

European Spallation Source ERIC
36th Meeting of Council
by video and at PSI, Villigen, Switzerland
4–5 December 2023

Approved Open Minutes

Prepared by: ESS Governance Office

Meeting participants

Robert McGreevy Chair of Council
Andrea Fischer Vice Chair of Council

Delegates

Marek Vyšinka	Ministry of Education, Youth and Sport	Czech Republic
Ondřej Svoboda	Nuclear Physics Institute of CAS	Czech Republic
Bo Smith	Danish Ministry of Higher Education and Research	Denmark
Jane Hvolbæk Nielsen	Technical University of Denmark, Dpt. of Physics	Denmark
Toivo Rääm	Ministry of Education and Research	Estonia
Priit Tamm	Research Council of Estonia	Estonia
Marie-Hélène Mathon	French Alternative Energies and Atomic Energy Commission	France
Sylvain Ravy	National Centre for Scientific Research	France
Ralph Dieter ¹	Federal Ministry of Education and Research	Germany
Martin Müller ¹	Helmholtz-Zentrum Hereon	Germany
Balázs Káplai ¹	Development and Innovation Office	Hungary
Aldo Covello ²	Italian Ministry of Education, University and Research	Italy
Pierluigi Campana	National Institute of Nuclear Physics	Italy
Odd Ivar Eriksen	The Research Council of Norway	Norway
Mateusz Gaczyński	Ministry of Science and Higher Education	Poland
Adolfo Morais Ezquerro	Basque Department for Education	Spain
Ana Maria Aricha Yanguas	Ministry of Science, Innovation and Universities	Spain
Lars Börjesson	Chalmers University of Technology	Sweden
Viktoria Mattsson	The Swedish Research Council	Sweden
Christian Rüegg	Paul Scherrer Institute	Switzerland
Xavier Reymond	State Secretariat for Education, Research, and Innovation	Switzerland
Mark Thomson	Science and Technology Facilities Council	United Kingdom

¹ On Zoom

² On Zoom on Day 1, excused on Day 2

Ana Delgado Department of Science, Innovation and Technology United Kingdom

Advisors

Line Bekke Poulsen	Danish Agency for Higher Education and Science	Denmark
Morten Scharff	Ministry of Higher Education and Research	Denmark
Jean-Luc Biarrotte ¹	French Ministry of Higher Education and Research	France
Susana Gota-Goldmann	French Ministry of Higher Education and Research	France
Johannes-Maria Wingen	German Federal Ministry for Education and Research	Germany
Dariusz Bocian	Institute of Nuclear Physics of PAN	Poland
Mario Perez	ESS-Bilbao	Spain
Aleksandar Matic	Chalmers University of Technology	Sweden
Johan Holmberg ¹	The Swedish Research Council	Sweden
Simon Berger	State Secretariat for Education, Research, and Innovation	Switzerland
Marc Janoschek	Paul Scherrer Institute	Switzerland
Roger Eccleston	Director, ISIS Pulsed Neutron and Muon Source	United Kingdom
James Loveder	Department of Science, Innovation and Technology	United Kingdom

Advisory Committee Chairs

Stéphanie Lê Vàn	AFC Chair
Johanna Brandenburg	AFC elected Chair
Fiamma García Toriello	IKRC elected Chair
Mark Reichanadter	PAC Chair
Victoria Garcia Sakai	SAC Chair
Mei Bai	TAC Chair
Jean Daillant ³	Chair of the Steady State Review Panel

Guests

Jacques Jestin	ILL Science Director
Grahame Blair ¹	ILL Chair of Steering Committee
Anders Ihr	ESS Administration Director from 1 January 2024

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Helmut Schober	Director General
Andrew Kimber	Project Director
Carlo Bocchetta	Associate Director for Infrastructure and Operations
Giovanna Fragneto	Science Director
Kevin Jones	Technical Director
Karin Hélène	Head of Director General Office
Florian Weissbach	Head of Finance & Business Control

³ Only Day 2

Ivan Korunoski	Head of Internal Audit Function
Marina Giampietro	Acting Group Leader Communication
Michela Dell'Anno Boulton	Governance Office Lead – Council Secretary
Elisabetta Romano	Governance Administrator
Anna Hansson Kalaris ⁴	Head of Human Resource Division
Mark Robinson ¹	Head of In-Kind Management Division
Pia Kinhult ¹	Host State Relations and Senior In-Kind Negotiator

Excused

Marek Jeżabek	The Henryk Niewodniczanski Institute of Nuclear Physics	Poland
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⁴ On Zoom for item 7.a

1. Welcome and Opening of the Meeting

The Chair called the meeting to order on the 4th of December 2023 at 08:30 and welcomed the participants.

He then immediately gave the scene to Christian Rüegg, Director of the Paul Scherrer Institute (PSI) and host of the meeting, who gave a brief introduction of the Swiss research centre. PSI is one of the ESS In-Kind partners, delivering the instrument Estia and participating to the instruments Odin, Bifrost, Heimdal and Magic. It is also the largest research institute for natural and engineering sciences in Switzerland, generating cutting-edge science for future technologies, energy and climate, health innovation and fundamentals of nature.

After this presentation, the Chair noted that this 36th meeting of Council had been duly convened and was quorate. Delegations were present both in person and on Zoom. The Chair went through the participant list and welcomed in particular the new Swedish delegate, Viktoria Mattsson, the new UK delegate, Ana Delgado, and the ILL Science Director, Jacques Jestin, who was invited to give a brief report on the status of activities at ILL after the afternoon break. A special thank was granted to the outgoing Swedish delegate David Edvardsson, who had served in Council for nearly ten years, and the outgoing UK delegate Shabana Haque.

2. Adoption of the Agenda

Upon motion duly made,

Council unanimously

- **approved the agenda for its 36th Meeting.**

3. Approval of the Minutes of the 34th and 35th Meetings of Council

Upon motion duly made,

Council unanimously

- **approved the Open and Restricted Minutes from the 34th Meeting, with one amendment requested by the Council Chair in the open ones, and the Restricted Minutes from the 35th Meeting with no amendments.**

4. Matters Arising

The Council Secretary, Michela Dell'Anno Boulton, summarised the Council action items, both those proposed for closure at the meeting and those still ongoing.

Regarding the status of the In-Kind Contribution Agreement with ESS Bilbao (action C.19.09.b), Spain (Aricha) said that, due to the elections and the creation of a new government, the process to sign the contract, dependent on the agreement with the Basque Countries to prolong the lifetime of ESS Bilbao, had been delayed. Spain would give a new update in February.

With regards to action C.34.05, Sweden (Mattson) confirmed that the Swedish delegation was well aware of the radioactive waste disposal issue and had taken a number of steps to act in favour of a positive outcome. Currently, however, a final solution could not be presented.

Upon motion duly made,

Council unanimously

- **closed the following action items proposed for closure⁵: C.23.08.a; C.29.11; C.34.05**

5. Reports I**5.a Report from the Chair**

In his first report to Council, the Chair gave his view on the most urgent and important challenges laying ahead, both for ESS and its governance bodies.

Encouraging maintaining focus on the Beam-on-Target (BoT) milestone, he reminded that BoT was nevertheless just the starting point of the next forty-year long project of operating the facility. Defining what was expected of ESS as operational facility was a key task, since it would also affect the related budget. Transitioning to Steady State Operations (SSO) was a major change, not to be underestimated, and agreeing on a sharing policy of the operation cost was necessary before end of 2024 (a condition of the EIB loan). As ESS would need support and guidance in facing these challenges, the Chair suggested setting up a small Council Working Group to this purpose and announced that the February Strategy meeting would be largely dedicated to those topics.

He also invited Council to give more specific feedback and actions to the various advisory committees, improving the connection with them and ensuring best use in their different areas of expertise.

In the discussion following the Report, several Members expressed agreement with the views presented by the new Chair, in particular the complexity of the challenges connected to SSO and the importance of involving Council when approaching them.

Council

- **took note of the Report from the Chair.**

5.b ESS Directors' Report

The Director General, Helmut Schober, opened this agenda item informing Council that the project was still holding the line and reminding of the need for planning security in terms of progress on the funding for the New Project Plan and on the currency policy.

The end of Accelerator and Target installations was now in sight thanks to intensive work installing cryomodules and klystrons and testing spoke systems and the Drift Tube Linac (DTL). Magnets were now in place to direct the beam to dump. A thousand hours' test of the rotary unit of the Target had been conducted and both the wheel and the moderator had been

⁵ See Annex 1 of the document Council.36.04 uploaded on Indico

successfully installed in the monolith, marking a major achievement shared with the In-Kind partners ESS Bilbao and Forschungszentrum Jülich. Good progress could also be registered in the instruments of the first tranche. However, several milestones had been reached with some delay. Currently, a concern was posed by the Licensing submission for intentional neutron production, for which new ways of working had been introduced to regain momentum and engagement and avoid further slippages. Differently from 2022, no major technical events were threatening the schedule, however a number of planned activities were becoming critical and the project was earning less value compared to the new baseline. This required continued vigilance, in particular for some of the instrument projects that were underperforming.

A final solution for the disposal of the radioactive waste had not been found despite intensive efforts and frequent communication and meetings with the parties involved. The next meeting with the company SKB, representatives of the Ministry of Education and ESS was planned for 9 January 2024. In the meanwhile, the Swedish Radioactive Safety Authority (SSM) had further specified the requirements for the agreement with the waste handling company.

Schober announced to Council that the newly appointed Head of Administration, Anders Ihr, would start at the beginning of January 2024 and that Thomas Holm Rod had been chosen to continue leading the Data Management and Software Centre (DMSC), which was moving offices to the DTU Campus in March 2024, promoting a fruitful collaboration with the Danish academic environment. The Danish Ministry for Higher Education and Research would set-up an advisory committee supporting a forward looking vision for DMSC.

The November review of the Steady State Operation planning had resulted in extremely useful, critical and detailed feedback and the Director General had expressed his wish for the review panel to keep monitoring and supporting the transition of ESS from construction project to operational facility.

Another urgent task was that of regaining the engagement and interest of the user community, working to increase their ownership of the project. The partners building the instruments were in key positions to this purpose and ESS should meet the users' expectations seizing any opportunity to improve instrument performance. The time was also coming to start discussing how to move forward with instruments 16-22, revisiting the science cases and identifying the dominant and most urgent scientific and societal challenges. Council would also be invited to reflect on instrument models for the future and on the possibility for strategic collaboration amongst facilities, in particular to share and develop technologies.

After the presentation, the Danish delegation thanked ESS management and ESS staff for helping relocating DMSC to DTU, praised the constructive discussions on what the DMSC mission should be and suggested that also universities from other Members should be invited to work with DMSC to make it more successful.

The Swedish delegation confirmed that the Swedish government was working closely with ESS to solve the issue of the disposal of radioactive waste.

Council

- **took note of the Directors' Report.**

5.c Risk Report

The Project Director, Andrew Kimber, opened the presentation with the recent developments in the area of risk management, with the Project Managers and the sub-project leaders now being the key owners of the risks in their respective areas and the reviewers of the risk register, as well as the ones able to mitigate those risks and identify opportunities where possible.

The different categories of risks were introduced to Council (project risks, technical risks, IK risks owned by ESS or by the IK partners and enterprise/external risks), highlighting the most relevant ones. Upon request of Council, more information was now available relative to the risks owned by the IK partners, previously not integrated in the Risk Report.

A visual representation of contingency usage showed that the ratio of used contingency with respect to the Estimate At Completion (EAC) was at 17% and that a number of real savings had been added back, coming from the end of the civil construction project, the reduction of the property tax and the compensation for the high energy costs introduced by the Swedish government.

The Chair thanked Kimber for raising the awareness of the delegations relative to IK owned risks. It was suggested for ESS to have a review to assess if the risk register was used in an optimal way to improve the chances of project success, and also to report back to Council on risks that had been closed.

Council

- **took note of the Risk Report (Q3 2023).**

5.d Report from the Administration and Finance Committee (AFC)

Stéphanie Lê Vân, outgoing AFC Chair, summarised to Council her report from the AFC.22 and AFC.23 meetings, held in October and November 2023, as well as the main tasks performed by the AFC Working Group on Currency.

After the summer, AFC had kept focus on preparing a way forward towards a new Currency Policy to be approved by Council and implemented by the organisation, and on scrutinising different options for the funding of the New Project Plan. The draft Currency Policy had been recommended to Council during the AFC.23 meeting.

Lê Vân also mentioned that AFC would keep monitoring the options for a possible solution of the lease of the ESS Campus Building and the developments in the area of Energy Management, supporting the organisation with the scrutiny of future and more favourable energy contracts.

It was further noted that two Members, Denmark and Hungary, were in arrears on their annual contributions. The Danish delegation confirmed that the payment would take place as soon as Council had dealt with the currency and funding question. The Hungarian delegation reported on fruitful discussions with ESS and reassured Council that the necessary payments, in particular related to the IK contribution, would be made in early 2024.

In conclusion, Council was informed that a new AFC Chair and Vice Chair, namely Johanna Brandenburg and Laura Woodward, had been elected during the AFC.22 meeting and their term would start on January 2024, pending Council appointment.

After the presentation, the Council Chair and several delegations thanked the outgoing AFC Chair for her competence, solution oriented attitude and dedication while working through a rather challenging period, and underlined the importance of AFC as an advisory body preparing the background for several of Council's strategic decisions.

Council

- **took note of the AFC Report.**

6. Financial Matters I**6.a Financial Estimates**

The Head of Finance and Business Control, Florian Weissbach, introduced the Medium Term and Overall Financial Estimates (MTFE and OFE) giving an outlook of contributions and expenditures for the upcoming four years and until the end of the project respectively. The expenditures were based on the August 2023 forecast and the data relative to In-Kind had been detailed at sub-project level. The figures related to the contributions were based on the most recent Member Contribution Sheets.

Council took note

- **of the Medium-Term Financial Estimates 2023;**
- **of the Overall Financial Estimates 2023.**

6.b Cash Flow Status and Cash Facilities

For the next financial item, Weissbach gave an update of the cash flow projections for the years 2023-27, based on monthly forecasts from the project for the expenditures and on the Member Contribution Sheets for the contributions, with an element of uncertainty regarding the funding of the New Project Plan (NPP) still to be approved by Council.

The existing two cash facilities, with the three banks EIB, NIB and SEK, consisted in loans both in SEK and in EUR. In order to reduce the exposure to rising interest rates, ESS was implementing a pro-active strategy consisting in early repayments of the loans. The first one (amounting to 35 MEUR) had been authorised by Council in September and had been made on 31 October 2023. A second early repayment was planned for the first half of 2024. Although partially offset by bank fees and reduced income from interest on the bank balance, the savings produced by the early repayments were of high relevance to the project.

Council took note of

- **of the most recent cash flow projection;**
- **that any further early re-payment requires a Council decision on the funding of the New Project Plan (NPP).**

6.c In-Year Actuals (IYA) 2023

The Project Director, Andrew Kimber, presented to Council the IYA, reminding the delegates that 2023 was the first year in which the re-baseline plan had been used for the yearly budget estimate. The overall accuracy of the forecast for 2023 was close to 2%, a major improvement compared to previous years, as remarked with appreciation also by the Council Chair.

The outstanding challenge was represented by better fitting contingency and its usage in the annual budget project, and representing project costs in a more flexible way, which was the expected outcome of the ongoing cost control project.

Council took note of

- **the In-Year Actuals 2023.**

6.d Final Draft Budget Proposal 2024

Weissbach, gave an overview of the budget 2024 proposal, based on the re-baselining and the latest project forecast.

In the absence of a formally approved new Currency Policy, and following the principle of transparency defined in the ERIC Regulation, the final budget proposal was presented in three different ways: 1) in EUR_{9:1}, 2) in EUR based on a reference rate of 11.1807 SEK / EUR and finally 3) in SEK.

Upon motion duly made,

Council unanimously

- approved the Final Budget Proposal 2024, including expenditures of 2 607 598 kSEK, contributions according to the below table, and a scheduled re-payment of the first cash facility of 947 228 kSEK, and according to the approved resolution 36.07 bcd;
- took note that ESS will seek explicit Council authorisation (upon AFC recommendation) for a potential second planned early re-payment towards the cash facilities in 2024.

Member	Currency	Amount
Czech Republic	kEUR	4 192
Denmark	kEUR	41 000
Estonia	kEUR	324
France	kEUR	34 160
Germany	kEUR	32 300
Hungary	kEUR	598
Italy	kEUR	14 124
Norway	kEUR	4 563
Poland	kEUR	5 538
Spain	kEUR	6 842
Sweden	kSEK	1 104 408
Switzerland	kSEK	116 022
United Kingdom	kEUR	0

6.e ESS Member Contribution Sheets

Michela Dell'Anno Boulton, Council Secretary, confirmed that the Member Contribution Sheets (MCS) had been as customary distributed to the AFC delegates for duly checking and their feedback had been gathered. Since AFC.22, a footnote had been added indicating that the values regarding the New Project Plan were for information only, in absence of a Council resolution.

Council

- took note of the updated data on the Member Contributions Sheets.

5. Reports (continued)

5.e Report from the IK Review Committee (IKRC)

Fiamma Garcia-Toriello, IKRC elected Chair, had submitted beforehand to Council her report from the IKRC.28 meeting held in October 2023, summarising the main findings and recommendations.

The Committee had noted good progress with several IK deliveries, however the risk of critical delays and quality issues was still raised and IKRC encouraged ESS to continue integrating IK partner owned risks in the general Risk Register, also starting to look at SSO. The knowledge transfer template was used with good results although some fine-tuning was still needed in view of a long term strategy to pass over knowledge and expertise from construction to the operational facility. IKRC recommended ESS to keep working with partners on better definition of the so-called Tollgate 5 (TG5), ensuring their involvement in the Hot Commissioning phase of the instruments. The recent Instrument Collaboration Board's satellite meeting on this topic was a positive start of the discussion.

In conclusion, Council was informed that a new IKRC Chair and Vice Chair, namely Fiamma Garcia-Toriello (previously IKRC Vice Chair) and Tania Claudio Weber, had been elected during the IKRC.28 meeting and their term would start on January 2024, pending Council appointment.

The Council Chair thanked Garcia-Toriello and asked her to make sure that Council was kept aware of critical points related to IK deliveries, and that the IK partners were kept engaged with knowledge transfer planning and actions.

Council

- **took note of the IKRC Report.**

5.f Report from the Science Advisory Committee (SAC)

Victoria Garcia Sakai, SAC Chair, went through the main points of her report from the SAC.31 meeting held in October 2023, that had been submitted to Council beforehand in written form. SAC commended ESS and its management for their effort in holding the line and keeping momentum in the project, encouraging them at the same time to promptly act to engage the neutron community and give them ownership in view of the upcoming years of first science. Moreover, SAC invited ESS and Council to prepare the organisation for the necessary shift from construction project to world-leading operational facility.

Looking at the outcome of the benchmarking of ESS instruments compared to future instruments in other facilities, SAC supported the conclusion that reaching 2MW as soon as possible was essential to the success of the facility. Re-scoping the current instruments remained the highest priority for the Committee.

SAC also agreed with the proposal from the Science Director for initiating activities for the call for new instruments 16-22 in spring 2024.

After the presentation, the Council Chair invited SAC to support Council in defining what 'world-leading facility' meant in terms of scientific output.

Council

- **took note of the SAC Report.**

5.g Report from the Project Advisory Committee (PAC)

Mark Reichenadter, PAC Chair, presented an overview of the findings and recommendations from the PAC.12 meeting held in September 2023 and the PAC.12.5 meeting held in November 2023. ESS commitments to the Council in terms of milestones were still intact and the organisation was managing to the live dates. PAC was following the instrument projects with particular attention because several projects similar to ESS had encountered challenges bringing the instruments online. By nature, the 15 instrument projects were all unique and with diverse teams, therefore more difficult to coordinate.

PAC had been able to scrutinize a detailed post-BoT schedule running through to the end of the project and had made some recommendations on how to improve it, noting that it was a good starting point. 45% of the schedule variance was related to IK and that was a number the committee was going to monitor. The level of contingency, around 15%, was still deemed as adequate, although it was likely that calls on contingency would increase towards end of the project, driven by installations, commissioning and start-up activities which were difficult to estimate. The Accelerator project, which had had difficult times in the past, was now making impressive progress, as was ICS. It was clear that the critical areas of the project were moving downstream, to Target and the instruments. PAC had suggested to strengthen the Technical Office in order to progress faster with challenging IK deliveries, licensing requirements and integration issues.

PAC further recommended Council to be prepared for the possibility that the Members would give further support to the IK partners in order to help recovering some of the schedule slippage.

Council

- **took note of the PAC Report.**

5.h Report from the Technical Advisory Committee (TAC)

Mei Bai, TAC Chair, presented an overview of the findings and recommendations from the TAC.22 meeting held in September 2023.

The TAC was deeply impressed by the progress since their previous meeting, and acknowledged the effective efforts of the ESS team in addressing technical issues and finding solutions, as in the case of the Helium Circulators.

When transitioning towards SSO, TAC noted that it was crucial for ESS to be vigilant about associated operational risks and invest efforts in proper work planning. TAC appreciated the recent organisational changes, in particular the establishment of the Operation and Infrastructure Directorate as a service-oriented organisation, and the creation of the Engineering Management Group in the Technical Directorate.

TAC general recommendations were, amongst others, to evaluate the on-call needs to ensure staff availability during commissioning and to start looking at the key infrastructures and

facilities critical to ensure the reliable user operation, as well as a long-term R&D strategy to meet the needs of steady state user operation.

The Council Chair noted that a common theme among the committee reports was the need to think about the changes required to transition from construction to operations, including consideration of the new risks associated with operations.

Council

- **took note of the TAC Report.**

8. Report from the Internal Audit

This item was postponed to Council.³⁷ in order to grant time for an additional Restricted Session.

9. Steady State Operations (SSO) Review: Preliminary Report

The Chair of the SSO Review Panel, Jean Daillant, presented to Council the preliminary findings and recommendations from the Review that had taken place at ESS, 6-8 November 2023.

The Panel considered the bottom-up approach that was taken a good starting point, however a second step was now needed, introducing a critical view at management level to avoid duplications and find synergies. The Panel suggested to improve the benchmarking including facilities hosting high-throughput experiments, such as MAX IV, and lessons learned from other facilities at the beginning of SSO, such as SNS. The Panel further recommended to reduce the number of Divisions and Groups because of the risk of working in silos. Workflows needed to be better understood and when possible simplified, and the engineering resources were found to be fragmented, while they could be better organised in a matrix. Overlaps between two of the Directorates, the one for Machine and Technical Development and the one for Operations and Infrastructure, should be looked into and avoided. The Panel considered the full scope of ESS to have been clearly identified, however there was still room for optimisation in order to lower the planned yearly budget. Regarding staff numbers, Daillant deemed it important to keep some early decisions flexible in order to be able to change them at a later stage, should it be necessary.

Starting in early 2024, ESS would create a group to bring forward the transition to SSO project. Council should keep on monitoring the process every six months, a Council Working Group should be established to allow more frequent communication between ESS and Council. Some members of the Review Panel had also expressed interested in continuing to support ESS in planning the transition and defining a clear mission for the facility in operations, keeping the users at the core and searching for strategic and cost-saving collaborations with other facilities.

Council

- **took note of the preliminary Report from the Steady State Operations Review.**

10. Procedures

10.a Appointment of the AFC Chair and Vice Chair

Due to the end of the second term of the AFC Chair and Vice Chair, at its 22nd meeting held in October 2023 AFC unanimously elected Johanna Brandenburg as the new Chair and Laura Woodward as the new Vice Chair. Council was therefore asked to officially appoint Brandenburg and Woodward.

Upon motion duly made,

Council unanimously

- **appointed Johanna Brandenburg as AFC Chairperson for a renewable first two-year term, starting 1 January 2024;**
- **appointed Laura Woodward as AFC Vice Chairperson for a renewable first two-year term, starting 1 January 2024.**

10.b Appointment of the IKRC Chair and Vice Chair

Due to the election of Robert McGreevy as Chair of ESS Council, at its 28th meeting held in October 2023 IKRC unanimously elected Fiamma Garcia-Toriello as the new Chair and Tania Claudio Weber as the new Vice Chair. Council was therefore asked to officially appoint Garcia-Toriello and Claudio Weber.

Upon motion duly made,

Council unanimously

- **appointed Fiamma Garcia-Toriello as IKRC Chairperson for a renewable first two-year term, starting 1 January 2024;**
- **appointed Tania Claudio Weber as IKRC Vice Chairperson for a renewable first two-year term, starting 1 January 2024.**

10.c Approval of In-Kind Agreements

A summary of the In-Kind agreements recommended to Council for approval by the IKRC during its 28th meeting was presented by the Project Director Andrew Kimber.

Upon motion duly made,

Council unanimously approved

- **three Extensions of In-Kind Contribution Agreements;**
- **four Technical Annexes;**
- **one Amendment to Technical Annexes, and**
- **five Final Reports.**

10.d Approval of the change to the external auditors' charge

The Head of Finance and Business Control, Florian Weissbach, presented the change to the external auditors' charge recommended by AFC at its 22nd Meeting to Council for approval.

He informed Council that already at its 21st Meeting in April 2023, AFC had discussed the extension of the charge of the external auditors in order for it to include the reconciliation between the accounts and the budget.

He then clarified that the new Article 2 in Annex IV of the ESS Financial Rules, which AFC recommended to Council for approval, contained the extension, but the amendment was contingent to the approval of the ESS Currency Policy.

Upon motion duly made,

Council unanimously

- **approved the proposed amendment of Annex IV to the ESS Financial Rules concerning the external auditors' charge;**
- **took note that this amendment will enter into force together with the proposed ESS Currency Policy.**

10.e Approval of the amended CEC ToR

The Chair introduced to Council the proposed changes to the Terms of Reference (ToR) of the Committee on Employment Conditions (CEC), aimed at increasing the specific expertise of the Committee with the introduction of up to two external members with wide experience and competence in Human Resources, and know-how in management of organisations and personnel.

Upon motion duly made,

Council unanimously

- **approved the amendment of the Terms of Reference of the Committee on Employment Conditions (CEC).**

11. Access Policies – First Ideas

Giovanna Fragneto, Science Director, presented to Council her first thoughts on access modalities to ESS once in operations. She listed the three policies that would define the usage of ESS: The Policy for Scientific Publications approved in 2022, a revised version of the Policy for Scientific Data, likely to be presented to Council in early 2024, and the Scientific Evaluation and Access Policy, which SAC had discussed in October 2023. This last policy was limited to the first 15 instruments. With 180 days a year of neutrons available for the user programme (that is 80%, a number similar to that of other neutron facilities), Fragneto made a first suggestion of distribution with 142 days for peer reviewed access, and the remaining days to be split between industrial access, quick access and discretionary access, with different committees for the evaluation of proposals in different areas. The demand from industry would probably impact the instruments differently and industrial users would be supported by an industrial liaison office. Fragneto then described how the nationality could be assigned to a proposal in order to guarantee the national balance. Taking into account both excellence and national balance would make the peer review process rather challenging.

At the end of the presentation, the Chair reminded Council and ESS management that a fuller discussion on Access Policies and other aspects of SSO would take place at the Council strategy meeting in February and written comments on the first ideas presented at Council.36 would be welcomed.

Council

- **took note of the presentation on Access Policies.**

12. Confirmation of Resolution

The Council Secretary, Michela Dell'Anno Boulton, presented to Council the list of resolutions for Council.36.

Upon motion duly made,

Council unanimously approved

- **the Resolutions from the 36th meeting of Council.**

13. Communication from this meeting

The acting Leader of the Communication Group, Marina Giampietro, presented the draft key communication points for the meeting.

Upon motion duly made,

Council

- **took note of the key communication points from the meeting.**

14. Any other Business

The Council Secretary, Michela Dell'Anno Boulton, presented to Council the list of dates for Council meetings in 2024, 2025 and 2026.

Council

- **decided to change the dates for Council.37 from 13-14 February to 19-20 February 2024.**

There being no further business to discuss, the Chair brought the meeting to an end at 15:15.

Closure of the Meeting

Council.36 Resolution 7.b,c,d) from the Restricted Session**Council unanimously**

- approved that changes in the SEK:EUR exchange rate, coupled with the fact that commitments are made in 2013 EUR values, have produced complex effects on ESS contributions and expenditures. There is no simple or exact way to correct for these effects;
- endorsed the previously in principle supported New Project Plan (NPP) as a valid starting point for agreeing a modified NPP which aims to account, in a reasonable way, for the effects of exchange rate changes on contributions to Construction, Completion of Construction and Initial Operations;
- approved the currency policy as presented in Annex 1 of item 7b, and the corresponding changes to the Financial Rules, Annex VII, to incorporate this policy.
- approved that this policy will apply to modified NPP commitments and contributions, and to preparation and presentation of the budget from 2024 onwards;
- approved that this policy will not apply to commitments and contributions to Construction, Completion of Construction and Initial Operations, since these are corrected for in the modified NPP;
- approved the modified NPP, with a total commitment of 278 M€2013 and sharing as presented in the table below, noting that all commitments and related contributions are subject to the currency policy as agreed in iii, and with indexation the same as for Initial Operations⁶, pending recommendation by AFC and subject to national approvals. Contributions should be made between 2024 and 2027;
- took note that the numbers presented in this table reflect extra funding to complete the New Project Plan which were supported in principle at Council.31, as well as corrections for exchange rate effects and the new currency policy;
- took note that sharing of the modified NPP does not imply the sharing of any further commitments;
- took note that further commitments to the modified NPP may be required to accommodate remaining uncertainties and risks and ensure satisfactory completion of the project. The exact scale of the further commitments needs to be clarified.

⁶ Resolution C.31.8.c

	M€2013
Czech Republic	4.86
Denmark	10.88
Estonia	0.43
France	30.22
Germany	34.15
Hungary	4.09
Italy	16.13
Norway	4.78
Poland	5.46
Spain	12.68
Sweden	109.46
Switzerland	14.44
United Kingdom	30.41
	278

Annex 1: Results of the Written Procedure C.34.99.a

Council Approval of the First Early Re-payment on Cash Facilities previously recommended by the Administrative and Finance Committee

On 7 September 2023 ESS Governance Office initiated two written procedures regarding the first early re-payment on cash facilities, one for AFC to recommend it and the other one for Council to approve it. The AFC recommendation was communicated to Council on 22 September 2023. The details of the Council's voting behaviour regarding the subsequent approval are provided below:

Delegation	Represented by	Date	Vote
Czech Republic	Vyšínka	26 September 2023, 11:45	in favour
Denmark	Smith	26 September 2023, 14:50	in favour
Estonia	Räim	22 September 2023, 12:47	in favour
France	Mathon	25 September 2023, 08:34	in favour
Germany	Dieter	22 September 2023, 10:16	in favour
Hungary	Kápli	26 September 2023, 20:01	In favour
Italy	Covello	25 September 2023, 08:00	in favour
Norway	Eriksen	26 September 2023, 21:57	in favour
Poland	Gaczyński	25 September 2023, 09:37	in favour
Spain	Aricha Yanguas	25 September 2023, 08:54	in favour
Sweden	Börjesson	25 September 2023, 08:06	in favour
Switzerland	Reymond	22 September 2023, 12:31	in favour
UK	Thomson	25 September 2023, 10:14	in favour

13 out of the 13 Member delegations voted in favour of the recommended resolutions by the deadline. The last vote was received by electronic mail on 26 September 2023 at 21:57 CEST.

Therefore,

Council, by written procedure, unanimously approved the

- **cancellation of the second cash facility including the last drawdown;**
- **first early re-payment towards the two cash facilities of up to 35 M€⁷ at the next possible payment date, i.e., 31 October 2023.**

⁷ 35 M€ according to the SEK-to-EUR exchange rate on 6 September 2023. The pre-payment to EIB will be made in EUR, the pre-payments to NIB and SEK will be made in SEK. Therefore, depending on exchange rate fluctuations, the total EUR amount of the first pre-payment on 31 October 2023 may deviate from 35 M€.

Annex 2: Results of the Written Procedure C.34.99.b

Council Appointment of the ESS Administration Director

On 27 October 2023 ESS Governance Office initiated a written procedure concerning the appointment of Anders Ihr as the ESS Administration Director for a five-year term, and the mandate to the Director General for the contractual negotiation. The details of the Council's voting behaviour are provided below:

Delegation	Represented by	Date	Vote
Czech Republic	Svoboda	8 November 2023, 15:19	in favour
Denmark	Smith	7 November 2023, 09:36	in favour
Estonia	Räim	3 November 2023, 11:01	in favour
France	Mathon	6 November 2023, 12:07	in favour
Germany	Dieter	7 November 2023, 08:28	in favour
Hungary	Kápli	8 November 2023, 15:22	In favour
Italy	Covello	27 October 2023, 14:08	in favour
Norway	Eriksen	3 November 2023, 09:49	in favour
Poland	Gaczyński	7 November 2023, 09:45	in favour
Spain	Aricha Yanguas	31 October 2023, 13:20	in favour
Sweden	Börjesson	8 November 2023, 11:04	in favour
Switzerland	Reymond	3 November 2023, 10:14	in favour
UK	Delgado	3 November 2023, 20:11	in favour

13 out of the 13 Member delegations voted in favour of the recommended resolutions by the deadline. The last vote was received by electronic mail on 8 November 2023 at 15:22 CET.

Therefore,

Council, by written procedure, unanimously

- **appointed Anders Ihr as the ESS Administration Director for a period of five years, starting as soon as possible (1 Jan 2024);**
- **mandated the Director General to negotiate and sign an employment contract between ESS and the candidate, within the conditions mentioned in Annex 2 of the Written Procedure.**

Verified and approved by ESS Council at its 37th Meeting on 19-20 February 2024



Robert McGreevy
Council Chair



Michela Dell'Anno Boulton
Council Secretary