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NOTE

From: Presidency
To: Permanent Representatives Committee/Council

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Subject: *Preparation of the Council of the European Union (Competitiveness (Internal Market, Industry, Research and Space)) 29 and 30 November 2018*
Regulation establishing the space programme of the Union (First reading)
- *Progress report*

I. INTRODUCTION

1. On 6 June 2018 the Commission presented the above-mentioned proposal for a Regulation to the European Parliament and the Council.

2. The proposed Regulation is part of the follow-up to the Commission's Communication on a space strategy for Europe (SSE). The general objectives of the proposed new programme are as follows:
- provide high-quality, up-to-date and, where appropriate, secure space data, information and services, where possible on a global scale, meeting existing and future needs and able to meet the Union's political priorities;
 - maximise the socio-economic benefits, including by promoting the widest possible use of the data, information and services provided by the Programme's components;
 - strengthen the security of the Union and its Member States, its freedom of action and its strategic autonomy;
 - promote the role of the Union in the international arena as a leading actor in the space sector and strengthening its role in tackling global challenges and supporting global initiatives.
3. The proposed space programme aims to safeguard the continuity and evolution of Galileo and EGNOS (European Geostationary Navigation Overlay Service), the EU GNSS satellite positioning system, and of Copernicus, the world's most advanced Earth Observation system. The Space Situational Awareness (SSA) initiative will support the long-term sustainability and security of space activities by ensuring protection against space hazards. The new Governmental Satellite Communication (Govsatcom) initiative will provide Member States and EU security actors with guaranteed access to secure satellite communications.

4. The Commission proposes to:
- Simplify and streamline the existing EU legal framework on space policy. For the first time all space activities are included under one single legal basis (Art. 189 TFEU, Space). The proposal combines in a single text and harmonises the various rules which were so far contained in separate regulations or decisions and adds new elements;
 - Provide for the budgetary contributions and mechanisms, subject to the outcome of negotiations on the Multiannual Financial Framework 2021-2027. The programme shall have an overall budget of EUR 16 billion in current prices for the period 2021-2027 with the following indicative breakdown: for Galileo and EGNOS: EUR 9.7 billion; for Copernicus: EUR 5.8 billion; for SSA and Govsatcom: EUR 0.5 billion;
 - Establish a unified and simplified system of governance. The Commission will continue to be responsible for managing the overall programme. The Commission proposes that the European Global Navigation Satellite Systems Agency, to be renamed as the 'EU Agency for the Space Programme', will increasingly support the exploitation and market uptake of EU space activities and play an increased role in ensuring the security accreditation of all the components of the programme. The European Space Agency (ESA), given its unmatched expertise, will remain a major partner in the technical and operational implementation of the EU space programme;
 - Specify and standardise the security framework for the Programme, particularly as regards the principles to be respected, procedures to be followed and measures to be taken.
5. The European Parliament's Committee on Industry, Research and Energy (ITRE) appointed Mr Massimiliano Salini (EPP, IT) as rapporteur and has scheduled its vote on a draft report on 21 November 2018. The plenary vote is expected to take place in December 2018.
6. The European Economic and Social Committee adopted and delivered its opinion on 17 October 2018¹, while that of the Committee of the Regions is still pending.

¹ Doc. 13686/18.

II. WORK WITHIN THE COUNCIL

7. The Working Party on Space has examined this proposal during 20 meetings under the Bulgarian and Austrian Presidencies.
8. Since the proposed Regulation is one of the package of proposals linked to the new MFF, all provisions with budgetary implications or of horizontal nature have been set aside pending further progress on the MFF. These provisions, which appear between square brackets in the text, concern the climate target (Recital 13), the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States (Recital 22), the participation of third countries in EU programme (Article 7(2)), Ownership and use of assets - contracts or other arrangements with third parties (Article 9(3) and (4)), and the financial envelope for the implementation of the Programme (Article 11(1)).
9. The impact assessment accompanying this proposal was examined in detail on 13 and 26 June 2018, especially focusing on aspects for which delegations requested further clarifications. On the basis of answers to the checklist certain specific issues were also identified which required particular attention and an in-depth discussion.
10. Delegations welcomed the Commission's proposal that builds on the 2016 Space Strategy for Europe and broadly supported the simplification and streamlining of the rules and the financial envelope proposed. Member States consider of paramount importance the continuity of the Space Flagships programmes (Copernicus, Galileo and EGNOS) and also welcomed the elements related to competitiveness for "old" and "New" Space actors, especially for SMEs and start-ups, as well as those regarding space as enabler of the digital economy, synergies with other Union programmes, inclusiveness and capacity building measures.

III. MAIN OUTSTANDING ISSUES AND MAIN CHANGES TO THE TEXT

11. The Space Working Party completed the examination of the text, with the exception of the provisions relating to security, pending the delivery of the opinion of the Council Security Committee (CSC) on that part, requested by the Space Working Party in July 2018.
12. The latest Presidency compromise proposal appear in the addendum to this document (doc. 13987/18 ADD 1). The discussions were articulated around the following topics:
 - a) Governance (Articles 27-32): the text has been improved to further clarify the division of roles among all actors (Commission, Member States, the European Union Agency for the Space Programme and the European Space Agency (ESA)). Further work is needed to better frame the scope of the activities to be performed by the Union Agency.

In connections to Governance, Article 107 "Committee procedure" has been modified to include different configurations for the Programme Committee: a cross-cutting configuration and a configuration for each component, all having equal rights. The "Security" configuration will be further examined once the CSC opinion is available.
 - b) Access to space (Article 5): further work is needed to define the perimeter of the activities under access to space.
 - c) General provisions (Articles 1-10): the definitions have been aligned with the changes introduced to the various parts of the text and some new definitions have been introduced. The provisions related to the components and the objectives of the programme have been further clarified.
 - d) Budgetary contributions and mechanisms (Articles 11-13): a ceiling for reallocating funds between categories of expenditure has been added.

- e) Financial provisions (Articles 14-26): a procurement Board to monitor the procurement process has been added and some provisions further clarified. However, further work on this Title is needed, in particular on Article 25 "Protection of essential security interest of the Union".
 - f) Programme components (Galileo and EGNOS, Copernicus, Space Situational Awareness (SSA) and Govsatcom) (Articles 43-69): the provisions have been further detailed and clarified.
 - g) Union's Agency (Articles 70-99): a number of clarifications have been introduced for the provisions related to the functioning of the Union's Agency.
 - h) Indicators (Annex): two sets of indicators have been developed, one for the annual reporting and one for multiannual evaluations on the implementation of the programme.
13. Despite the significant efforts deployed and the substantial progress made, the Presidency is aware that further work is needed. It is the Presidency's intention to present shortly a revised compromise proposal to the Space Working Party with a view to reaching an overall agreement on the text and seek a mandate from Coreper to start negotiating with the European Parliament as soon as possible.

IV. CONCLUSION

14. The Permanent Representatives Committee and the Council are invited to take note of the above report on the progress made in the examination of the proposal for a Regulation establishing the Space Programme of the Union.