



INSTITUTO DE ASTROFÍSICA DE CANARIAS

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PROCEDURE FOR THE SETTING UP AND OVERSEEING OF THE AGREEMENTS ON THE INSTALLATION AND OPERATION OF SCIENTIFIC FACILITIES AND TELESCOPES AT THE CANARY ISLANDS OBSERVATORIES RUN BY THE INSTITUTO DE ASTROFÍSICA DE CANARIAS

Procedure approved by the Governing Council of the IAC at its meeting at 16 October 2024 (CD34/24)

(Courtesy translation. See the original Spanish version for a full reference)

OBJECTIVE

The aim of the present document is to describe in detail the specific workflow for the establishment and monitoring of the agreements on the installation and operation of new facilities and their subsequent upgrading at the Canary Islands Observatories (OCAN). It applies to scientific facilities at both the Teide Observatory (OT) and the Roque de los Muchachos Observatory (ORM) of the Instituto de Astrofísica de Canarias.

The document details the necessary actions to be taken in order to receive the approval of the IAC and the international governing bodies of the OCAN by making reference to the regulatory processing of actions, reviews conforming to these rules and the obtaining of the authorized prescriptive reports leading to their signing, as detailed in another internal procedure (along with the actions of registration and communication).

In this document the following cases are considered in separate sections:

- Procedure for the establishment of agreements on the installation and operation of new scientific facilities.
- Procedure for the upgrading or renovation of agreements on installation and operation where existing facilities are expanded.
- Procedure for the simplified renewal of agreements on the installation and operation of scientific facilities.

BACKGROUND

The Kingdom of Spain opened the Canary Islands Observatories (OCAN) to the international scientific community through the Agreements on Cooperation in Astrophysics and its Protocol, prior to the International Treaty, signed on 26 May 1971 (BOE no. 161 of 6 July 1989). Pursuant to the agreement mentioned, a number of other agreements have been reached between the IAC and various User Institutions concerning the installation and operation of telescopes at the OCAN, from both signatory and third countries. The nature and formal prerequisites of these agreements have evolved along with Spanish legislation applicable to administrative agreements.

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REGULATIONS TO BE APPLIED

The specific regulations to be applied are the following:

- Law 25/2014 of 27 November concerning Treaties and other International Accords¹ (BOE no. 288 of 28 November 2014). Applicable to OCAN's User Institutions, which are classifiable as public investigations located in the signatory countries to the *International Treaty*.
- Law 40/2015 of 1 October, concerning the legal framework of the Public Sector² (BOE no. 236 of 2 October 2015). Applicable to all other OCAN Users.
- Order PRA/1267/2017 of 21 December, through which the Agreement of the Council of Ministers of 15 December 2018 approving the instructions for the processing of agreements (BOE no. 310 of 22 December 2017). This order lays down the procedure to be followed in the processing of agreements to be negotiated within the framework of Law 40/2015.

The classification of agreements for the installation of telescopes in the Canary Islands Observatories, whether according to Law 40/2015 or Law 25/2014, is subject to the prescriptions of reports prepared prior to any such classification within the legal framework of the Kingdom of Spain.

The legal framework of the agreements reached for the installation of telescopes in the OCAN is complemented by other regulations, those of especial importance being:

- Law 14/2011 of 1 June concerning Science, Technology and Innovation (BOE no. 131 of 2 June 2011.). Article 34 details the reaching of agreements by agents of the Spain's system of Science, Technology and Innovation, as applicable to the IAC.
- Law 39/2015 of 1 October on Common Administrative Procedure in Public Administrations (BOE no. 236, of 2 October 2015).
- Law 19/2013 of 9 December on Transparency, Access to Public Information and Good Governance (BOE no. 295, 10 December 2013.).

Lastly, a mention must be made of the IAC's own framework of internal regulation: 'Procedure for the Processing of Agreements and Covenants of the IAC' (updated in 2022 and available on the IAC's intranet).

The present procedure is compatible with the 'Procedure for the Processing of Agreements and Covenants of the IAC' (revised in 2022). This document describes in detail the specific processing flow for the establishment and monitoring of agreements on the installation and operation of telescopes at the Canary Islands Observatories, whether there are new installations or existing ones being upgraded or renovated. The regulatory processing, appropriate revision and securing of the corresponding recommendatory authorized reports that lead to the signing of the agreement are described in detail in other documents, together with registration and communication.

¹ Ver <https://www.boe.es/buscar/act.php?id=BOE-A-2014-12326>

² Ver <https://www.boe.es/buscar/act.php?id=BOE-A-2015-10566>

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RESPONSIBILITIES

- **CD-IAC:** The Governing Council of the IAC was established following the Resolution of 11 December 2018 of the General Secretariat for the Coordination of Science Policy by which the Statutes of the of the Instituto de Astrofísica de Canarias Public Consortium are determined (BOE no. 307 of 21 December 2018), henceforth referred to as the Statutes of the IAC. The Governing Council, and in particular its Director, carries out the preliminary evaluation of any installation and gives the final approval of the conditions of deployment and operation.
- **RESEARCH:** The Research Department of the IAC is described in the Statutes of the IAC. The conditions for scientific and technical cooperation applicable to each facility are decided by the Head of Research (a deputy) within the framework of the International Treaty.
- **ASSGG:** Represents the activities of the General Services Administration and its Secretariat with regard to providing the necessary support to the units and bodies of the IAC in the establishment of administrative agreements, for whose administrative processing they are responsible in terms of both the gathering of relevant prescriptive reports and handling the publicity of agreements in the *Boletín Oficial del Estado* and other channels.
- **OBSERVATORIES:** This unit identifies the responsible IAC entity within the OCAN, including the Administration of Teide Observatory (OT) and the Administration of Roque de los Muchachos Observatory (ORM), as applicable. It coordinates and supervises the activities of the personnel involved in this process, promotes the development of the procedure and is responsible for attending to and resolving any problems during the processing of agreements. It is also responsible for proposing changes and updates to the present procedure, concerning possible improvements that may be made during its implementation.
- **CCI:** The International Scientific Committee is described in the International Treaty. The activities necessary for the processing or renovation of a new facility are governed by internal process of the CCI, and their terms of reference are overseen by the CCI Secretariat.
- **SUCOSIP:** The Site Properties Sub-Committee assesses the suitability of proposals for the installation of scientific facilities in the OCAN. The necessary activities by SUCOSIP for the processing or renovation of a new facility are governed by its internal procedures and terms of reference, which fall under the authority of the Chairperson of **SUCOSIP**.
- **IU:** A User Institution, whether potential or existing, of the OCAN, is the one requesting the installation of a scientific facility at the OCAN.

The aforementioned responsibilities shall devolve on heads of divisions, entities or units described, or on a person delegated to take charge of them within the framework of the IAC's organizational structure.

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PROCESS

Introduction

The procedure described here covers the following cases:

- (i) Procedure for the establishment of agreements for the installation and operation of new scientific facilities.
- (ii) Procedure for the upgrading or renewal of agreements on the installation and operation of enlarged existing scientific facilities.
- (iii) Procedure for the straightforward renewal of agreements on the installation and operation of scientific facilities.

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In each case, a flow diagram shows the activities and participating actors, depending on the aforementioned responsibilities.

1. Agreements on the installation and operation of new scientific facilities

The following figure shows the phases of the procedure for establishing agreements on the installation and operation of new scientific facilities. Each phase is described in the following paragraphs.

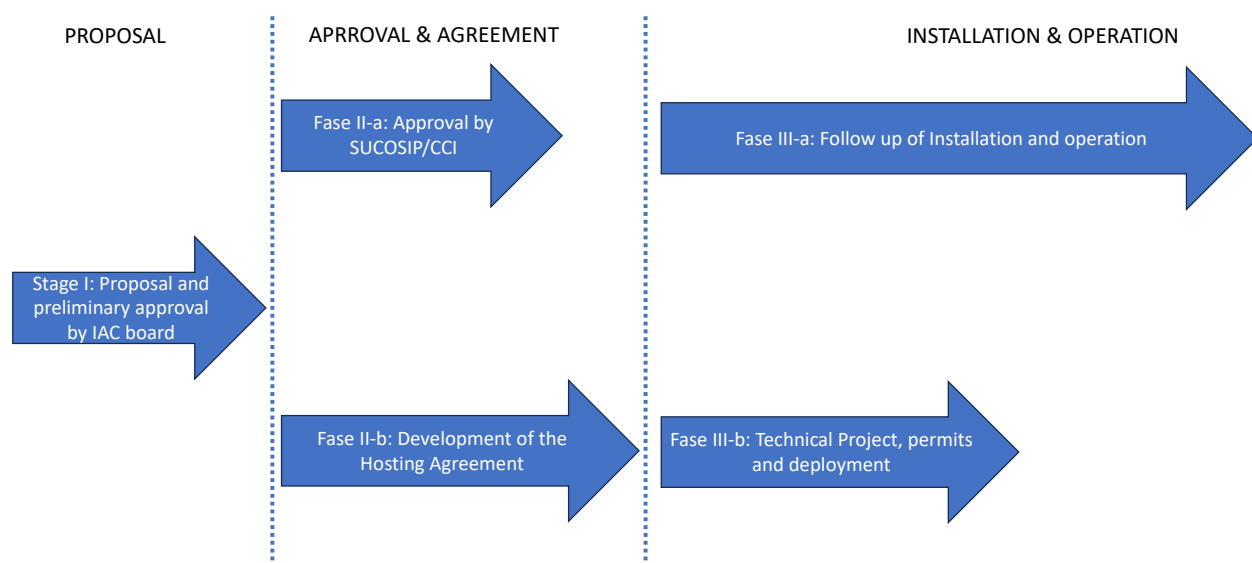


FIGURE 1. Schematic view of the procedure for establishing agreements for new facilities.

The procedure consists of three stages, each one being composed of one or two phases or subprocesses.

- In the first stage (PROPOSAL), the proposal is received from an **IU** for a new facility and is analysed by the **CD-IAC** with regard to the suitability of their installation at the OT or ORM. The proposal is usually received formally by the IAC Directorate. Should this not be the case, it must be passed on to the IAC Directorate and the User Institution informed of the proper procedure to be followed.
- In the second stage (APPROVAL AND FORMALIZATION), the approval for the facility is granted by the **CCI** in conformity with the International Treaty while, in parallel, an agreement is prepared between the IAC and the **IU** wishing to deploy and operate a scientific facility in one of the OCAN sites. It is important to stress that, regardless of these parallel processes, the signing of an agreement between the IAC and the **IU** (Phase II-b) cannot take place until approval has been obtained from the **CCI** (Fase II-a).

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- At the final stage (VALIDATION), once the agreement between the IAC and the **IU** has been signed, instruments to monitor it shall be constituted and shall remain valid until the end of the agreement. At the start of the validation period, and as soon as the monitoring instruments have been set up, deployment and operation of the facility may commence.

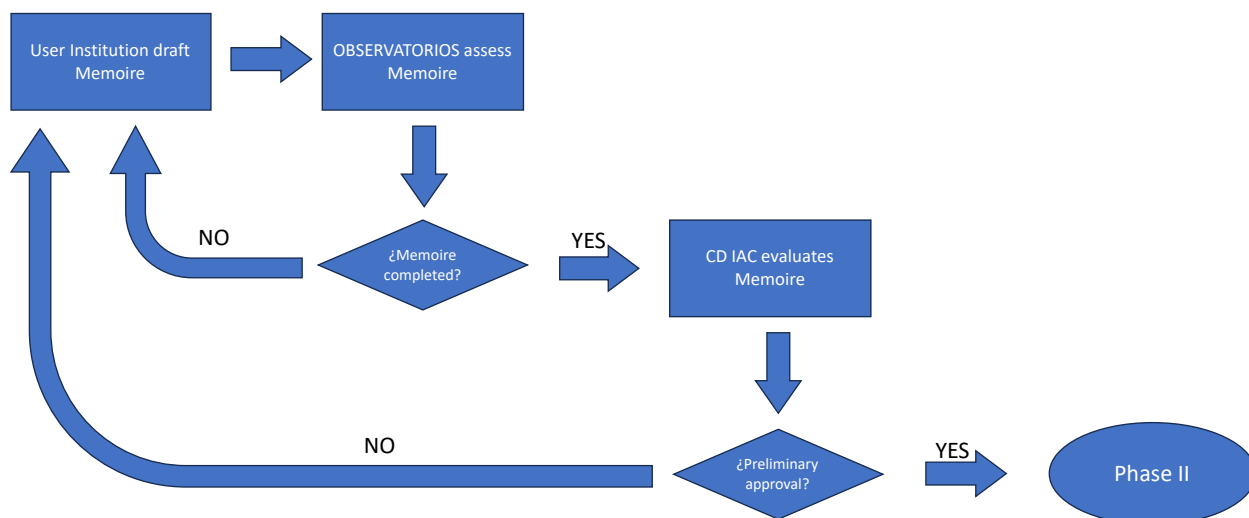
It is important to stress that both the process of signing the agreement and the system established to oversee it must be according with the regulations in force, as well as to the provisions set out in 'Procedure for the Processing of Agreements and Covenants of the IAC'.

1.1. PHASE I: Proposal and preliminary approval of the commencement of construction

In Phase I any potential new facility at the OCAN is analysed by competent authorities at the IAC. A preliminary technical evaluation of the project is carried out by the services of the institution for the purpose of establishing whether it is suitable for the OCAN and is passed on for evaluation by the **CCI**. The steps in the procedure are the following:

- The interested **IU** shall draft a Scientific-Technical Memoire with a description of the proposal for the astrophysical facility or equipment. This document will henceforth be referred to as the *Memoire*. The *Memoire* must include a description of the scientific objectives of the facility and its technical requirements, together with a selection of potential candidate sites at the OT or the ORM, with a sufficient level of detail of the nature and impact of the project. Annexe III offers a template describing the minimum contents for a new facility proposal.
- The *Memoire* will be initially assessed by **OBSERVATORIOS**, who will ask the **IU** to complete it with the data that it deems necessary, or the head of **OBSERVATORIOS** will forward it to the **CD-IAC** for its assessment of the document.
- The *Memoire* shall be evaluated by the **CD-IAC**, which will proceed to grant its preliminary approval or will request further information that will enable the leader of **OBSERVATORIOS** to make an evaluation.

.The following figure shows the steps described above.



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FIGURE 2. Phase I: Proposal and preliminary approval of the facility.

1.2. PHASE IIa: Approval of the installation of a new facility by the CCI

In Phase IIa, in conformity with the International Agreements, approval is given by the **CCI** for the installation of a new facility at the OCAN. The steps in this procedure are the following:

- The interested **IU** shall prepare a detailed study of the possible sites for the facility, indicating the consequences for the existing facilities (henceforth the *Study*), with due regard with the requirements established for this purpose by **SUCOSIP**.
- The *Memoire* and *Study* shall be sent to the **CCI**, which will submit them to **SUCOSIP** for its evaluation and recommendations. **SUCOSIP** may require complementary studies to assess the effects of the new facility or equipment on the proposed sites and shall prepare a report on the proposal for the **CCI** (henceforth this document is referred to as the *Report*).
- The **CCI**, taking into consideration the *Memoire*, *Study* and *Report*, shall submit the proposal for approval and determine the definitive location of the facility at the OT or the ORM.

PHASE IIa can occur in parallel with PHASE IIb, which is described below. PHASE III may not begin until these previous phases have reached their conclusion.

The following figure shows the steps described above.

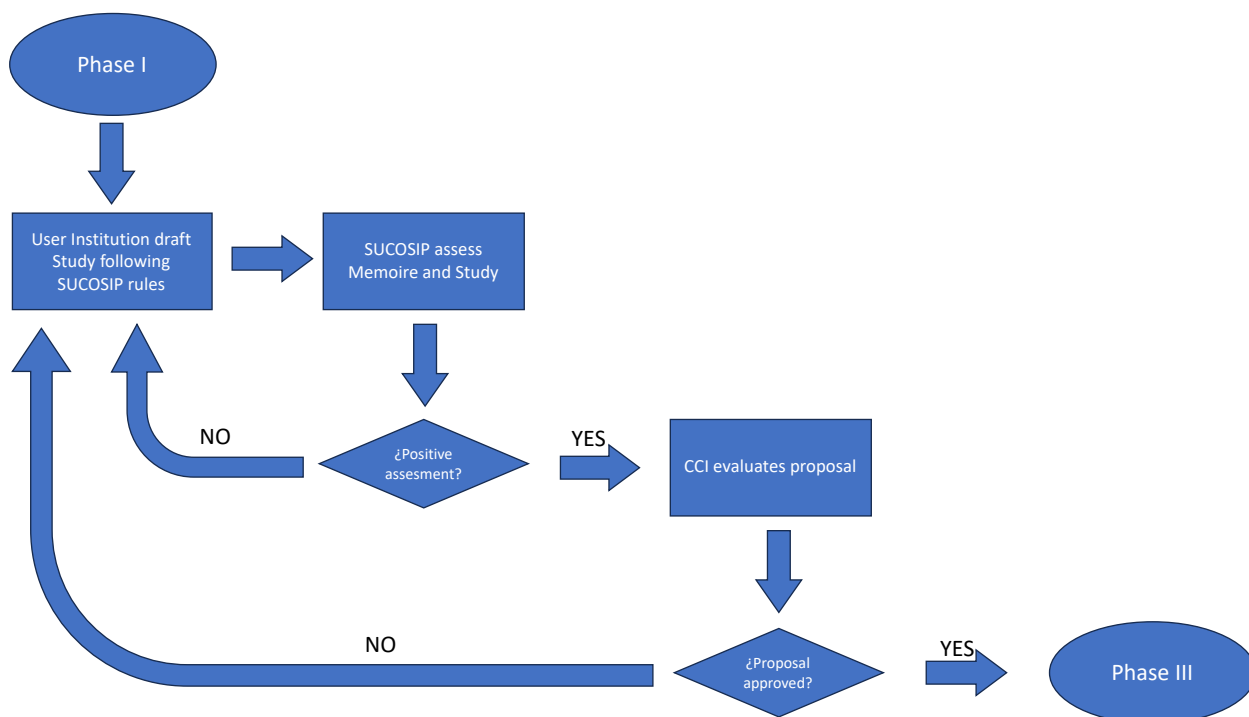


FIGURA 3. Phase IIa: Facility approval by the CCI.

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1.3. FASE IIb: Drafting and signing of an agreement for the installation and operation of a scientific facility

Any deployment and operation of a scientific facility at the OCAN requires an administrative agreement between the IAC and the **IU**. In Phase IIb, the required steps to be taken into account for the negotiation and signing of agreements are the following:

- The head of **OBSERVATORIES**, together with the Head of **RESEARCH**, shall prepare a draft agreement (hereafter *Draft Agreement*) to propose to the **IU**. The preparation of the proposal shall be undertaken with the technical help of **ASSGG**.
- The Head of **OBSERVATORIES**, together with the Head of **RESEARCH**, shall submit a preliminary version of the *Draft Agreement* to the Secretariat of the **CD-IAC** for its evaluation of the document.
- The initial version of the *Draft Agreement* shall be evaluated by the **CD-IAC**, which shall then proceed to give its preliminary approval, indicating any possible changes or modifications to be made before the start of the negotiations with the **IU**. The **CD-IAC**, however, may have grounds for not giving its definitive approval to the proposal, in which case it shall communicate its decision to the **IU** with the reasons for it.
- The head of **OBSERVATORIES**, jointly with the head of **RESEARCH**, shall submit an initial version of the *Draft Agreement* to the **IU** and lead the negotiation to reach a preliminary version of the *Draft Agreement*. Any relevant modification to the *Draft Agreement* must be submitted to the **CD-IAC** Secretariat for the assessment of the change by the **CD**.
- The preliminary version of the *Draft Agreement* shall be submitted to the head of **OBSERVATORIES** and the Head of **RESEARCH** to **ASSGG**.
- The prescriptive reports for the agreement shall be received from **ASSGG** following the rule of application appropriate to the case (Law 40/2015 or Law 25/2014). The final version of the *Draft Agreement* shall be prepared, taking into account the prescriptive reports, and in collaboration with the Head of **OBSERVATORIES**, who shall participate with the Head of **RESEARCH**.
- The Head of **OBSERVATORIES**, together with the Head of **RESEARCH**, shall submit the final version of the *Draft Agreement* to the **IU** for its approval.
 - If agreement is reached, the Agreement will be signed, pending the conclusion of Phase IIa.
 - In the case of any disagreement, the modifications to be introduced will be noted and Phase IIb will be repeated.

Phase IIb may be initiated in parallel with Phase IIa, describe earlier; however, Phase III cannot start without these previous phases having been completed. Furthermore, Phase IIb cannot be concluded before Phase IIa has been completed.

The following figure shows the steps described above.

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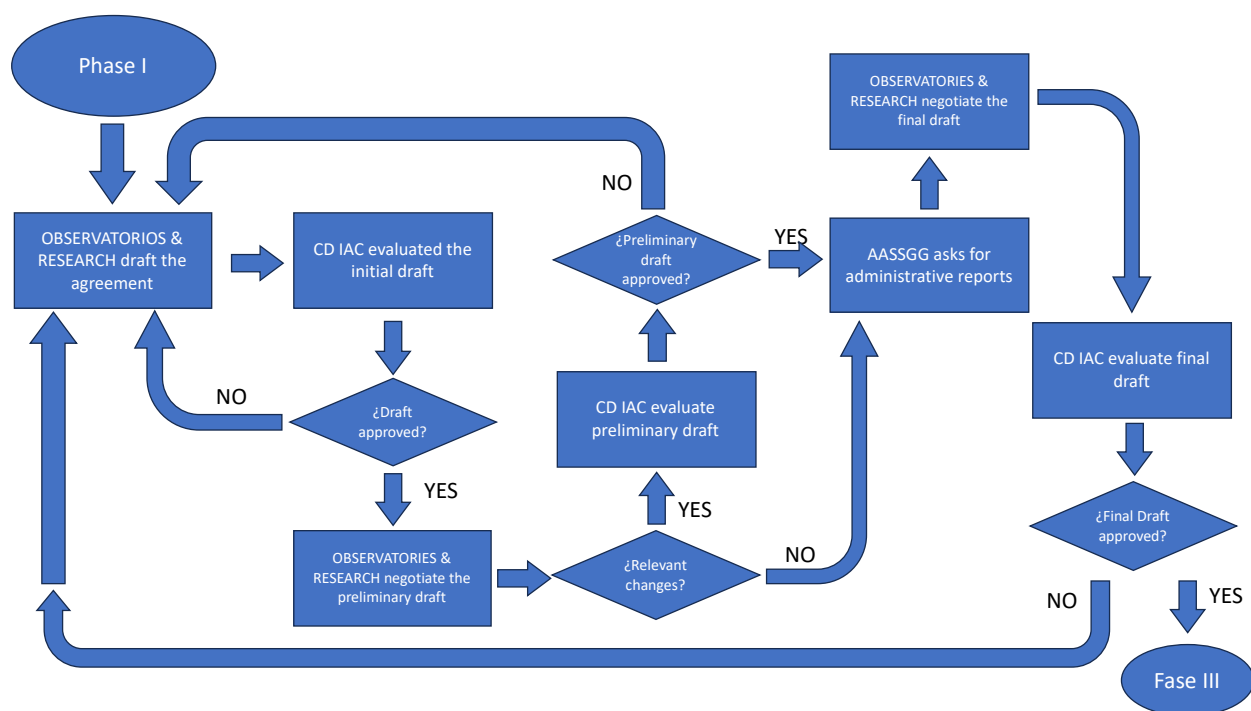


FIGURA 4. Phase IIb: Drafting and signing of facility agreement.

1.4. PHASE IIIa: Project and deployment of the scientific facility

Once a scientific facility has been approved by the **CCI** and there exists an administrative agreement supporting its installation and operation, work may for building the facility may start at the corresponding **OCAN**. For this to occur the following steps are taken:

- The **IU** shall prepare the necessary technical documentation for the installation of the scientific facility in accordance with the guidelines of Annex I. **OBSERVATORIES**, through the Administrator or Head of Department of the corresponding **OCA**, shall agree to the scope and contents of the documentation presented.
- The Head of **OBSERVATORIES**, or a designated person (Administrator or Head of Department of the corresponding **OCAN**), shall receive the **IU**'s agreement in order to request from the pertinent local administrations an assessment of the environmental impact and the issue of the corresponding urban licence corresponding to a scientific facility, upon which:
 - **OBSERVATORIES** shall follow through the procedure of assessing the environmental impact corresponding to the Project. This may consist of a simplified assessment, an ordinary assessment or an extension of the assessment of the environmental impact.³
 - **OBSERVATORIES** shall request an urban licence from the corresponding Town Hall.
 - The **IU** shall proceed to pay the appropriate taxes.

³ The assessment of environmental impact shall take into account, as a minimum, the reports of the Environmental Service of the Cabildo, the Environmental Body of the Cabildo, and the National Park Authority. Further reports from other organisms and departments may become necessary, depending on the nature of the Project.

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- The **IU** shall proceed with the construction, installation and commissioning of the scientific facility in accordance with the guidelines given in Annexe II in collaboration with **OBSERVATORIES**, through the Administrator or Head of Department of the corresponding OCAN.
- The **IU** shall contribute to Common Services of the corresponding OCAN from the moment that the works start; this must be explicitly stated in the agreement. The Administrative Management of **OBSERVATORIES** shall submit an invoice to the **IU** to that effect.

1.5. PHASE IIIb: Monitoring of the agreement

The administrative character of agreements on the installation and operation of scientific facilities and telescopes needs the use of monitoring tools established within the framework of current legislation. Phase IIIb implements the actions of this monitoring process, whose stages are the following:

- The Director of the IAC, with the prior agreement of the **CD-IAC**, shall designate through a resolution the **representatives of the IAC** at the Monitoring **Commission** of the agreement, stating who should exercise the functions of President or Secretary of the Monitoring Commission. As a general rule, a member shall be designated from **OBSERVATORIES** and another from **RESEARCH** on the recommendation of the heads of those units.
- The **IAC staff on the Monitoring Commission** shall promote the designation of representatives from the **IU** and the constitution of the Monitoring Committee under the terms stipulated in the agreement and in accordance with the legislation in force, and also with the procedure laid down in 'Processing IAC Agreements and Covenants'.
- The **IAC staff on the Monitoring Commission** shall promote at least one meeting annually of the Monitoring Commission, with a written summary of the meeting signed by its members that records the topics covered and agreements reached.
- It is the responsibility of the **IAC staff on the Monitoring Commission** to keep the IAC Directorate informed of any incident that may affect the proper implementation of this agreement, and also to give notice at least six month beforehand of its finalization or any extensions.

2. Updating or renewal of agreements on installation and operation in terms of the extension or reorganization of existing scientific facilities

The procedure for updating or renewing agreements, whether by extension or reorganization, of existing scientific facilities shall follow the same steps as those for an agreement for a new facility. The only difference will be that in Phase IIb no new agreement will be made in the case that the current agreement is still in force; instead, an addendum shall be appended to the existing agreement.

3. Simplified renewal of agreements on the installation and operation of existing scientific facilities

The procedure for simplified renewal shall be applied in those cases where a mere extension of the conditions of the agreement on installation is required, or for which the modifications do not refer to the space occupied in the observatories or other close-by buildings (for example,

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modifications to postdoctoral programs, observing time allocations, etc.). The steps to be taken are the following:

- The Head of **OBSERVATORIES**, together with the Head of **RESEARCH**, shall prepare a draft proposal of the renewal agreement for the consideration of the **IU**. **ASSGG** shall provide technical and legal assistance with the preparation of the proposal.
- The Head of **OBSERVATORIES**, together with the Head of **RESEARCH**, shall submit the initial *Draft Agreement* to the Secretariat of the **CD-IAC** for its assessment.
- The initial version of the *Draft Agreement* shall be evaluated by the **CD-IAC**, which will then proceed to submit its preliminary approval, indicating any changes or modifications to be introduced prior to proceeding with the start of negotiations with the **IU**.
- The Head of **OBSERVATORIES**, together with the Head of **RESEARCH**, shall submit to the **IU** the initial version of the *Draft Agreement* and will lead the negotiation to reach a preliminary version of the *Draft Agreement*. Any need for substantial modification of the *Draft Agreement* must be submitted to the Secretariat of the **CD-IAC** for its evaluation.
- The preliminary *Draft Agreement* shall be submitted by the Head of **OBSERVATORIES**, jointly with the Head of **RESEARCH** to **ASSGG**.
- **ASSGG** shall receive the prescriptive reports for the agreement in accordance with the regulations applicable to the case (Law 40/2015 or Law 25/2014). Taking into account the prescriptive reports, and in collaboration with the Head of **RESEARCH** the Head of **OBSERVATORIES**, will draft the final version of the *Draft Agreement*.
- The Head of **OBSERVATORIES**, together with the Head of **RESEARCH** shall submit to the **IU** the final version of the *Draft Agreement* and await the latter's approval.
 - If the *Draft Agreement* is accepted, the Agreement will be signed.
 - If the *Draft Agreement* is rejected, note will be taken of any modifications and the procedure will begin anew.

ANNEXE I: Guidelines for the drafting of technical documentation for the installation of a scientific facility in the Canary Islands Observatories

ANNEXE II: Guidelines for the construction and commissioning of a scientific facility in the Canary Islands Observatories

ANNEXE III: Guidelines for the drafting of a proposal memoire a scientific facility in the Canary Islands Observatories

Authors:

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- David López Nespral, Intern Administrator of Teide Observatory

Reviewed by:

- Jesús Burgos Martín. General Services Administrator.

Approved by:

- Governing Council CD34/24 (meeting of 16 October 2024).

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In compliance with regulations concerning the effective equality between men and women, and for the promotion of gender equality, all mention made in these Statutes of persons or positions, collectives or duties whose gender is masculine must be understood to refer the neutral gender and include both women and men⁴.

⁴ TRANSLATOR'S NOTE: In the English version the language is completely neutral, so the above statement serves no useful purpose and should be deleted. It is also misleading (there are no 'collectives or duties whose gender is masculine' in the English translation).

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ANNEXE I

Guidelines for the drafting of technical documentation for the installation of a scientific facility in the Canary Islands Observatories

In addition to the formalization of the agreement between the IAC and the IU, in Phase IIIa of this procedure it is necessary to prepare the technical documentation before applying for the necessary administrative licences and permits for the deployment of the planned facility.

When drafting the above mentioned documentation, the following instructions must be followed:

- An architectural and engineering study shall be contracted, preferably locally, for the preparation of the technical documentation needed for the construction of the facility or astrophysical equipment: Basic Project, Execution Project and Environmental Documentation.
- Coordination shall be arranged between the consultancy firm hired and the technical personnel of **OBSERVATORIES**, with the aim of establishing normalized criteria concerning materials, building elements and installations, keeping in mind the limitations and regulations applicable to the site.
- The technical documentation shall be prepared in accordance with Spanish legislation and regulations, which describes, measures and assesses the works defined in the project, determine the characteristics of the materials to be used, the criteria for their execution and the remuneration of the contractors.
- The documentation shall include Folders of Particular Technical Prescriptions that might be applicable to the works at the OT or ORM.
- The technical documentation shall be submitted for review and prior approval by the technical staff of **OBSERVATORIES**. The consultancy firm shall carry out the corrections and changes required by the technical staff of the IAC.
- The technical documentation shall be signed by an authorized technician and approved by the professional college or the corresponding supervisory office.
- Where Basic Project is being undertaken to request for an urban license prior to the Execution Project, no approval will be required for these documents.
- The architectural and engineering contract must include all the corrections and modifications that may be required by the local administrations during the process of environmental assessment and urban license.

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ANNEXE II

Guidelines for the construction and commissioning of a scientific facility in the Canary Islands Observatories

To ensure the proper integration of a scientific facility into the transversal and common infrastructures of the OCAN, IUs, within the framework of Phase IIIa, must comply with the following instructions:

- The commencement of works shall adhere to the terms and deadlines set down in the environmental impact assessment and the urban license.
- The work shall have an Optional Directive of Works, which shall be composed, as a minimum, of the Director of the Work and the head of Health and Safety, both of whom shall be skilled technicians. Depending on the nature of the site, the participation of technical assistants (biologist, environmentalist, archaeologist, etc.) may also be required.
- One or several accredited firms in the construction sector shall be contracted that must respect all the legal obligations pertinent to the site.
- The Certificate of Confirmation of Layout shall be prepared in the presence of technical personnel of **OBSERVATORIES**.
- Work on the facility or astrophysical equipment shall be carried out in conformity with Spanish legislation and regulations. At all times the terms of the environmental assessment, the urban licence and Prevention of Accidents at Work regulations must be complied with.
- Throughout the construction there shall be a process of coordination among the Promoter of the Work, the Optional Directorate of the Work, the contractor and technical personnel of **OBSERVATORIES**, with regular in-person meetings on the site of the works.
On termination of the works, the Certificate of Acceptance of the works shall be prepared in the presence of IAC technical staff, who shall verify that all the applicable terms of the urban license have been fulfilled.
- The facility or astrophysical equipment shall contribute to the common services of the observatory starting from the initiation of the works.
- Commissioning of the facility or astrophysical equipment shall take place, depending on its progress in the Monitoring Commission.
- All the documentation related to the facility or astrophysical equipment shall be delivered to the technical staff of the IAC. This includes: technical documentation describing the project as *built*, quality certificates, finalization and commissioning of the work, and the management of residuals.

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ANNEXE III

Guidlines for the drafting of a proposal memoire for a scientific facility at the Canary Islands Observatories

The Memoire accompanying the proposal for an installation may be of free format with the aim to avoid an excessive bureaucratic burden on the **IU**. The proposal may be presented in Word, pdf, ppt or any other format in current use in office software. However, the institution may be required to ensure portability of the files if they cannot be accessed via the systems in use at the IAC.

The documentation must cover at least the following aspects:

- General Description of the facility and its Scientific Objectives
- Entities involved in the project
- Funding for the construction, operation and maintenance
- Description of the involved technologies
- Time limits and conditions for the execution of works
- Brief summary of planning
- Dimensions of the facility:
 - Surface area of the main and auxiliary buildings
 - Describe the profile of the building
 - Total surface area of the urbanization (level platform, roads, etc.)
 - Storage and auxiliary spaces necessary during the construction
 - Maximum height of the building
- Service demands:
 - Estimate of the necessary electric power installed
 - Water supply needed for human consumption and cleaning
 - Telecommunications requirements: broad band, needs for redundancy, point-to-point links, etc.
 - List of equipment/supplies (together with their maintenance), which shall be the responsibility of all parties (Example: installation and revision of fire extinguishers, pressure equipment, interior electrical panels, etc.), taking future needs into account
- Basic prerequisites of location: sky visibility, wind, seeing, etc.

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