



European Organization for Nuclear Research
Organisation européenne pour la recherche nucléaire

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His Excellency
Mr Bahtijors Hasans
Ambassador Extraordinary and
Plenipotentiary
Permanent Representative of Latvia
to the United Nations Office and
other international organisations in
Geneva
Rue de Lausanne 137
1211 Geneva 20

Our reference: DG/2021-033

Geneva, 25 January 2021

Re: Application of the Republic of Latvia for Associate Membership of CERN

Your Excellency,

I have the honour of informing you that, at its 201st Session on 10 December 2020, the CERN Council took note of the report by the fact-finding Task Force that visited the Republic of Latvia in October.

The Council noted, with satisfaction, the conclusions reached by the Task Force, namely that Latvia fulfilled the applicable criteria for the granting of the status of Associate Member State and decided, by consensus, to authorise me to finalise with the Government of Latvia the terms of the attached Draft Agreement concerning the Granting of the Status of Associate Member State at CERN. The said Agreement incorporates the Standard Terms concerning the granting of Associate Membership, which were approved by the CERN Council at its December 2019 Session and apply to all applicant States, both in the interest of the Organization's good functioning and to ensure equal conditions between all States concerned.

I wish to draw your attention, in particular, to Articles III.2 and IV.2 of the Agreement, pursuant to which Latvia will need to accede without reservations to the Protocol on Privileges and Immunities of the CERN. Associate Membership shall come into effect upon the entry into force of both the Agreement and the Protocol and the completion of all procedural steps.

As the next step, the parties should now agree on Latvia's financial contribution to the Organization, as provided in Article III.1 of the Agreement, within the framework of Council document CERN/2918/Rev., a copy of which is in your possession. The CERN Director for International Relations will contact the Permanent Mission to organise a meeting in this regard.

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The highlighted text in the Agreement shows the provisions which require additional information prior to the submission of the final draft Associate Membership Agreement to the Council for approval. For your information, the next CERN Council Session is on 25 March 2021.

I look forward to working with the Latvian authorities on finalising the Agreement and receiving confirmation of Latvia's endorsement of its terms in the near future so that we may bring Latvia's accession to Associate Membership to conclusion in a timely manner.

I should like to take this opportunity to thank you for your personal commitment and support in this process.

Yours sincerely,


Fabiola Gianotti
Director-General

AGREEMENT

BETWEEN

**THE EUROPEAN ORGANIZATION FOR NUCLEAR
RESEARCH (CERN)**

AND

THE REPUBLIC OF LATVIA

CONCERNING

**THE GRANTING OF THE STATUS OF
ASSOCIATE MEMBER STATE OF CERN**

The European Organization for Nuclear Research (“CERN” or “the Organization”), an Intergovernmental Organization having its seat at Geneva, Switzerland, represented by the Director-General (“the Director-General”),

on the one hand,

and

the Republic of Latvia (“Latvia”), represented by **YYY [TITLE]**,

on the other hand,

hereafter jointly “the Parties”,

CONSIDERING

the Convention for the Establishment of a European Organization for Nuclear Research, and the Financial Protocol annexed thereto, which was signed on 1 July 1953, entered into force on 29 September 1954 and was amended on 17 January 1971 (“the Convention”);

the Resolution by the CERN Council (“the Council”) dated 17 June 2010 (as set out in Annex 3 to the “Report on Geographical Enlargement of CERN”, CERN/2918/Rev.), by which it created the status of Associate Member State;

the Council decision dated 15 March 2018 (CERN/3342/RA/Rev.), introducing deadlines applicable to the different steps in the process of accession to Associate Membership designed to streamline said process;

the Council decision dated 26 September 2019 (CERN/3436/C/Rev.), in accordance with which the annual contribution of an Associate Member State shall be agreed by the Parties taking due consideration of the number of CERN users affiliated to its universities and institutes as well as its national infrastructure used by European particle physicists, always provided that such annual contribution shall not be less than 10% of the State’s theoretical Membership contribution and shall, in any event, correspond at least to the minimum contribution level determined by the Council¹;

the conditions applicable to the status of Associate Member State (the “Standard Terms”), as reviewed by the Council on 12 December 2019 (CERN/3474/C),

HAVING REGARD TO

the longstanding relationship between the Organization and Latvia and the latter’s successful contributions to the execution of CERN’s scientific programme, in particular through the

¹ Such minimum contribution level was set at 1 million Swiss francs in 2019, indexed annually as from 2020 in accordance with the Cost-Variation Index applied to the Organization’s budget.

Cooperation Agreement concluded in 2016 (the “Cooperation Agreement”) and Protocol P141 thereto;

the application by Latvia for Associate Membership, received by CERN on 24 February 2020;

the evaluation by the Council at its December 2020 Session, on the basis of the report of its fact-finding Task Force (CERN/3544/C), that Latvia fulfils the criteria for Associate Membership;

the confirmation by Latvia, as expressed in its letter received by CERN on [DATE], that it accepts the conditions of this Agreement (the “Agreement”), as well as the amount of the annual financial contribution negotiated between the Parties;

the Resolution by the Council dated [DATE] (CERN/...) that, subject to the entry into force of both this Agreement and the Protocol on the privileges and immunities of the European Organization for Nuclear Research (the “Protocol”) in respect of Latvia, the latter is granted the status of Associate Member State,

THE PARTIES HAVE AGREED AS FOLLOWS:

ARTICLE I Purpose

In application of the Council Resolutions and decisions referred to above, this Agreement, including its Annex, which is an integral part thereof, sets out the rights and obligations corresponding to the status of Associate Member State. In entering into this Agreement, Latvia accepts such rights and obligations as well as those resulting from the legal framework of the Organization, as laid down in particular in the Convention, the Protocol, the Organization’s rules and regulations and the decisions of its organs.

ARTICLE II Rights

II.1 Participation in CERN’s Programmes

Latvia is entitled to participate in the Organization’s scientific programme as well as in its training and education programmes.

II.2 Attendance at the Council and its Committees

Council Sessions

Latvia is entitled to be represented, except at Closed meetings, in accordance with the applicable rules of procedure. Latvia shall not have voting rights but is entitled to ask for the floor.

Finance Committee Meetings

Latvia is entitled to be represented, in accordance with the applicable rules of procedure. Latvia shall not have voting rights but is entitled to ask for the floor. Any opinion Latvia expresses on a matter that is the subject of a formal vote by the Finance Committee with a view to a recommendation to the Council shall be recorded and transmitted to the Council, for information, together with the recommendation.

Scientific Policy Committee Meetings

Latvia is entitled to send a representative, as an observer, to meetings in normal operating mode.

II.3 Eligibility for Appointment as Staff, Fellows, and Associated Members of the Personnel

Subject to Article II.5 below, nationals of Latvia shall be eligible for appointment as staff members on contracts of limited duration, fellows, and associated members of the personnel, including students. Their selection and appointment are subject to the Organization's Staff Rules and Regulations, as well as its standard principles and policies.

II.4 Eligibility for Industrial Participation

Subject to Article II.5 below, firms offering goods and services originating from Latvia shall be entitled to bid for CERN contracts, subject to the application, *mutatis mutandis*, of the CERN Procurement Rules (as currently set out in Annex 1 to the Regulations for the Implementation of the CERN Financial Rules). Latvia may appoint an Industrial Liaison Officer to ensure proper contacts and flow of information between CERN and the aforementioned firms.

II.5 Ceiling and Detailed Arrangements

The combined financial value of the appointments referred to in Article II.3 and the contracts referred to in Article II.4 above shall not, in principle, exceed the amount of Latvia's annual financial contribution under this Agreement. The arrangements for the application of this ceiling are set out in the Annex. This Article does not constitute a commitment as to whether the ceiling can or will be reached.

ARTICLE III Obligations

III.1 Financial Contribution to the Organization

Latvia's annual contribution to the funding of the Organization's activities shall be ... % of its theoretical Member State contribution, but shall in no event be less than the minimum contribution level determined by the Council. This minimum contribution

level was set at 1 million Swiss francs in 2019, indexed annually as from 2020 in accordance with the Cost-Variation Index applied to the Organization's budget.

For the first year, Latvia's contribution shall be calculated and pro-rated on a per-quarter basis, effective as of the quarter in which this Agreement enters into force. Thereafter, the contribution shall be due in full for each financial year, even if Latvia's status as Associate Member State covers a shorter period.

III.2 Granting of Privileges and Immunities

To ensure the unimpeded functioning of the Organization, equal treatment by and between the States involved in its activities, as well as the independence of the Organization's personnel, Latvia shall accede without reservations to the Protocol. Its instrument of accession thereto shall be deposited with UNESCO no more than 12 months after the date of signature of this Agreement by the Parties. In accordance with Article 24.2 of the Protocol, it shall enter into force on the thirtieth day following said deposit.

III.3 Periodic Review of the Status of Associate Member State

The Council shall periodically, normally every five (5) years, review Latvia's continued fulfilment of the Associate Membership criteria and of its obligations as an Associate Member State. For this purpose, the Council shall establish a Task Force. Latvia shall submit to this Task Force a file containing the information specified in Annex 2 of the Report on Geographical Enlargement of CERN (CERN/2918/Rev.) and any other information requested by the Council. The Task Force shall then conduct a fact-finding mission to Latvia to examine the information supplied by Latvia, and to draw up a report setting out its findings. This report shall be sent to Latvia for comments and then submitted to the Council.

ARTICLE IV Entry into Force

IV.1 Entry into Force of this Agreement

This Agreement shall enter into force with effect from the date of receipt by the Director-General of notification by Latvia that it has completed its internal approval procedures in respect thereof without reservations. Such notification shall be received no more than 12 months after the date of signature of this Agreement by the Parties.

IV.2 Entry into Force of the Status of Associate Member State

Latvia's status as Associate Member State, including the rights and obligations resulting from such status, shall come into effect upon the entry into force of both this Agreement and the Protocol in respect of Latvia.

Such status shall remain in effect without limitation as to its duration, always subject to Article V below.

ARTICLE V

Termination of Associate Membership

V.1 Termination upon Initiative by Latvia

Latvia may, at any time during the period of validity of this Agreement, request, by written notification to the Director-General, that the Council terminate its status as Associate Member State. Thereafter, the Council shall decide to terminate Latvia's status. The termination shall take effect at the end of the financial year following the year of the aforementioned notification, unless the Parties agree to an earlier termination date.

Following the aforementioned Council decision, if Latvia decides to denounce the Protocol in accordance with Article 27 thereof, such denunciation shall take effect one year after the date of receipt by UNESCO of the notification of denunciation, unless the notification specifies a later date.

V.2 Termination upon the Initiative of the Council

The Council may at any time during the period of validity of this Agreement decide to terminate Latvia's status as Associate Member State if Latvia no longer fulfils the applicable criteria, or if it is in material default of its obligations under this Agreement. The termination shall take effect on the date determined by the Council.

Following the aforementioned Council decision, if Latvia decides to denounce the Protocol in accordance with Article 27 thereof, such denunciation shall take effect one year after the date of receipt by UNESCO of the notification of denunciation, unless the notification specifies a later date.

V.3 Termination by Joint Initiative

The Parties may at any time during the period of validity of this Agreement decide by joint initiative that the Council should terminate Latvia's status as Associate Member State. The termination shall take effect at the end of the financial year following the year in which the Parties agree to the termination, unless the Parties agree to an earlier termination date.

Following the aforementioned joint decision, if Latvia decides to denounce the Protocol in accordance with Article 27 thereof, such denunciation shall take effect one year after the date of receipt by UNESCO of the notification of denunciation, unless the notification specifies a later date.

V.4 Consequences of Termination

Unless agreed otherwise, termination of Latvia's status as Associate Member State shall not reduce any obligations incurred by Latvia under this Agreement in respect of the period preceding the effective termination date. Notwithstanding Articles V.1 to V.3 above, the privileges and immunities granted by Latvia shall remain in effect in respect of any activities undertaken in the execution of this Agreement.

ARTICLE VI Miscellaneous Provisions

VI.1 Representation of Latvia

Latvia shall notify the Director-General of the names of the Authority and the officer(s) appointed to represent it for the execution of this Agreement, as well as of its representatives attending meetings of the Council and its Committees.

VI.2 Relationship with Other Agreements

With effect from the date of its entry into force, this Agreement cancels and replaces the Cooperation Agreement referred to in the preamble hereof. Notwithstanding the foregoing, except as otherwise agreed by the Parties, the provisions of any implementing instruments to the Cooperation Agreement (Protocols and/or Addenda) shall continue to apply until the activities covered by such instruments have been fully executed. It is understood that any disputes arising from such implementing instruments shall be settled in accordance with the Cooperation Agreement.

VI.3 Governing Law

The provisions of this Agreement shall be interpreted in accordance with their true meaning and effect, always subject to the legal framework of CERN, as laid down in particular in the Convention, the Protocol, the Organization's rules and regulations and the decisions of its organs.

VI.4 Disputes

Any dispute between the Parties concerning the application or interpretation of this Agreement that is not settled amicably may be submitted by either Party to an international Arbitration Tribunal, by analogous application of Article 19 of the Protocol.

VI.5 Surviving Provisions

Articles V.4 and VI. 2 to VI.4 above shall survive the termination of this Agreement, howsoever caused.

Done in duplicate, in the English, French and Latvian languages, it being understood that in case of issues of interpretation or conflict between the versions, the English version shall prevail.

Signed in on ...

For the European Organization
for Nuclear Research

...

For the Republic of Latvia

....

ANNEX

Arrangements for the implementation of the ceiling for personnel appointments and industrial participation

Ceiling

As a principle, the combined annual financial value of the orders, contracts and appointments may not exceed the amount of Latvia's financial contribution to the Organization for the financial year concerned.

CERN shall, on an ongoing basis, monitor and keep a record of the amount of the purchasing and personnel commitments incurred by CERN towards Latvia, and compare this amount with the financial contribution payable by Latvia to CERN for the financial year concerned.

Calculation of commitments

The commitments comprise amounts paid as well as commitments incurred in the year concerned but still payable. This information is provided by the relevant CERN services.

The purchasing part of the commitments shall be calculated using the same methodology as that used for the calculation of the industrial return to Member States.

The personnel part of the commitments shall be calculated by adding up the costs of the resources charged to the CERN-funded part of the staff and fellows budget and of the students and associates budget.

Corrective measures

If and when the amount of the commitments approaches, has reached or, as the case may be, exceeds Latvia's financial contribution to the Organization for the financial year concerned, CERN shall take corrective measures. Such measures may include the suspension of the entitlement of Latvian firms, or firms offering goods and services originating from Latvia, to participate in price enquiries and invitations to tender and to be considered for the corresponding orders and contracts, and the entitlement of Latvian nationals to be considered for appointment as staff members, fellows and students, until the amount of the commitments has fallen below Latvia's financial contribution to the Organization for the financial year concerned. The suspension shall not apply to ongoing commitments or to participation in price enquiries, invitations to tender or job vacancies that have already been published.

Failure to pay the financial contribution

Latvia's entitlements shall be suspended if, on the date of publication of the Organization's Annual Progress Report, it has failed to pay the full amount of its financial contribution for the preceding year, until the amount due has been received by CERN.

Termination of the status of Associate Member State

If and when notice is given of termination of Latvia's status as Associate Member State, or the Organization and Latvia have agreed on such termination, the duration of any new commitments by the Organization shall not exceed the period remaining until such termination takes effect.

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