

# Annual report 2015 on the implementation of the principles of the German Public Corporate Governance Code (PCGC)

The PCGC sets out essential provisions of current law governing the management and supervision of companies in which the Federal Republic of Germany is a shareholder, as well as internationally and nationally recognized standards of good and responsible management.

According to Art. 33 of the Articles of Association of CTAO gGmbH the PCGC shall apply accordingly.

## **1. Preamble**

### **1.1 Content and objectives of the PCGC**

“The Code aims to make the German Corporate Governance system transparent and understandable. Its purpose is to promote the trust of international and national investors, customers, employees and the general public in the management and supervision of listed German stock corporations.

The Code clarifies the obligation of the Management Board and the Supervisory Board (alternatively the Shareholder Assembly (Council) if the articles of association of a company have not provided for a supervisory body as in the case of CTAO) to ensure good and responsible governance.

The recommendations of the Code are marked in the text by use of the word "shall". Companies can deviate from them, but are then obliged to disclose this annually and to justify the deviations (comply or explain). This enables companies to reflect sector and enterprise specific requirements. A well justified deviation from a Code recommendation may be in the interest of good corporate governance. Thus, the Code contributes to more flexibility and more self-regulation in the German corporate constitution. Furthermore, the Code contains suggestions which can be deviated from without disclosure; for this the Code uses the term "should". The remaining passages of the Code not marked by these terms contain descriptions of legal regulations and explanations.”

The PCGC-Report has not been set up for the short business year 2014 as CTAO was a start-up just beginning to establish the necessary functions and responsibilities. However, principles regarding the annual financial statement of a company are covered by the following report as the annual financial statement of CTAO for the business year 2014 was due in 2015.

## **2. Shareholders and meetings of shareholders**

### **PRINCIPLE 2.2:**

#### **PCGC:**

“The management shall submit to the meeting of shareholders the annual financial statement/group financial statement and the report on the corporation’s/group’s economic status for the preceding fiscal year within the first six months of the ongoing fiscal year, unless otherwise provided for by law or the corporation’s statutes. The meeting of shareholders shall resolve on the distribution of profits.

The meeting of shareholders shall resolve on the appointment and removal from office of members of the management and of the supervisory body, unless otherwise provided for by the law or the corporation's statutes. Furthermore, the meeting of shareholders shall approve the activities by the management and the supervisory body.

As a general rule, the meeting of shareholders shall also appoint the auditor.

The meeting of shareholders shall resolve in particular on the statutes and the purpose of the company, as well as on any modifications of the statutes and major entrepreneurial action that is to be taken."

#### **Implementation:**

Implemented in Art 18 (3), 22 (2) and 12 (2) b) and (3) e) of the Articles of Association (AoA).

The audited annual financial statement for the business year 2014 was submitted to Council Members on May 28, 2015. The annual financial statement for the business year 2014 was adopted, the net loss in the amount of 250.322,47 € is brought forward to new accounts and the Managing Director, Werner Hofmann, was given discharge for the business year 2014.

The Auditor RAT – Rieker Alber Thoni Revisions- und Treuhand GmbH Wirtschaftsprüfungsgesellschaft, Steuerberatungsgesellschaft, Stuttgart was appointed in the Council Meeting on November 13, 2015 by unanimous resolution.

#### **PRINCIPLE 2.3:**

##### **PCGC:**

"The meeting of shareholders shall be convened by the management at least once a year, with the agenda being set out in the convening notice. The agenda shall set out, in terms as precise as possible, the items to be deliberated on. The shareholders shall be given sufficient time to prepare for the discussion and the votes.

A record is to be prepared of the meeting of shareholders. Likewise, any resolutions adopted by shareholders outside of the meeting shall be recorded."

##### **Implementation:**

Implemented in Art. 11 (1) and (2) of the AoA and Rule 6 (1), 11 and 10 of the Rule of Procedure for the Council (RoP Council) and put into practice. In 2015 three Council Meetings were held on March 26, July 16 and November 13.

### **3. Collaboration of the management with the supervisory body (Council)**

#### **PRINCIPLES 3.1.1**

##### **PCGC:**

"The management and the supervisory body collaborate closely with each other on the basis of their reciprocal trust and in the best interests of the corporation. This trust is engendered in particular by

their compliance with the transparency, disclosure, and confidentiality obligations set out in the present Code. The observance of these duties is an essential obligation vis-à-vis the corporation and its representative bodies.

Based on the company purpose or object (Unternehmensgegenstand, Gesellschaftszweck) or on the purpose allocated to the entity responsible for the company (Unternehmenszweck), the management coordinates the corporation's strategic direction with the supervisory body and meets with it at regular intervals to discuss the status attained in implementing the strategy. “

**Implementation:**

The Principles were not implemented due to the fact that the Council has not established or foreseen a supervisory board beyond or above the Council. However, according to the notes regarding Principle 5, the shareholders are to take the measures required to oversee the management (Section 46 no. 6 of the German Limited Liability Companies Act). Thus, the Council is deemed the supervisory body in connection with the PCGC, whenever this is suitable. In the following, references in the PCGC to the supervisory body are considered referring to the Council.

In practice Art. 12 of the AoA and Art. 8 of the RoP for the Management Board provide a list of transactions of fundamental importance, which need prior approval by the Council.

Furthermore, the Managing director took part in three Council meetings in 2015 and presented among other things the status report regarding the development of CTAO and agreed with the Council on a strategy how to proceed in the future.

**PRINCIPLE 3.1.2**

**PCGC:**

“The statutes establish that the supervisory body is to approve any transactions of fundamental importance. These include decisions or measures that may lead to a significant change in the business activities as defined by the shareholders' agreement, or to a substantial change of the assets, of the financial situation or revenue, or of the company's risk structure.

This does not affect the competence of the supervisory body to reserve its approval regarding any further matters. The scope of transactions requiring such approval is to be defined such that in particular the management of stock corporations will be able to act on its own responsibility.”

**Implementation:**

Art. 12 of the AoA and Art. 8 of the RoP for the Management Board provide a list of transactions of fundamental importance, which need prior approval by the Council.

**PRINCIPLE 3.1.3.**

**PCGC:**

“The management and the supervisory body must jointly ensure that the supervisory body is adequately informed. The management is to inform the supervisory body regularly, in the near term, and comprehensively, of all issues relevant to the corporation in terms of planning, business development, the risk situation, risk management, and compliance, while also reporting on any

changes to the economic environment that might seriously affect the corporation. The management is to address instances in which the course taken by the business deviates from the plans and targets established and is to provide the reasons therefor. The content of the reporting obligations, and the intervals at which reports are made, shall be oriented by Section 90 of the Stock Corporation Act (Aktiengesetz, AktG) also for those companies that are not stock corporations. The supervisory body shall define more exactly, in rules of procedure, the information and reporting obligations of the management. As a general rule, the reports of the management to the supervisory body are to be submitted in text form. Any documents required as a basis for decisions, in particular the annual financial statement, the group financial statement, the report on the corporation's/group's economic status, and the auditor's report, shall be provided to the members of the supervisory body in due time prior to the meeting.

The supervisory body works towards prompt and proper reporting.”

### **Implementation:**

According to Art. 7 and 8 RoP for the Management Board the Managing Director is obliged to inform the Council regularly, promptly and fully on all Company relevant issues of strategy, planning, business development and financial issues, situation of risk, risk management and compliance.

In practice, this informational obligation is fulfilled by presentation of the CTAO gGmbH status report, the Budget and Budgetary Accounting by the Managing Director, the annual financial statement and the external auditor's report.

Report documents could not always be provided in accordance with Rule 6 RoP Council. i.e. two weeks before the Council meeting.

### **PRINCIPLE 3.2.1.**

#### **PCGC:**

“Good corporate governance requires that the discussions between the management and the supervisory body be open, as must be the internal deliberations of these representative bodies. For this reason, it is of utmost importance that full and comprehensive confidentiality be maintained.

All members of the company's representative bodies are to ensure that any third parties they may involve shall comply with the confidentiality obligation in the same way.”

### **Implementation:**

According to Art. 25 AoA and Art. 13 of the Associate Member Agreement Shareholder and Associate Members are obliged to keep confidentiality. Furthermore, guests in the Council Meeting signed a confidentiality agreement or are obligated to keep confidentiality by an employee or advisory contract. In practice confidentiality provisions are included in contracts with third parties, if they are not already legally bound to observe confidentiality.

### PRINCIPLE 3.3.1.

#### PCGC:

“The management and supervisory body observe the rules of proper corporate governance. Should they negligently or intentionally violate the obligation to exercise the due care usually exercised by a proper and prudent member of the management or of the supervisory body, they shall be liable to the corporation for compensation of damages. No such breach of duty shall be given for entrepreneurial decisions if the member of the management or of the supervisory body could reasonably assume that he or she was acting on the basis of adequate information and in the company's best interests.”

#### Implementation:

In practice, rules of proper corporate governance have been observed, especially by following the rules provided for in the AoA, the RoP Council and the RoP for the Management.

### PRINCIPLE 3.3.2.

#### PCGC:

D & O liability insurance for the members of the management and of the supervisory body should be concluded only by corporations that are subject to increased entrepreneurial and/or operational risks. In the event a stock corporation takes out insurance in order to protect a member of the board of management against risks entailed by his or her professional activities, a deductible of at least 10 percent of the damage up to at least the amount of 1.5 times the fixed annual remuneration of that member of the board is to be provided for; this type of deductible shall also be agreed for the members of the management of any corporations having a different legal form. An appropriate deductible shall be agreed for the members of supervisory bodies upon taking out such an insurance policy for them. The decision to take out D & O liability insurance and the reasons for doing so shall be documented, in particular as regards the usefulness and expediency of such insurance.

#### Implementation:

No D&O liability insurance was concluded in 2015.

### PRINCIPLE 3.4.

#### PCGC:

“The corporation shall not grant any loans to the members of the management or of the supervisory body, nor shall such loans be granted to their relatives.”

#### Implementation:

No loans were granted by CTAO in 2015.

## **4. Management**

### **PRINCIPLE 4.1.1.**

#### **PCGC:**

“The management has the primary responsibility for managing the corporation, and in so doing is bound to the company purpose (Unternehmensgegenstand) or the purpose allocated to the entity responsible for the company (Unternehmenszweck). On this basis, the management develops the strategic direction for the corporation, coordinates this with the supervisory body, and subsequently implements it.”

#### **Implementation:**

Implemented in Art. 20 AoA and Art. 7 and Art. 8 RoP for the CTAO gGmbH Management Board (RoP Management) which were observed by the Managing Director.

### **PRINCIPLE 4.1.2.**

#### **PCGC:**

“The management is to ensure compliance with the statutory provisions and internal guidelines and will promote compliance by the corporation’s affiliated companies.”

#### **Implementation:**

Internal guidelines are discussed with the AFC that was established only in July 2015 and had its first meeting on October 29, 2015. Internal signature regulations are in place, which ensure that the Managing Director is informed about all relevant decisions that could have an impact on the budgetary accounting.

### **PRINCIPLE 4.1.3.**

#### **PCGC:**

“The management shall ensure appropriate risk management and risk control within the corporation.”

#### **Implementation:**

Internal guidelines are discussed with the AFC that was established only in July 2015 and had its first meeting on October 29, 2015. Internal signature regulations are in place, which ensure that the Managing Director is informed about all relevant decisions that could have an impact on the budgetary accounting.

#### **PRINCIPLE 4.2.1.**

##### **PCGC:**

“As a minimum, the management shall consist of two persons.”

##### **Implementation:**

This was not implemented. However, the current situation is justified by Council’s decision to appoint only one managing director.

#### **PRINCIPLE 4.2.2.**

##### **PCGC:**

“Rules of procedure to be approved by the supervisory body shall govern the allocation of duties and cooperation within the management. The supervisory body may appoint a speaker of the management.”

##### **Implementation:**

Not applicable in 2015 as only one Managing Director was appointed.

#### **PRINCIPLE 4.3.1.**

##### **PCGC:**

“The remuneration paid to the members of the management shall be determined by the supervisory body, which shall take account of any emoluments paid within the group in deciding on an appropriate, performance-based amount; the criteria for determining whether or not remuneration is appropriate are formed in particular by the tasks the member of the management concerned is to perform; his or her personal performance; the performance of the management as a whole and the corporation’s economic situation; its prospects for the future; and the sustainability of the results achieved, taking into account comparable companies in the sector. Unless special reasons so require, this remuneration shall not be in excess of amounts usually paid.

The total remuneration paid to the members of the management is comprised of the monetary compensation; pension undertakings; other benefits, in particular benefits granted in the event their activity for the company ends; ancillary benefits of any kind; and performance by third parties either granted in the course of the fiscal year for the management activities, or undertaken to be so granted.

If the monetary compensation paid to the members of the management includes variable pay components in addition to a base salary, for example in order to keep up with the competitive market environment, the variable pay components shall include non-recurrent or annual components that are specifically tied to the sustainable success of the corporation, as well as components creating a long-term incentive that also include a risk factor (such as a system of bonuses and deductions for good or poor performance).

The entirety of the components making up the remuneration must be appropriate, both in and of themselves and taken as a whole. This also includes the option to reduce the remuneration, within the scope of what is legally possible, should the company's economic situation deteriorate.

Should the Federation allocate funds to the corporation, the relevant statutory provisions governing budgetary procedure shall be observed in determining the remuneration.”

**Implementation:**

The principle regarding the remuneration of the management board is not applicable as no remuneration was paid to the Managing Director in 2015.

**PRINCIPLE 4.3.2.**

**PCGC:**

“The remuneration is to be defined clearly in the employment contracts. Variable remuneration components shall be set out at the beginning of each fiscal year in a performance plan agreed with the supervisory body, and shall be oriented by sustainable governance. In order to ensure that in the interests of sustainably developing the corporation, the variable components create long-term incentives for managerial performance, the performance of the managers shall be assessed over several years and the variable component of their salaries shall be paid out only following the end of the assessment period. Any retroactive modification of the performance targets or of the comparison parameters shall be excluded. The supervisory body shall provide for means of capping the variable remuneration in the event of exceptional and unforeseeable developments.

In concluding employment agreements, it should be ensured that if a member of the management terminates his or her activities early, without grave cause being given, the payment then made including ancillary benefits does not exceed the value of two annual remunerations (settlement cap) and that such payment does not exceed the remuneration that would have accrued over the remaining term of the employment agreement. In calculating such payments, the total remuneration of the preceding fiscal year and, under certain circumstances, the foreseeable total remuneration for the ongoing fiscal year shall be used as a basis.”

**Implementation:**

The principle regarding the remuneration of the management board is not applicable as no remuneration was paid to the Managing Director in 2015.

**PRINCIPLE 4.4.1.**

**PCGC:**

“For the duration of their work for the corporation, the members of the management shall be subject to an encompassing prohibition of competition. “



**Implementation:**

Not applicable as CTAO fosters the fundamental research by the next generation ground-based very high energy gamma-ray instrument. CTAO will serve as an open observatory to a wide astrophysics community, thus no competition in an economical or in any other sense can be envisaged.

**PRINCIPLE 4.4.2****PCGC:**

“Members of the management are under obligation to pursue the object of the company. The members of the management and the employees of the company may not demand or accept from third parties any gratuities or other benefits in connection with their activities, neither for themselves nor for other persons, nor may they grant unjustified benefits to third parties.

No member of the management may pursue personal interests in taking decisions for the company, nor may any such member exploit for himself or herself business opportunities opening up for the company.”

**Implementation:**

The Managing Director was obliged to act accordingly (rule 10 (2) RoP Management). All employees of CTAO have been informed about the Principle.

**PRINCIPLE 4.4.3****PCGC:**

“Each member of the management shall immediately disclose to the supervisory body any conflicts of interest and shall inform the other members of the management thereof.

All transactions between the corporation on the one hand and the members of the management on the other hand, or persons related to them or companies or ventures with which they are personally affiliated, must comply with standards usual to the industry. Related party transactions of a significant nature require the approval of the supervisory body, unless this body will represent the corporation in concluding the transaction and its approval can thus be implied. “

**Implementation:**

Implemented in Art. 10 RoP Management Board. In practice no such conflict of interest or transaction occurred in 2015.

#### PRINCIPLE 4.4.4.

##### PCGC:

“The members of the management shall pursue additional occupations only with the approval of the supervisory body; this shall apply in particular to memberships in supervisory bodies.”

##### Implementation:

The Managing Director is also Director of the Max Planck Institute for Nuclear Physics, Heidelberg what is welcomed by the Council.

### 5. Supervisory body (Council)

#### PRINCIPLE 5.1.1.

##### PCGC:

“It is the task of the supervisory body to advise at regular intervals the management in leading the company and to monitor the management’s activities.

This supervision addresses the issues of whether the management decisions taken are proper, useful and expedient, and whether they ensure a cost-effective deployment of the funds available to the enterprise. This includes in particular the review of whether the corporation is pursuing activities in line with the tasks set out in its statutes.

The supervisory body is to be involved in decisions that are likely to fundamentally affect the corporation.

At regular intervals, the supervisory body and its committees shall review the quality and efficiency of their activities. The supervisory body shall monitor the implementation of the measures it has resolved be taken in this regard. “

##### Implementation:

As the CTAO has not instituted a supervisory body, the Council Members are to take the measures required to oversee the management (Section 46 no. 6 of the Limited Liability Companies Act (GmbHG)).

Implemented as a list of matters which require prior approval by the Council according to Art. 12 AoA and Art. 8 RoP for the CTAO Management Board, which was observed by the Managing Director.

No implementation yet with regard to the quality check of the Council’s supervising activities.

### PRINCIPLE 5.1.2

#### PCGC:

“To the extent it is incumbent upon the supervisory board to appoint the members of the management, the right to transfer this task to a committee shall not be exercised even in those cases in which such a transfer is possible.

Upon a member of the management being appointed for the first time, his or her appointment shall be limited to a term of three years.

Re-appointments during the period of the last year prior to the end of the appointment term, with the ongoing appointment being cancelled, shall be effected only for reasons absolutely requiring this to be done.

An age limit shall be set for the members of the management at which they must resign from the management.

The supervisory body shall work together with the management in making long-term plans for the succession within the management. “

#### Implementation:

According to Art. 18 (3) the Managing Director shall be appointed by the Council for a period not exceeding 3 years. As CTAO is an interim company no further rulings have been deemed necessary. In practice, the Managing Director of CTAO was appointed by the Council.

### PRINCIPLE 5.1.3.

#### PCGC:

“The supervisory body shall create and adopt rules of procedure for itself, unless the statutes have already established rules of procedure for the supervisory body.”

#### Implementation:

Implemented by the RoP Council as agreed upon in the Council Meeting on March 26, 2015.

### PRINCIPLE 5.1.4

#### PCGC:

“The chairperson of the supervisory body coordinates the work done by the supervisory body, chairs its sessions and represents the supervisory body externally, safeguarding its interests.

The chairperson and the other individual members shall not have the right to take decisions alone for the supervisory body.

The chairperson of the supervisory body shall simultaneously act as the chairperson of the committee dealing with the agreements concluded with the members of the management.”

**Implementation:**

Implemented especially in Rule 4, 6, 8, 10 and 11 of the RoP Council and Art. 10, 11 and 12 of the AoA.

**PRINCIPLE 5.1.5**

**PCGC:**

“The chairperson of the supervisory body shall regularly keep in contact with the corporation’s management to discuss the corporation’s strategy, its business development, and risk management.

The management shall immediately inform the chairperson of the supervisory body of significant events that are of essential import for assessing the situation and development and for managing the company. Thereupon, the chairperson of the supervisory body shall inform the supervisory body and shall convene an extraordinary session of the supervisory body should this be necessary.”

**Implementation:**

In Practice, this obligation is fulfilled by regular meetings of the Council, where a status report is provided by the Managing Director, and by meetings of the expert committees in the meaning of Art. 21 AoA. In addition, informal consultations between Managing Director and Chair and Vice Chair of Council take place as appropriate, by electronic means or in-person meetings.

**PRINCIPLE 5.1.6**

**PCGC:**

“Depending on the number of its members and on the specific economic circumstances of the company, the supervisory body may form expert committees with specific expertise that are to address specific technical issues. These issues include corporate strategy, capital expenditures, and finance.

The committees serve to increase the efficiency of the work done by the supervisory body and to deliberate on complex circumstances. The chairpersons of the respective committees shall report to the supervisory body at regular intervals on the work done by the committees.”

**Implementation:**

Three committees according to Art. 21 AoA have been established, the Administrative and Finance Committee (AFC), the Scientific and Technical Advisory Committee (STAC) and the In-kind Review Committee. Furthermore, a Strategic Working Group has been established and a Working Group advising Council regarding the selection of the location of CTA Headquarters and of the CTA Science Data Management Centre are planned to be established.

### PRINCIPLE 5.1.7

#### PCGC:

“Depending on the number of its members and on the specific economic circumstances of the company, the supervisory body shall in particular institute an audit committee that is to focus on issues of financial accounting and risk management; the required independence of the external auditor; the award of the audit contract to the auditor; the determination of audit focuses; and the fee agreement. The members of the audit committee must meet particularly high standards where their technical expertise is concerned.

The chairperson of the supervisory body shall not simultaneously act as chairperson of the audit committee. To the extent legally permissible, a member of the audit committee shall not have been member of the company management in the three years preceding his or her appointment to the said audit committee.”

#### Implementation:

Implemented by the establishment of the AFC. The Chairperson of the supervisory body (Council), Dr. Giampaolo Vettolani, and the Chairperson of the AFC, Mr. James Botha, are not the same person and the Chairperson of the AFC was not a member of the management of CTAO.

### PRINCIPLE 5.1.8.

#### PCGC:

“No use shall be made of the option of granting decision-making competencies to individual committees of the supervisory body. Instead, and as a general rule, resolutions shall be reserved for the plenary session of the supervisory body. To the extent the supervisory body is responsible for determining the remuneration of the members of the management, this responsibility shall not be transferred to a committee even in those instances in which such transfer is possible. Instead, the plenary session of the supervisory body shall continue to be responsible for this matter.”

#### Implementation:

According to Art. 21 AoA the established committees are only advisory committees. In practice: The supervisory body (Council) has not transferred decision making competencies to a committee.

### PRINCIPLE 5.2.1.

#### PCGC:

“In proposing candidates for appointment as members of the supervisory body, due care shall be taken to ensure that only such persons are appointed as members of the supervisory body who have the required knowledge, abilities, and technical experience; who are sufficiently independent; and who, in view of their professional obligations, are able to perform the tasks of a supervisory body member; in this context, equal opportunities are to be granted to women. As a general rule, the

members of the supervisory body delegated by the Federation or appointed at its initiative shall not be members of more than three supervisory bodies at the same time.

No-one shall be a member of a supervisory body who has business or personal relations with the corporation or its management that engender a serious and not merely temporary conflict of interests.

The members of a supervisory body shall not have any representative supervisory functions with major competitors of the company, nor shall they provide consultancy services to such competitors.

No more than two former members of the management shall be members of the supervisory body; for supervisory bodies having fewer than six members, no former member of the management shall become a member.”

**Implementation:**

According to Rule 7 of the RoP Council the conflicted Council Member shall withdraw from the discussion of such item. Each Council member is obliged to declare such actual or potential conflict of interest immediately to the Council. However, several Council Member’s institutes may in some way or other scientifically compete with the CTA project. Given the way international scientific projects are usually structured it is unavoidable that delegates of the Council Members will sometimes act also as delegates in such competing scientific projects.

**PRINCIPLE 5.2.2**

**PCGC:**

“An appropriate age limit shall be determined for members of the supervisory body.”

**Implementation:**

An age limit has not yet been introduced as CTAO is an interim company.

**PRINCIPLE 5.2.3**

**PCGC:**

“The members of a supervisory body are to observe their duties in person; they may not have others perform their tasks for them. Absent members may take part in the voting of the supervisory body by issuing specific instructions to a proxy holder.

The members of a supervisory body shall themselves ensure that they have sufficient time available to observe their duties. Should a member of a supervisory body fully attend fewer than half of the sessions of the supervisory body within a fiscal year, this shall be noted in the report issued by the supervisory body.”

**Implementation:**

According to Rule 1 of the RoP Council a concept of an alternate to the delegate of a shareholder is introduced, if the delegate of the shareholder is not able to attend the meeting. This ruling is justified to ensure that a meeting is quorate.

In addition the alternate receives all necessary information in order to be able to make an informed decision like the delegate. Furthermore, according to Rule 5.5 RoP Council a delegate or other person participating in a Council meeting may, at the sole discretion of the Chair, attend via teleconference or videoconference subject to technical feasibility.

**PRINCIPLE 5.2.4****PCGC:**

“Former members of the management shall not assume the chair of the supervisory body or of one of its committees upon their activities as members of the management ceasing. Should this be intended nonetheless, the specific reasons shall be provided to the meeting of shareholders.”

**Implementation:**

This principle is not included as a provision of the AoA. However, in practice this has not been the case.

**PRINCIPLE 5.3.****PCGC:**

“The remuneration paid to the members of the supervisory body shall be determined in the corporation’s statutes or by resolution of the meeting of shareholders.”

**Implementation:**

No remuneration is to be paid to the Council Members, the Chair and the Vice-Chair of the Council. However, according to rule 3 RoP Council CTAO shall assume the travel and subsistence expenses of the Chair and Vice- Chair attending the meetings of Council in this capacity and any other expenses derived from Council’s mandate.

**PRINCIPLE 5.4.1****PCGC:**

“Each member of the supervisory body is under obligation to pursue the object of the company. No member may pursue personal interests in taking decisions, nor may any such member exploit for himself or herself business opportunities opening up for the company.

Each member of a supervisory body shall disclose to same any conflicts of interest, in particular such conflicts that may arise due to consultancy provided to a customer, supplier, lender or other business partner, or due to the member having a representative supervisory function with that party.

In its report to the meeting of shareholders, the supervisory body shall disclose any conflicts of interest that may have arisen, also describing how they have been dealt with. Any major and not merely temporary conflicts of interest given in the person of a supervisory body member shall lead to their appointment ending.”

**Implementation: see above Principle 5.2.1.**

## PRINCIPLE 5.4.2

### PCGC:

“The corporation shall not conclude any consultancy agreements or other services agreements or work contracts with a member of a supervisory body.”

### Implementation:

Such ruling was deliberately not implemented as the Council Members are universities, agencies or institutes, which will foster the CTA project by in-kind contributions. Furthermore, no consultancy agreement or other service agreement or work contract was concluded with any Council Members’ delegate.

## 6. Transparency

### PRINCIPLE 6.1

### PCGC:

“The management and the supervisory body shall annually issue reports on the corporate governance of the company (corporate governance report). The report shall in particular comprise the declaration that the recommendations of the Public Corporate Governance Code of the Federation have been complied with and continue to be complied with. The report shall also set out the number of women appointed to supervisory bodies. Any instances of deviations from the recommendations must be explained and justified. In this context, a statement of position may be made regarding the suggestions made in the Code.”

### Implementation:

This corporate governance report is produced in collaboration with the Chair of the Council for the business year 2015. It was not provided in the short business year 2014 as CTAO was a start-up just beginning to establish the necessary functions and responsibilities. 3 out of 9 delegates of the shareholders (Council Members) and their alternates are women.



### PRINCIPLE 6.2.1

#### PCGC:

“The total remuneration for each member of the management shall be set out in the corporate governance report in a form understandable also to laypeople; individualised for each member and specifying the members’ names; citing the component that is independent of performance; the performance-related component of the remuneration; and the components having a long-term incentive effect. This applies also to benefits granted to the member, or to a previous member of the management, in the context of their termination, or benefits granted in the course of the fiscal year.

In newly appointing or re-appointing members of the management, the supervisory body is to ensure that such members contractually declare their consent to such disclosure.”

#### Implementation:

Remuneration of the Managing Director is not applicable as no remuneration was paid in 2015.

### PRINCIPLE 6.2.2.

#### PCGC:

“The remuneration for each member of the supervisory body shall be set out in the corporate governance report in a form understandable also to laypeople, individualised for each member, and differentiated by components.

Likewise, the remuneration paid by the corporation to the members of the supervisory body or the benefits granted for their personal performance, in particular consultancy and brokerage services, shall be specified separately.”

#### Implementation:

Not applicable as no remuneration was paid to any member of the Council, the Chair or Vice-Chair in 2015.

### PRINCIPLE 6.3

#### PCGC:

“Information published by the corporation that concerns the corporation itself shall also be accessible via its website. This includes the corporate governance report and the annual financial statement with its annexes as well as, should this be required, the report on the corporation’s economic status.”

## **Implementation**

According to Section 325 German Commercial Code (HGB) CTAO as a micro-sized company is only obliged to deposit a shortened version of the annual financial statement and inform publicly about the deposit. This obligation was fulfilled on November 24, 2015 as the information about the deposit was published in the electronic version of the German Official Gazette. As CTAO's website is still under revision, it was abstained to publish this information on the CTAO's website.

## **7. Financial accounting, audit of the annual financial statement**

### **PRINCIPLE 7.1.1**

#### **PCGC:**

"Shareholders as well as third parties are informed in particular by the annual financial statement / report on the corporation's economic status and by the group financial statement / report on the group's economic status.

Unless otherwise stipulated by further-reaching provisions of the law, or statutory provisions or considerations as to the measures' usefulness and expediency contravene this, the annual financial statements / group financial statements and reports on the corporation's / group's economic status will be prepared in analogous application of the provisions made in Part Three of the Commercial Code (Handelsgesetzbuch, HGB) for large companies limited by shares and shall be audited in line with these provisions."

#### **Implementation:**

According to Art. 22 (1) of the AoA the rule of the HGB regarding the preparation and audit of the annual financial statement and the management report for large-scale corporations shall apply mutatis mutandis. In practice this has been observed.

### **PRINCIPLE 7.1.2**

#### **PCGC:**

"The annual financial statement / group financial statement and the report on the corporation's / group's economic status shall be prepared by the management and shall be reviewed by the auditor and the supervisory body."

#### **Implementation:**

According to Art. 22 of the AoA the annual financial statement and the management report have to be prepared by the Management Board and audited by a certified independent auditor. According to Art. 12 (3) e) the Council has to approve the adoption of the annual financial statement. In practice, the audit report including the annual financial statement and the management report for the business year 2014 was sent to the Council Members on May 28, 2015. The annual financial statement was adopted by Council on July 16, 2015.

### PRINCIPLE 7.1.3

#### PCGC:

“The corporation shall publish a list of third party companies in which it holds an equity share in a greater than negligible scope. Should the corporation prepare an annual financial statement / group financial statement, the list shall be included as part of the explanatory notes attached to the financial statement / group financial statement as an annex.”

#### Implementation:

Not applicable as CTAO holds no equity in other companies.

### PRINCIPLE 7.1.4

#### PCGC:

“The explanatory notes annexed to the annual financial statement shall discuss relationships with shareholders who are to be qualified as related parties within the meaning of the rules applicable to financial accounting.”

#### Implementation:

In practice, the shareholders' contributions - cash or in-kind - are shown in the annual financial statement under capital reserves.

### PRINCIPLE 7.2.1

#### PCGC:

“Prior to submitting a nomination for the auditor, the supervisory body or the audit committee shall procure a declaration from the nominated auditor in which he or she discloses any business, financial, personal or other relations existing between the auditor and the representative bodies of his or her company on the one hand and the corporation and the members of the company's representative bodies on the other, specifying their nature, that might give rise to doubts regarding his or her independence. The declaration shall also discuss the scope in which other services were provided to the company in the preceding fiscal year by the auditor, in particular in the field of consultancy services, or which have been agreed for the subsequent year. This declaration by the nominated auditor shall be filed with the business records.”

**Implementation:**

In practice this was reported in the AFC meeting on October 29, 2015 and the Council Meeting on November 13, 2015. The English version of the declaration was sent to the Chairperson, Dr. Giampaolo Vettolani, afterwards and taken to the company's file.

**PRINCIPLE 7.2.2****PCGC:**

“To the extent provided for by law, the supervisory body awards the audit contract to the auditor and concludes a fee agreement with the auditor. The supervisory body shall agree with the auditor that the chairperson of the supervisory body or of the audit committee is to be informed without undue delay of any reasons for which the auditor might potentially have to withdraw from the audit contract or for which the auditor is not an impartial, independent party, unless such reasons are remedied immediately.”

**Implementation:**

For corporations without a supervisory body, the statutory representative shall award the audit contract to the auditor and shall conclude the fee agreement with same (Section 318 (1) fourth sentence of the Commercial Code (Handelsgesetzbuch, HGB)). Thus, the audit contract with the appointed auditor, R.A.T. RIEKER ALBER THONI, Revisions- und Treuhand GmbH Wirtschaftsprüfungsgesellschaft, Steuerberatungsgesellschaft, Stuttgart will be concluded immediately after the minutes of the Council Meeting on November 13, 2015 including the resolution regarding the appointment of the auditor will have been sent out.

**PRINCIPLE 7.2.3****PCGC:**

“The supervisory body shall agree that the auditor is to report, without undue delay, any and all findings and events significantly affecting the tasks of the supervisory body that may be established or that may occur during the audit of the annual financial statement. The supervisory body shall agree that the auditor is to inform it, or is to record in the auditor's report, any instances in which the auditor establishes circumstances in the course of auditing the annual financial statement that would result in the declaration regarding the Public Corporate Governance Code of the Federation being incorrect that has been made by the management and the supervisory body. For corporations that do not have a supervisory body, the statutory representative shall agree the corresponding reporting and information obligations with the auditor.”

**Implementation:**

In practice, the contract with the auditor includes the reference to the Public Corporate Governance Code, especially to 7.2.3.

#### PRINCIPLE 7.2.4

##### PCGC:

“The auditor shall attend the deliberations of the supervisory body or of the corresponding committee instituted by the supervisory body concerning the annual financial statement or the group financial statement and shall report on the essential findings of the audit at such meetings.”

##### Implementation:

In practice this principle was not followed as it deemed to be rather uncommon in the scientific environment.

Heidelberg, February 22, 2016

A handwritten signature in black ink, appearing to be 'J. Holz', written in a cursive style.

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Managing Director