

ANNEX

PREAMBLE

RECOGNISING the longstanding organisation of the Joint Institute for Very Long Baseline Interferometry in Europe and the importance for the European Research Area it was agreed by the parties to transfer all operational activities from the Dutch national legal entity ‘Stichting JIVE’ into a legal entity under the Regulation (EC) No 723/2009 to be named ‘JIV-ERIC’.

Whereas:

The European VLBI Network (EVN) is a longstanding consortium with flexibly expandable structure that offers an astronomical observing facility through joint observations of radio telescopes across Europe and other continents and which is used by a vital and globally distributed scientific community. The EVN has been proven to maintain very high standards and a very stable network for more than two decades.

Within the EVN, the Joint Institute for VLBI in Europe (JIVE) has been established in 1993 as a Dutch national legal entity (Stichting/Foundation) to implement central services and in particular the data processing (correlation) of the collected telescope data. It offers the users of the EVN support in proposing, processing and interpreting the observations of the EVN. It also provides feedback on the data quality delivered by the telescopes. JIVE provides the essential infrastructure for the joint observations of the EVN and other networks. JIVE has an active role in enhancing the capabilities of the EVN by developing new techniques, notably concerning the central processing and user services.

In this and other activities JIVE has acted as the representative of the EVN, in particular when carrying out EC programmes. The relationship of the JIVE infrastructure and EVN is addressed in the EVN Consortium Memorandum of Agreement (MoA) concluded in Berlin on 22 November 2002.

JIVE is currently legally framed in a Dutch Foundation. The ERIC is an appropriate legal entity to the science mission and ambitions of JIVE. The legal framework of a European Research Infrastructure Consortium (ERIC) is incorporated under the provisions of Regulation (EC) No 723/2009.

The establishment of JIV-ERIC will provide more sustainability to the longstanding collaboration of nationally established research institutes in the field of Very Long Baseline Interferometry. The VLBI-networks are critical and key technology for leading and future research infrastructures in radio astronomy.

The JIVE correlator is the core of the JIV-ERIC infrastructure. It is an essential central component to form the VLBI Research Infrastructure. JIV-ERIC shall continue the existing collaboration and contractual obligations with all the EVN-partners and structure and align this with the JIV-ERIC mission. JIV-ERIC will correlate any EVN projects. Additionally, JIV-ERIC will promote and implement the use of VLBI and other radio-astronomy techniques.

IT WAS AGREED among the founding Members to establish and implement JIV-ERIC in compliance with the following provisions.

CHAPTER 1

GENERAL PROVISIONS

Article 1

Name, Seat and Working Language

1 There shall be a European Research Infrastructure Consortium called Joint Institute for VLBI (Very Long Baseline Interferometry) hereinafter referred to as JIV-ERIC.

2 JIV-ERIC shall be a research infrastructure active in the JIV-ERIC member countries, as well as in observer countries and other countries where JIV-ERIC has established agreements in accordance with Article 8(1) of the Statutes.

3 JIV-ERIC shall have the legal form of a European Research Infrastructure Consortium (ERIC) incorporated under the provisions of Regulation (EC) No 723/2009 and be named 'JIV-ERIC'.

4 JIV-ERIC shall have its statutory seat in Dwingeloo, the Netherlands.

5 The working language of JIV-ERIC is English.

Article 2

Tasks and Activities

1 JIV-ERIC shall promote and implement the use of VLBI and other radio astronomical techniques. In particular JIV-ERIC shall operate and develop the data processor, often referred to as the correlator, and service the scientists that use EVN facilities. JIV-ERIC shall correlate all EVN projects, which are approved by the EVN Programme Committee and scheduled by the EVN Scheduler and indicated for correlation at JIV-ERIC on the EVN Block Schedule.

2 JIV-ERIC shall advance very long baseline interferometry between the telescopes of the partners of the EVN and other networks. JIV-ERIC shall organise and facilitate support for operating the EVN and other networks and other related activities in the field of radio astronomy necessary to achieve its aim.

3 JIV-ERIC shall operate on a non-economic basis. In order to further promote innovation as well as transfer of knowledge and technology, limited economic activities may be carried out as long as they do not jeopardise the core activities.

CHAPTER 2

MEMBERSHIP

Article 3

Membership and Representatives

1 The following entities may become Member of JIV-ERIC or Observer without voting rights:

2 Any Member or Observer may be represented by one public entity or one private entity with a public service mission, of its own choice and appointed according to its own rules and procedures.

3 The current JIV-ERIC Members, Observers and their representatives are listed in Annex 1. Annex 1 shall be updated by the Executive Director. The Members at the time of submission of the ERIC application shall be referred to as founding Members.

Article 4

Admission of Members

1 The terms for admission of new Members are the following:

2 The initial term for membership is five years.

Article 5

Withdrawal of a Member, Termination of Membership

1 No Member shall withdraw within the first five years of the establishment of JIV-ERIC unless the Membership has been entered into for a specified shorter period. After the first five years of the establishment of JIV-ERIC, a Member may withdraw at the end of a financial year following a request at least 12 months prior to the withdrawal.

2 A Member may withdraw should the Council decide to raise the annual contribution as specified in Annex 2. Notwithstanding Article 5(1), a Member wishing to withdraw may do so within six months after the proposal to raise the contribution is adopted by the Council.

3 The withdrawal shall become effective at the end of the financial year on the condition that the withdrawing Member has fulfilled its obligations.

4 The Council shall have the power to terminate the membership of a Member if the following conditions are met:

CHAPTER 3

OBSERVERS AND PARTICIPATING RESEARCH INSTITUTES

Article 6

Admission of Observers

1 States and intergovernmental organisations that are willing to contribute to JIV-ERIC and have the intention to become Member, may apply for Observer status.

2 The terms for admission of Observers are the following:

3 The Observer may apply for membership at any time.

Article 7

Withdrawal of an Observer, Termination of observer status

- 1 The initial term for Observer status is three years.
- 2 The withdrawal of an Observer shall become effective at the end of the financial year on the condition that the withdrawing Observer has fulfilled its obligations.
- 3 The Council shall have the power to terminate the Observer status of an Observer if the following conditions are met:

Article 8

Participation by Research Institutes in JIV-ERIC

- 1 JIV-ERIC may enter into a Collaboration Agreement with research institutes which operate a VLBI element or represent the national interest in the VLBI collaboration and are not in countries that are a Member or an Observer. The Collaboration Agreement shall establish the terms and conditions under which the national research institutes may join the JIV-ERIC infrastructure and commit to the tasks and activities set out in Article 2.
- 2 The Collaboration Agreement shall include the agreed contribution, the right to contribute data for processing at the central facilities of JIV-ERIC and the right to attend the Council meetings, the right to receive the agenda and attached documents and to express an opinion on the operational activities of JIV-ERIC in the Council meetings.
- 3 The Collaboration Agreement shall be concluded by the Executive Director of JIV-ERIC.
- 4 To settle the amount of the annual contribution of the research institutes the same principles as outlined in Annex 2 shall be taken as a guiding principle. Specifically this takes into account the annual operational effort towards the local element that participates in the VLBI infrastructure.

CHAPTER 4

RIGHTS AND OBLIGATIONS

Article 9

Rights and Obligations of Members

- 1 Rights of Members include:
- 2 Each Member shall appoint two representatives; at least one of the representatives shall have scientific expertise and represent the research institutes that are providing resources to JIV-ERIC.
- 3 Each Member:

4 In addition to the agreed contribution as referred to in Article 9(3)(a) other contributions may be provided by Members individually or jointly — in cooperation with other Members, Observers or third parties. Such contributions, in cash or in kind, shall be subject to approval by the Council.

Article 10

Rights and Obligations of Observers

1 Rights of Observers shall include the right:

2 Each Observer:

3 In addition to the agreed collaboration towards the JIV-ERIC objectives as referred to in Article 10(2)(b), other contributions may be provided by Observers individually or jointly in cooperation with other Members, Observers or third parties. Such contributions, in cash or in kind, shall be subject to approval by the Council.

CHAPTER 5

GOVERNANCE

Article 11

Governance and Management

The governance structure of JIV-ERIC shall comprise the following organs:

- (a) the Council;
- (b) the Executive Director.

Article 12

Council

1 The Council shall be the governing body of JIV-ERIC and shall be composed of representatives of the Members and Observers of JIV-ERIC. Each Member shall have one vote. Each Member shall nominate one voting representative. Each delegation of Members and Observers may consist of up to two persons of whom at least one shall have relevant scientific expertise for JIV-ERIC (as referred to in Articles 9(2) and 10(2)). The hosting institute shall be represented within the delegation of the Hosting Member.

2 The Council shall provide standing invitations for bodies or representatives of the EVN and the participating research institutes (as referred to in Article 8(1)) and where the Council decides it is relevant.

3 The Council shall adopt Rules of Procedure within such time as is reasonably practical after JIV-ERIC is established, including the Rules of Procedure as referred to in Articles 23(1), 25(1) and 26(1).

4 The Council shall meet at least once a year, and shall be responsible in accordance with the provisions of these Statutes for the overall direction and supervision of JIV-ERIC.

5 The Council shall aim for scientific excellence of the VLBI infrastructure as well as the consistency, coherence and stability of the services of the relevant research institutes providing resources to JIV-ERIC.

6 The Council shall at least have the authority to:

7 The Council shall be convened by the Chair with at least four weeks' notice, and the agenda shall be circulated at least fourteen days before the meeting. Members shall have the right to suggest matters for the agenda up to five days before the meeting. A meeting of the Council may be requested by at least 50 % of the Members.

8 The Council shall elect a Chair by 75 % majority of the votes. The Chair shall be elected for a two year term, renewable once.

9 The Council shall elect a Vice Chair by 75 % majority of the votes. The Vice Chair shall substitute the Chair in his/her absence and in case of conflict of interest. The Vice Chair shall be elected for a two year term, renewable once.

Article 13

Decision making of the Council

1 The Council shall not deliberate and decide validly unless a quorum of two-third of the Members is represented and present at the meeting.

2 On all decisions the Council shall use their best efforts to achieve consensus.

3 Failing consensus a simple majority of the votes cast shall be sufficient to pass a decision, except for decisions as mentioned in the Articles 12(8), 12(9), 13(4) and 13(5).

4 Decisions which require a majority of at least two-third of the votes cast, are decisions to:

5 Decisions which require unanimity of all JIV-ERIC Members present are decisions to:

6 Decisions referred to in Articles 13(4) and 13(5) may be taken only if all Members are informed on the proposed decisions at least two weeks in advance of the meeting. Amendments to the Statutes and to Annex 2, as referred to in Article 13(5)(a) and (b), may be taken only if all Members are informed of the exact wording of the amendment at least two months in advance of the meeting.

7 Any amendment of the Statutes shall be subject to the provisions laid down in Article 11 of Regulation (EC) No 723/2009.

Article 14

Executive Director

1 The Council shall appoint the Executive Director of JIV-ERIC for a term of five years, renewable. The Executive Director of JIV-ERIC shall be in charge of the scientific development of JIV-ERIC. The Executive Director shall be responsible for the implementation of the decisions of the Council and the day-to-day management of all operational activities of JIV-ERIC, including the Coordination and Support office activities and the development of the correlator.

- 2 The Executive Director shall be the legal representative of JIV-ERIC.
- 3 The Executive Director shall develop and submit for adoption by the Council the annual work programme as referred to in Article 12(6)(b).
- 4 Once the annual work programme is adopted by the Council, the Executive Director shall be in charge of the execution of the annual work programme, as referred to in Article 12(6)(b).
- 5 The Executive Director may establish a committee(s) to assist him/her in the implementation of the activities of JIV-ERIC.

Article 15

JIV-ERIC Coordination and Support Office

JIV-ERIC Coordination and Support Office shall be the central management office for the daily operations of JIV-ERIC. It supports the day-to-day management of JIV-ERIC, including assistance to the Council. It shall be set up and managed by the Executive Director.

CHAPTER 6

FINANCE & REPORTING TO THE EUROPEAN COMMISSION

Article 16

Budgetary principles and accounts

- 1 JIV-ERIC funds may only be used for purposes as laid down under these Statutes.
- 2 JIV-ERIC shall administer its own assets in accordance with tax regulations. To achieve its objectives, JIV-ERIC may acquire, use and manage third party funds.
- 3 The financial year of JIV-ERIC shall begin on 1 January and shall end on 31 December of each year.
- 4 All items of revenue and expenditure of JIV-ERIC shall be included in estimates to be drawn up for each financial year and shall be shown in the annual budget. The annual budget shall be in compliance with commonly accepted principles of transparency.
- 5 The accounts of JIV-ERIC shall be accompanied by an audited report on budgetary and financial management of the financial year.
- 6 JIV-ERIC shall be subject to the requirements of the applicable law as regards preparation, filing, auditing and publication of accounts.
- 7 JIV-ERIC shall ensure that the appropriations are used in accordance with the principles of sound financial management.
- 8 JIV-ERIC shall record the costs and revenues of its economic activities separately.
- 9 The JIV-ERIC Coordination and Support Office shall be responsible for keeping an accurate account of all receipts and disbursements.

Article 17

Reporting

1 JIV-ERIC shall produce an annual activity report, containing in particular the scientific, operational and financial aspects of its activities. The report shall be approved by the Council and transmitted to the Commission and relevant public authorities within six months from the end of the corresponding financial year. This report shall be made publicly available.

2 JIV-ERIC shall inform the European Commission of any circumstances which threaten to seriously jeopardise the achievement of JIV-ERIC tasks or hinder JIV-ERIC from fulfilling requirements laid down in Regulation (EC) No 723/2009.

Article 18

Liability

1 JIV-ERIC shall be liable for its debts.

2 The Members' financial liability towards JIV-ERIC's debts shall be limited to each individual Member's annual contribution as specified in Annex 2.

3 JIV-ERIC shall take appropriate insurance to cover the risks specific to the construction and operation of JIV-ERIC.

CHAPTER 7

POLICIES

Article 19

Collaboration Agreements with Third Parties

In cases where JIV-ERIC deems it beneficial, it may enter into a Collaboration Agreement with third parties, for example research institutes from countries that are not Members or Observers of JIV-ERIC.

Article 20

Access Policies for Users

1 JIV-ERIC shall strive to open access of the infrastructure within the limits and conditions of the access policies concerned.

2 According to the authorisation of the content providers and through an authentication approved by JIV-ERIC, data, tools and services offered by JIV-ERIC shall be open to the scientific community.

3 JIV-ERIC shall ensure that users agree to the terms and conditions governing access and that suitable security arrangements are in place regarding internal storage and handling of research data.

4 JIV-ERIC shall put in place well defined arrangements for investigating allegations of security breaches and confidentiality disclosures of research data.

Article 21

Scientific evaluation policy

1 In facilitating scientific research, JIV-ERIC shall adhere to principles of transparency and support a culture of ‘best practices’ as agreed and established by the collaboration with EVN.

2 Access to JIV-ERIC research facilities, observing and correlator time, shall be based on the scientific excellence and technical feasibility of project proposals, which shall be judged in peer reviews by independent experts, following the criteria and practices established in the EVN. Access to correlator time shall follow the allocation and scheduling of observing time.

Article 22

Dissemination policy

1 JIV-ERIC shall take all appropriate action to promote the infrastructure and its use in research and education.

2 JIV-ERIC shall encourage its users to make their research results publicly available and to make results available through JIV-ERIC.

3 JIV-ERIC shall establish a dissemination policy.

Article 23

Intellectual Property Rights (IPR) Policy

1 With regard to the IPR necessary and generated by research and development of the JIV-ERIC correlator, the principle of ownership is recognised, but it may be shared by all active participants contributing to the research for the benefit of the development of the JIV-ERIC correlator. Within JIV-ERIC an integrated approach of guidelines and contracts for intellectual property shall be adopted regarding the rights of national research institutes dedicating infrastructure to JIV-ERIC covering technology transfer and sharing of IPR, for which the Executive Director shall propose Rules of Procedure to the Council.

2 JIV-ERIC shall provide guidance (for instance via website) to researchers to ensure that research using material made accessible through JIV-ERIC is undertaken within a framework that recognises the property rights of data owners.

Article 24

Employment policy, including equal opportunities

JIV-ERIC is an equal opportunity employer and shall select the best candidate, regardless of background, nationality, religion or gender. Employment contracts shall follow the national law of the country in which staff is employed.

Article 25

Procurement Policy and Tax Exemption

1 JIV-ERIC shall treat procurement candidates and tenderers equally and in a non-discriminatory way, independent of whether or not they are based in the European Union. The JIV-ERIC procurement policy shall respect the principles of transparency, non-discrimination and competition. The Council shall adopt Rules of Procedure defining all necessary details on exact procurement procedures and criteria.

2 The Executive Director shall be responsible for JIV-ERIC procurement. Tenders shall be published on the JIV-ERIC website and in the Members' and Observers' territories. The decision to award procurement shall be published on the JIV-ERIC website and include a justification.

3 Procurement by individual Members and Observers concerning JIV-ERIC activities shall be done in such a way that due consideration is given to JIV-ERIC needs, technical requirements and specifications issued by the relevant bodies and shall follow the applicable national regulations.

4 Tax exemptions based on Article 143(1)(g) and 151(1)(b) of Council Directive 2006/112/EC⁽¹⁾ and in accordance with Articles 50 and 51 of Council Implementing Regulation (EU) No 282/2011⁽²⁾ shall be limited to the value added tax for such goods and services which are for official use by JIV-ERIC, exceed the value of EUR 225, and are wholly paid and procured by JIV-ERIC. Procurement by individual Members shall not benefit from these exemptions. Without prejudice to Article 25(5) and (6), no further limits shall apply.

5 Tax exemptions shall apply to non-economic activities, not to economic activities.

6 VAT exemptions shall apply to goods and services for the scientific, technical and administrative operations undertaken by JIV-ERIC in line with its principle tasks. These include expenses for conferences, workshops and meetings directly linked to the official activities of JIV-ERIC but exclude travel and accommodation expenses.

Article 26

Data policy

1 Generally Open Source and Open Access principles shall be favoured.

2 JIV-ERIC shall make all tools publicly accessible and provide adequate documentation.

CHAPTER 8

DURATION, WINDING UP, DISPUTES, SET UP PROVISIONS

Article 27

Duration

JIV-ERIC shall be established for an indefinite period of time.

Article 28

Winding up

1 The winding up of JIV-ERIC shall follow a decision of the Council in accordance with Article 13(5)(d).

2 Without undue delay and in any event within ten calendar days after adoption of the decision to wind up JIV-ERIC, JIV-ERIC shall notify the European Commission thereof.

3 Assets remaining after payment of JIV-ERIC debts shall be apportioned among the Members in proportion to their accumulated annual contribution to JIV-ERIC as specified in Annex 2.

4 Without undue delay and in any event within 10 days of the closure of the winding up procedure, JIV-ERIC shall notify the European Commission thereof.

5 JIV-ERIC shall cease to exist on the day on which the European Commission publishes the appropriate notice in the *Official Journal of the European Union*.

Article 29

Applicable Law

JIV-ERIC shall be governed, by precedence:

- a) by Union law, in particular Regulation (EC) No 723/2009;
- b) by law of The Netherlands in case of a matter not covered or only partly covered by EU law;
- c) by these Statutes;
- d) by the Rules of Procedure.

Article 30

Disputes

1 The Court of Justice of the European Union shall have jurisdiction over litigation among the Members in relation to JIV-ERIC, between members and JIV-ERIC and over any litigation to which the Union is a party.

Status: This is the original version (as it was originally adopted).

2 Union legislation on jurisdiction shall apply to disputes between JIV-ERIC and third parties. In cases not covered by EU legislation, the law of the Netherlands shall determine the competent jurisdiction for the resolution of such disputes.

Article 31

Availability of the Statutes

1 At any point in time the valid version of the Statutes shall be publicly available at the JIV-ERIC website and at the statutory seat.

2 These Statutes shall be deemed authentic in all official language versions of the Members listed in Annex 1. In addition these Statutes shall also be deemed authentic in the official language versions of the EU Members not listed in Annex 1. No language version shall prevail.

3 Translation of the original version of the Statutes and of amendments that are published in the Official Journal shall be the prerogative of the European Commission. When translations are not provided for by the European Commission, these shall be provided by JIV-ERIC Coordination and Support Office.

Article 32

Set up and Transitional Provisions

1 A constitutional meeting of the Council shall be called by the host country as soon as possible but no later than forty-five calendar days after the Commission decision to set up JIV-ERIC enters into force.

2 The host country shall notify the founding Members of any specific urgent legal action that needs to be taken on behalf of JIV-ERIC before the constitutional meeting is held. Unless a founding Member objects within five working days after being notified, the legal action shall be carried out by a person duly authorised by the host state.

3 Until the establishment of JIV-ERIC, the current JIVE Board and JIVE director shall continue to act as the legal representative of the Dutch Foundation. The JIV-ERIC Executive Director shall be mandated by both the JIVE Board and the JIV-ERIC Council to determine the course of action during the JIVE transitional phase from a Dutch Foundation into a JIV-ERIC.

ANNEX LIST OF MEMBERS AND OBSERVERS AND REPRESENTING ENTITIES

I

MEMBERS

Country or Intergovernmental organisation	Representing entity(i.e. ministry, research council)
The French Republic	National Centre for Scientific Research (CNRS)
The Kingdom of the Netherlands	Nederlandse Organisatie voor Wetenschappelijk Onderzoek (NWO)
The Kingdom of Sweden	Swedish Research Council (VR)

(2) Host Premium:

It is understood that hosting country should be prepared to pay a substantial contribution for the JIV-ERIC as a host premium, which shall not exceed half of the total JIVE base budget.

(3) Agreed contributions for the period 2015-2019

The members of JIV-ERIC have reached agreement [...date...] on the contributions in the table below.

(in EUR)

	2015	2016	2017	2018	2019
Netherlands	970 000	970 000	970 000	970 000	970 000
United Kingdom	200 000	200 000	200 000	200 000	200 000
Sweden	110 000	110 000	110 000	110 000	110 000
France	50 000	50 000	50 000	50 000	50 000
<i>Italy</i>	<i>210 000</i>	<i>210 000</i>	<i>210 000</i>	<i>210 000</i>	<i>210 000</i>
<i>Spain</i>	<i>140 000</i>	<i>140 000</i>	<i>140 000</i>	<i>140 000</i>	<i>140 000</i>
<i>South Africa</i>	<i>65 000</i>	<i>65 000</i>	<i>65 000</i>	<i>65 000</i>	<i>65 000</i>

It is noted that Italy, Spain and South Africa are preparing for Membership and their contributions are listed in italics for completeness.

Status: This is the original version (as it was originally adopted).

- (1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).
- (2) Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 77, 23.3.2011, p. 1).