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NOTE

From: Presidency
To: Permanent Representatives Committee

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Subject: Proposal for a Directive of the European Parliament and the Council on the dissemination of Earth observation satellite data for commercial purposes
- Guidance for future work

I. INTRODUCTION

1. On 17 June 2014, the Commission adopted the proposal for a Directive of the European Parliament and the Council on the dissemination of Earth observation satellite data for commercial purposes¹, with a legal basis in Article 114 of the Treaty on the Functioning of the European Union (TFEU).

¹ Doc. 11002/14+ADD1+ADD2+ADD3

2. The dissemination of high resolution satellite data by commercial operators is regulated individually by the Member States where they are registered. There is not a common approach at the national regulatory level for the treatment of high resolution satellite data and for services and products deriving from these data. The number of Member States dealing with high resolution satellite data is likely to increase in the future.
3. The aim of the Commission's proposal is to ensure the proper functioning and development of the internal market of Earth observation satellite data for commercial purposes by establishing a transparent, fair and consistent legal framework across Member States. This proposal would apply to the dissemination of Earth observation data generated by Earth observation systems.

II. STATE OF PLAY

1. Under the Hellenic Presidency, the Proposal was presented at the SPACE Working Party (SPACE WP) meeting on 23 June 2014.
2. As requested by several Member States during that meeting as well as to follow-up from the 2014 Annual report on Impact Assessment within the Council² and the recommendations of Coreper³, the Italian Presidency dedicated three SPACE WP meetings (10 July, 4 September and 29 September 2014) to the analysis of the Impact Assessment (IA) of the Proposal. These discussions identified a need for further information, justification and explanations by the Commission on some general as well as specific issues, related to the IA.

² doc. 10882/14

³ doc. 8406/13

3. The SPACE WP on 29 September was in particular dedicated to the examination of the additional information provided by Commission about the IA, further to the requests by several delegations addressed during the SPACE WP meeting on 4 September.

4. A majority of delegations considers the IA and the additional information provided insufficient in evidence to justify the proposed Directive, and they have expressed against the starting of the analysis of the legislative text by the SPACE WP at this stage.

Member States' concerns relate mainly to:

- the narrow scope of the consultations undertaken (lack of consultation of security experts, end users, etc);
- the lack of quantification of costs and poor economic analysis, in particular concerning the administrative costs of the transposition of the Directive for MS without high resolution Earth Observation (EO) capabilities, as well as for those MS having no legislation in place;
- the lack of consideration of existing regulatory regimes (both within and outside of Europe), and how they have impacted upon growth;
- the lack of evidence that the functioning of the internal market is hindered;
- the lack of evidence to justify the proposed solution;
- the lack of a comparative analysis of options 2 (recommendation) and 3 (directive) of the IA.

III. CONCLUSIONS

The Permanent Representatives Committee is invited to give political guidance to the SPACE WP on further handling of the proposal for a Directive on the dissemination of Earth observation satellite data for commercial purposes.
