Inviolability of premises
- Exemption from direct taxation
- Exemption from Customs and Indirect Taxes
- Privileges and Immunities of Staff
- Privileges and Immunities of Representatives

- *Department of International Relations and Cooperation (DIRCO) played crucial role in Protocol's development – fully compliant with South African regulations.*

Financial Protocol

- Sets out Financial Management principles
- Sets out principles for Funding Schedules
- Sets out principles for Project Participation
- Governs approval of budgets
- Provides for special provisions for telescope host countries *with regard to credit for precursor investments (e.g. MeerKAT)*
- Sets out principles under which IGO can take loans and incur liability

Negotiation Process and Status

- **Process**
 - Participating countries: Australia, China, India, Italy, the Netherlands, New Zealand, Portugal, South Africa, Sweden, the United Kingdom
 - Observers: Canada, Germany, Spain.
 - Legal basis of negotiation: Letter of Intent signed by all negotiating governments.
 - Presidency of Negotiations: Italian Ministry of Foreign Affairs.
 - SA delegation: DST, DIRCO, State Law Advisors.
 - Four formal negotiation rounds and significant work between sessions by Task Force chaired by SA.
- **Status**
 - Concluded at technical level by senior officials – consensus reached by heads of delegations – texts initialled (legally non-binding act).
 - Governments undertaking national approval processes (legal and political) – for South Africa through Presidential Minute delegating SA Minister of Science and Technology.
 - Planned signature of Convention foreseen for February 2019 – prerogative of the Italian Presidency to convene.

SKA Council Preparatory Task Force (CPTF)

- Post signature of the SKA Observatory Convention the CPTF was immediately established to formally start work towards the successful establishment and full functioning of the SKA Observatory.
- The CPTF is mandated to prepare decisions to be taken at the first meeting of the Council, which will be the highest decision-making body of the new Observatory consisting of Members of the SKA Observatory.

SKA Council Preparatory Task Force (CPTF) cont.

- The CPTF is also mandated to facilitate negotiations of the initial funding schedules; transition from the current SKA organisation to the SKA Observatory; Accession and Associate Membership for new members, and Tier 2 documents - Procurement, Operations, Access and Intellectual Property Right Policies. The CPTF does not make any binding decisions – all decisions have to be approved by Council.
- Mr Daan du Toit, DDG: ICR, supported by Mr Kagiso Moloto, ASD: OBC, representatives from SARAO and officials from DIRCO including the State Law Advisors represent SA in the CPTF. The Director-General personally leads the funding negotiations.

Ratification / Entry into Force

- The Convention will enter into force when a minimum of five countries have completed ratification (including three host countries – i.e. SA, Australia and the UK.)
- Entry into force of the SKA Observatory is anticipated before by the middle of 2020 – thus in all likelihood Council will be convened in for the first time in the second half of 2020.
- Formal approval to construct the first phase of the SKA including approval of the funding schedules requires Council to meet – thus strategic interest of SA for early ratification of Convention is pivotal. South Africa's ratification will be prioritised with the Portfolio Committee.

