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Subject: *Preparation of the Council ("Competitiveness") of 20-21 February 2014*  
Establishing appropriate relations between the European Union and the European Space Agency (ESA)  
— Presentation by the Commission  
— Exchange of views

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**I. INTRODUCTION**

***European Union achievements in space***

1. Space constitutes an integral part of the policies underpinning smart and inclusive growth and with high potential to contribute to the fulfillment of the Europe 2020 Strategy, in particular its industrial competitiveness flagship initiative.

2. The Union has gone a long way in achieving concrete results with space programmes. Basic acts for flagship programmes, such as Galileo/GNSS and Copernicus, have been established and reinforced allowing these programmes to reach operational capability in the near future. The foundations for the protection of space systems have been set with the Space Surveillance and Tracking support framework. Union research programmes, including Horizon 2020, have increasingly underpinned research and innovation actions regarding strategic priorities for space. Space programmes have proven to be an invaluable tool for the implementation of numerous Union policies and for directly addressing the needs of European citizens.
3. In the last 15 years, the appropriate vision for a space strategy and space policy, including the European Space Policy initially designed in the context of the EU-ESA Framework Agreement, have been extensively debated through Commission Communications and Council conclusions. The analysis that ensued has focused on high-level political objectives, such as autonomy and industrial competitiveness, the content of space policy, in particular flagship programmes, such as GNSS/Galileo, Copernicus, and associated transversal activities, including international cooperation and research and development, roles and responsibilities of the different actors involved and implementation aspects, such as governance and financing.
4. Space has become an instrument for the achievement of the Union objectives and a Union policy in its own right. The Treaty on the Functioning of the European Union (TFEU) has established the Union's competence over space matters, without prejudice to the Member States' own competences. The Treaty (Article 189 TFEU) specifies that the Union shall draw up a European space policy to promote scientific and technical progress, industrial competitiveness and the implementation of its policies. To this end, it may promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space. It also provides that the EU shall establish any appropriate relations with the European Space Agency (ESA).

5. The EU-ESA Framework Agreement<sup>1</sup> signed in May 2004 and renewed until 2016, provides a common basis for the operational arrangements for an efficient and mutually beneficial cooperation, as well as the legal basis for programmatic cooperation between the EU and ESA, including ESA's role in delivering the EU space programmes.

### *EU-ESA relations*

6. The specific issue of the relations between the Union and ESA has been addressed in recent communications by the European Commission<sup>2</sup>.

The conclusions adopted by the Council on 31 May 2011<sup>3</sup> recalled "that the European Space Policy governance is based on three main actors, the EU, ESA and their respective Member States, and underlined that the Union's enhanced role in European space policy goes hand in hand with increased interaction among these three actors based on the complementarity of their roles and responsibilities". The conclusions welcomed, inter alia, "the Commission's commitment to further developing the EU-ESA relationship on the basis of the EU-ESA Framework Agreement, avoiding any unnecessary duplication of activities and improving their complementarity of efforts".

7. Moreover, conclusions adopted by the Council on 18 February 2013<sup>4</sup> recognised "that there may be a need to review and enhance the functioning of the relationship between the EU and ESA in view of the changes in the political context, the increasing role of the EU in the space domain, competitiveness challenges faced by the space sector and the growing importance of space activities for society" and "that the Framework Agreement and its governance elements may, in its present form, no longer provide the most appropriate framework with which to ensure an efficient and effective European space policy that fully utilises in a coherent manner the respective competencies of both the EU and ESA".

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<sup>1</sup> OJ L 261/64 of 6.8.2004

<sup>2</sup> Doc. 8693/11 and doc.16374/12

<sup>3</sup> Doc. 10901/11

<sup>4</sup> Doc. 6571/13

The Council further considered "that there was merit in the Commission proposal to work closely with ESA to carry out a comprehensive cost-benefit analysis and impact assessment of a set of options, including those proposed in its Communication<sup>5</sup>" and invited "the European Commission to work together with the Director General of ESA and in close cooperation with the respective EU and ESA Member States, including through existing forums<sup>6</sup> to ensure coherence, convergence and complementarity with a view to preparing common proposals on the further evolution of EU/ESA relations on the basis of common analysis, for decisions by the respective bodies by 2014".

8. In parallel, the ESA Ministerial Council, which took place in Naples on 20-21 November 2012, adopted a political declaration addressing the further planning on issues related to EU-ESA cooperation. In the political declaration, the Ministers of ESA Member States, emphasised their readiness to start a reflection on the further evolution of ESA and to play their role in ensuring the coherence and coordination between the respective processes on both the ESA and EU sides.
9. Since then, the Commission has conducted a preliminary assessment of the four options for the further evolution of the EU-ESA relations, as presented in its Communication of November 2012. On 6 February 2014, the Commission adopted a progress report<sup>7</sup> presenting the current status of reflections within the Commission. For its part, the ESA Executive has conducted a similar exercise, which was presented at the ESA Council meeting on 18 December 2013. Reports from the Commission and the ESA Director General indicate that although both sides have taken parallel tracks in analysing options for the evolution scenarios, the scope of their analyses is converging.
10. A first exchange of views on the Commission progress report took place at the Space Working Party meeting on 7 February 2014.

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<sup>5</sup> Doc. 16374/12

<sup>6</sup> High Level Space Policy Group and Space Policy Expert Group

<sup>7</sup> Doc. 5978/14

## **II. SETTING THE CONTEXT FOR THE WAY FORWARD**

11. Political orientations from Ministers are expected on the next steps which the Commission could take with the Director General of ESA in order to provide Member States in the two institutional environments with concrete, coherent and converging proposals on improving the current framework of EU-ESA relations.
12. In order to proceed fruitfully with this debate, it is important to keep in mind the broader space policy context and Europe's long-term strategic vision including high-level political objectives for autonomy and industrial competitiveness. It is in this framework that the respective roles and responsibilities of the EU, ESA and Member States should be thoroughly examined taking into account related programmatic priorities (e.g. approach for the different phases of the programmes), specific institutional needs (e.g. roles of Member States in the Union and ESA context), financial (e.g. procurement rules), administrative and legal aspects (e.g. types of implementation arrangements). This analysis will allow the determination of not only the appropriate type of cooperation but most importantly the content of such cooperation.
13. This overall vision should help design an appropriate relationship with ESA which should be based on mutual trust, sincere cooperation and avoidance of duplication.
14. Taking into account the aforementioned points, 2014 can be a decisive year towards shaping the relations of the Union with ESA. Given the complexity of the matter, deliberations are expected to span across the full year and will allow Council to provide orientations for future proposals on the way forward from 2015 onwards.

### III. QUESTIONS FOR THE EXCHANGE OF VIEWS

15. In the light of the overall context described above, the Presidency invites the Council ("Competitiveness – Space part") on 21 February 2014 to address the following questions:

- Taking into account the Union's achievements in space hitherto and reaffirming high-level political objectives for autonomy and industrial competitiveness in an increasingly complex globalisation context, what do Member States consider to be the appropriate measures that the Union can take to further stimulate growth through space systems, technologies and services? How can cooperation with the European Space Agency contribute towards this political goal?
- Putting things into perspective, what are the Member States' views on the cooperation scenarios analysed in the Commission's progress report and do Member States share the report's conclusion that further work, including more in-depth cost/benefit analyses, should focus on options 2 and 3?
- In the current Multiannual Financial Framework, ESA will manage EU space programmes (GNSS/Galileo and Copernicus) in line with their basic acts and according to the conditions of specific delegation agreements. Do Member States consider that beyond the scenarios, the cooperation between the Union and ESA should take stock of the lessons learnt from these programmes, in order to streamline and simplify the overall implementation and to prepare the ground for a more forward-looking, solid and sustainable basis?