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DECLASSIFICATION¹

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

¹ Document declassified by the European Commission on 24 May 2019.

RESTREINT UE



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 4 September 2003
(OR. en)**

12249/03

RESTREINT UE

RECH 134

COVER NOTE

from : the Secretary-General of the European Commission
signed by Mrs Patricia BUGNOT, Director

date of receipt : 1 September 2003

to : Mr Javier SOLANA, Secretary-General/High Representative

Subject : Proposal for a Council Decision on the signing of the Framework Agreement
between the European Community and the European Space Agency

Delegations will find attached Commission document SEC(2003) 919 final.

Encl.: SEC(2003) 919 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 1.9.2003
SEC(2003) 919 final

RESTREINT UE

Proposal for a

COUNCIL DECISION

on the signing of the Framework Agreement between the European Community and the European Space Agency

(presented by the Commission)

DECLASSIFIED

EXPLANATORY MEMORANDUM

Proposal for a Council Decision on the signing of a Framework Agreement between the European Community and the European Space Agency

Following the Communication “*Europe and Space: Turning to a New Chapter*”² of 2000 and the subsequent ESA and EU Council Resolutions on the European Space Strategy, the European Commission and the Executive of ESA set up a Joint Task Force.

In its report from 2001, the Joint Task Force between the Commission and the ESA-Executive assessed all aspects of the co-operation between the European Union and the European Space Agency (ESA). The report formed the basis for the Communication of the Commission entitled, “*Towards a European Space Policy*”³.

One of the main conclusions of the Communication was that a successful development and implementation of a European Space Policy requires the establishment of a formal relation (“Framework Agreement”) between the European Community and the European Space Agency, which defines the principles and mechanisms of a reinforced co-operation.

Accordingly, the Commission adopted on February 14, 2002 a Communication “*Framework Agreement between the European Community and the European Space Agency*”⁴, in which it outlined its perception of the main contents of such an agreement and in which it proposed to the Council to negotiate such an agreement on behalf of the Community.

The corresponding mandate was given to the Commission by the EU Council, meeting on March 27, 2002, together with a set of negotiating directives⁵.

The ESA-Executive already received a similar mandate⁶ in its Ministerial Council of November 15, 2001, in the presence of the President of the Commission.

The Framework Agreement was negotiated in accordance with the above mentioned EU Council directives by the authorised representatives of the two parties.

The Agreement, by providing a general, overarching formal relationship between the two organisations, represents another important step forward in the co-operation between the European Community and the ESA.

² COM(2000)597 “*Europe and Space: Turning to a New Chapter*”

³ COM(2001)718 “*Towards a European Space Policy*”

⁴ SEC(2002)155 “*Framework Agreement between the European Community and the European Space Agency*”

⁵ doc. 8488/02 RECH 80 RESTREINT

⁶ ESA/C-M/CLIV/Res. 1 (Final)

In the light of the above considerations, the Commission proposes that the Council should decide:

- that the Framework agreement should be signed on behalf of the European Community;
- that the President of the Council should be authorised to appoint the person duly empowered to sign on behalf of the European Community.

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Proposal for a

COUNCIL DECISION

on the signing of the Framework Agreement between the European Community and the European Space Agency

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 170 thereof, in conjunction with the first sentence of the first subparagraph of Article 300 (2) thereof,

Having regard to the proposal from the Commission⁷,

Whereas

- (1) The Commission has negotiated, on behalf of the Community, a Framework Agreement with the European Space Agency;
- (2) Subject to possible conclusion at a later date, the Agreement should be signed,

HAS DECIDED AS FOLLOWS:

Sole Article

1. Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the person empowered to sign, on behalf of the European Community, the Framework Agreement between the European Community and the European Space Agency.

Done at Brussels,

*For the Council
The President*

⁷ SEC (2003)...

FRAMEWORK AGREEMENT

BETWEEN THE EUROPEAN COMMUNITY AND THE EUROPEAN SPACE AGENCY

The European Community,

and

The European Space Agency,

(hereafter also collectively referred to as “the Parties”)

Whereas the European Community and the European Space Agency consider that closer co-operation between them will strengthen the peaceful use of space as an important tool to contribute to European cohesion and economic growth, and will allow to bring space-related activities to a wider political, economic, scientific, environmental and social framework more directly at the service of European citizens;

Whereas each Party is confident that such co-operation will create added value for the benefit of European citizens;

Whereas the Parties recognise that they have specific complementary and mutually reinforcing strengths and are committed to co-operating in an efficient and mutually beneficial manner and to avoiding any unnecessary duplication of effort;

Whereas space technology has become a unique and critical technology enabling the Community to address and achieve a large number of the goals of its policies, notably related to information society, transport and environmental protection;

Whereas to the various Resolutions⁸ adopted by the Council of the European Union and by the Council of the European Space Agency, the Council of the European Space Agency and the Council of the European Union have encouraged the establishment of a framework for co-operation between the Parties, while maintaining their respective distinct tasks and responsibilities;

⁸ The EU Council Resolutions of :
22 June 1998, OJ C 224, p.1-2;
2 December 1999; OJ C 375, p.1.;
16 November 2000; OJ C 371, p.2-3; referring to the European Strategy for Space as outlined in COM(2000)597 and ESA/C(2000)67;
10 December 2001: 14888/01;

The ESA resolutions of:
23 June 1998: ESA/C/CXXXVI/Res.1 (Final)
11 May 1999: ESA/C-M/CXLI/Res. 1 (Final);
ESA/C(2000)67;
ESA/C-M/CXLVIII/Res. 1 (Final), 16.11.2000, referring to the European Strategy for Space as outlined in COM(2000)597 and ESA/C(2000)67;
ESA/C-M/CLIV/Res. 1 (Final), 15.11.2001;
ESA/C-M/CLXV/Res.3 (Final), 27.5.2003

Whereas the Decision N° 676/2002 of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (“Radio Spectrum Decision”) is relevant given that any space systems or applications will depend on the availability of radio frequencies.

Have agreed as follows:

ARTICLE 1: PURPOSE OF THE CO-OPERATION

The aim of this Framework Agreement is to address the following issues:

1. The coherent and progressive development of an overall European Space Policy. Specifically, this policy shall seek to link demand for services and applications using space systems in support of the Community policies with the supply of space systems and infrastructure necessary to respond to that demand.
2. The establishing of a framework providing a common basis and appropriate operational arrangements for an efficient and mutually beneficial co-operation between the Parties with regard to space activities in accordance with their respective tasks and responsibilities.

The co-operation under this Framework Agreement between the Parties aims at:

- (a) Securing Europe’s independent and cost-effective access to space and the development of other fields of strategic interest necessary for the independent use and application of space technologies in Europe;
- (b) Ensuring that the European Space Policy takes into account the general policies pursued by the European Community;
- (c) Supporting Community policies by using space technologies and space infrastructures where appropriate and promoting the use of space systems in support of sustainable development, economic growth and employment;
- (d) Optimising the use of expertise and available resources and contributing to the consolidation of the close co-operation between the European Community and ESA, thereby linking the demand and supply of space systems within a strategic partnership;
- (e) Achieving greater coherence and synergy of research and development in order to optimise the use of resources available in Europe, including the network of technical centres.

ARTICLE 2: PRINCIPLES OF CO-OPERATION

1. The co-operation between the Parties shall be pursued in light of the common objectives as defined under Article 1, with due regard to their respective tasks and responsibilities and their respective institutional settings and operational frameworks.
2. Each Party shall take the decisions necessary for the implementation of this Agreement, as described in Article 4, in accordance with its own internal procedures.
3. Having in mind the nature of space technologies and infrastructures, both Parties, in implementing this Agreement, will take into account their security dimension.

ARTICLE 3: FIELDS FOR CO-OPERATION

1. The Parties have identified the following specific fields of co-operation:
 - Science
 - Technology
 - Earth observation
 - Navigation
 - Communication by satellite
 - Human space flight and micro-gravity
 - Launchers
 - Spectrum policy related to space
2. The Parties may identify and develop new fields for co-operation.

ARTICLE 4: IMPLEMENTATION

1. For the implementation of this Agreement each Party will undertake, in compliance with its own prerogatives, legal instruments and procedures, such actions required to achieve the purpose of the co-operation as provided for in Article 1.
2. Such actions will aim at fostering the utilisation of space research and development and space applications in the public and private sectors, the promotion of adoption of legislative, regulatory and standardisation measures in this sector, the funding and carrying out of joint initiatives pursuant to Article 5.
3. Each Party will refer to the competencies and capabilities of the other, whenever an action is necessary, to pursue the purpose of the co-operation, and will provide to the other Party expertise and support in its own specific fields of competence.

ARTICLE 5: JOINT INITIATIVES

1. Subject to the provisions of Article 5.3 the joint initiatives to be carried out by the Parties may take, without being limited to, the following forms:

- a) The management by ESA, in accordance with the rules of the European Community, of space-related tasks, which may be included in the initiatives of the European Community;
- b) The participation by the European Community in an optional programme of the European Space Agency, in accordance with Article V.I.b of the ESA Convention;
- c) The carrying out of activities, which are co-ordinated, implemented and funded by both Parties;
- d) The creation by the Parties of bodies in charge to pursue initiatives complementary to research and development activities, such as provision of services, promotion of operators formation and the management of infrastructures;
- e) The carrying out of studies, the organisation of scientific seminars, conferences, symposia and workshops, the training of scientists and technical experts, the exchange or sharing of equipment and materials, the access to facilities, and the support of visits and exchanges of scientists, engineers or other specialists.

2. When the implementation of a joint initiative requires a detailed definition, it will be provided for in specific arrangements to be entered between the Parties. Whenever applicable, such specific arrangements should include at least:

- (a) the overall mission definition;
- (b) a description of the objectives;
- (c) a consolidated set of user requirements;
- (d) a work plan;
- (e) an appropriate management scheme;
- (f) the role and financial implications of the Parties;
- (g) an industrial policy scheme;
- (h) budgetary aspects;
- (i) rules of intellectual property rights, rules of ownership including the transfer of ownership, the implementation principles including voting rights, and the participation by third Parties.

Both Parties shall work out guiding principles in addition to these specific arrangements as soon as possible.

3. Any financial contribution made by one Party in accordance with a specific arrangement shall be ruled by the financial provisions applicable to that Party. Under no circumstances shall the European Community be bound to apply the rule of 'geographical distribution' contained in the ESA Convention and specially its Annex V. The respect of the rules relating to financial control and auditing of the Party contributing to the joint initiatives, or of both Parties in case of joint contribution, applies to any joint activity.

ARTICLE 6: INFORMATION AND CONSULTATION

1. The Parties shall consult each other regularly in order to co-ordinate their activities to the fullest extent. Each Party shall inform the other of any initiatives within its own decision-making process, in the fields of co-operation under Article 3, which may be of interest to the other Party.

2. The Parties shall exchange all information at their disposal, which may be required for the implementation of this Agreement, subject to their respective rules.

3. Except when otherwise provided, the Parties shall not disclose any information exchanged in connection with this Agreement to any person other than those employed by them or officially entitled to handle such information nor use it for commercial purposes. Such disclosure shall extend only so far as may be necessary for the purpose of this Agreement set out in Article 1 and shall be in strict confidence.

ARTICLE 7: EXTERNAL DIMENSION OF THE CO-OPERATION

1. Each Party shall inform the other of its activities of an international dimension which may be of interest to the other Party.

2. Whenever appropriate a Party may, in relation to any matters relevant to its international activities, consult the other Party.

3. Once a specific arrangement has been concluded between the parties in accordance with Article 5, the external aspects of this joint activity vis-à-vis third parties will be pursued jointly by the parties in accordance with that specific arrangement.

ARTICLE 8: CO-ORDINATION AND FACILITATION OF CO-OPERATIVE ACTIVITIES

1. The co-ordination and facilitation of co-operative activities under this Agreement shall be accomplished by regular joint and concomitant meetings of the Council of the European Union and of the Council of ESA at ministerial level ("Space Council").

2. The objectives of the joint and concomitant meetings shall include the following:

(a) Providing orientations supporting the achievement of the objectives of this agreement and identifying actions required;

(b) Making recommendations, notably related to the main elements of the specific arrangements;

(c) Advising the parties on ways to enhance co-operation consistent with the principles set out in this Agreement;

(d) Reviewing the effective and efficient functioning of the Agreement.

3. A Secretariat shall assist the concomitant meetings and shall elaborate the initiatives deriving from the implementation of this Agreement. This Secretariat shall implement the orientations provided by the concomitant meetings of the two Councils. The Secretariat shall establish its own rules of procedure and be composed of officials of the Commission and of the ESA Executive. The Parties shall undertake, in accordance with their respective rules and procedures, to contribute to the required administrative support.

4. Without prejudice to the Parties' internal decision-making procedures, the Secretariat shall consult on a regular and informal basis high-level representatives of the Member States of the European Community and of the European Space Agency, with the purpose of reaching common understanding on issues related to the implementation of this Agreement.

ARTICLE 9: EXCHANGE OF PERSONNEL

1. The Parties may second members of their staff to each other for specified periods in order to share expertise and develop mutual understanding.

2. Rules for the implementation of this article shall be established by the Secretariat, as referred to in Article 8, and be agreed to in the form of a specific arrangement under this Framework Agreement.

ARTICLE 10: PUBLIC RELATIONS

1. The Parties undertake to co-ordinate in advance their public-relations, press and media activities concerning any joint public activities relating to subjects covered by this agreement.

2. In all relevant media activities, the role of each Party in this Agreement shall be clearly identified and mentioned.

3. The detailed arrangements for implementing public relations activities provided for in this Article shall be adopted jointly.

ARTICLE 11: SETTLEMENT OF DISPUTES

1. Any disputes which may arise between the Parties relating to the interpretation or application of this Agreement shall be submitted for direct negotiations within the Secretariat.

2. If it is not possible to settle the dispute in accordance with the above paragraph 1, any of the two Parties may notify the other of the appointment of an arbitrator. The other Party shall then appoint its own arbitrator within a period of two months. The arbitrators shall then appoint a third arbitrator within one month.

3. The arbitrators' decisions shall be taken by majority vote.

4. The award of the Arbitration Tribunal shall be final and binding on the Parties.

5. Each Party to the dispute shall take the appropriate steps required to implement the arbitrators' decisions.

ARTICLE 12: ENTRY INTO FORCE, DURATION, AMENDMENTS, TERMINATION

1. This Agreement shall enter into force on the date of the last written communication by which the Parties notify each other that their respective internal procedures necessary for its entry into force have been completed.

2. This Agreement shall remain in force for four years from the date of its entry into force. It shall be automatically extended for subsequent periods of four years unless either of the Parties notifies the other Party in writing, at least one year prior to the expiration of any of its periods of duration, of its intention to terminate it.

This Agreement shall terminate upon the expiration of twelve months after the receipt of a written notification by one Party sent by the other Party.

3. The termination or expiration of this Agreement shall not affect the validity of the specific arrangements entered into between the Parties in accordance with Article 5, which shall remain in full force and effect until the terms for their execution or termination take place.

4. This Agreement shall be amended only by written agreement between the Parties.

5. This Agreement is not intended to modify or supersede any previous agreements entered into between the Parties which will remain in full force and effect in accordance with their own terms and provisions.

ARTICLE 13

This Agreement is signed in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, and Swedish languages, each of these texts being equally authentic.

LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): Research and Development

Activit(y/ies): Space

TITLE OF ACTION: PROPOSAL FOR A COUNCIL DECISION ON SIGNING THE FRAMEWORK AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE EUROPEAN SPACE AGENCY

1. BUDGET LINE(S) + HEADING(S)

BGUE-B2003-B6 6013

2. OVERALL FIGURES

2.1. Total allocation for action (Part B): € million for commitment (not applicable)

2.2. Period of application:

The Framework Agreement between the European Community and the European Space Agency is intended to last at least for four years.

The only direct cost implication of the Framework Agreement (details see below) derives from the intention of both Parties, as indicated in Article 5, to negotiate guiding principles for future joint initiatives. The corresponding new negotiations are expected to last until the end of 2004.

2.3. Overall multiannual estimate of expenditure: not applicable

2.4. Compatibility with financial programming and financial perspective: not applicable

2.5. Financial impact on revenue:⁹ not applicable

3. BUDGET CHARACTERISTICS

4. LEGAL BASIS

Article 170 of EC-Treaty

Article 300 of EC-Treaty

⁹ For further information, see separate explanatory note.

5. DESCRIPTION AND GROUNDS

5.1. Need for Community intervention ¹⁰

5.1.1. Objectives pursued

Europe needs to develop and implement a European Space Policy, a task that depends critically on the co-operation between the European Union and the European Space Agency.

Therefore, it is proposed to sign the negotiated Framework Agreement between the European Community and the European Space Agency, which establishes for the first time joint goals and formal working relations.

5.2. Action envisaged and budget intervention arrangements: not applicable

5.3. Methods of implementation

6. FINANCIAL IMPACT

The only costs arising from the initiative is Commission internal personnel and mission costs.

Funding of the Commission's personnel and mission costs necessary for the negotiation of the model agreements shall be provided using the funds reserved to the Horizontal Activities of the DG RTD and within its global budget envelope.

6.1. Total financial impact on Part B - (over the entire programming period): not applicable

6.2. Calculation of costs by measure envisaged in Part B (over the entire programming period)¹¹: not applicable

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

The Commission will mainly use the existing staff resources of the Space Policy Unit RTD/H4 (4A, 1B, 2C and 7 END). However, new resources for the implementation of the agreement will be requested from the available DG RTD budget (see below).

¹⁰ For further information, see separate explanatory note.

¹¹ For further information, see separate explanatory note.

7.1. Impact on human resources

Types of post		Required staff to be assigned in H4 to management of the action using additional resources existing in RTD		Total	Description of tasks deriving from the action
		Number of permanent posts	Number of temporary posts		
Officials or temporary staff	A	1	3 (1 existing, 2 additional required within existing RTD resources)	4 1 3	<i>Development of the joint initiatives, (Art.5), support to the management structure (Art. 8)</i> <i>Documentation, archiving</i> <i>Administrative Support</i>
	B		1 (additional required within existing RTD resources)		
	C		3 (2 existing, 1 additional required within existing RTD resources)		
Other human resources					
Total		1	7	8	

7.2. Overall financial impact of human resources

Type of human resources	Amount (€)	Method of calculation *
Officials		
Temporary staff		
Other human resources (specify budget line)		
Total		

The amounts are total expenditure for twelve months.

7.3. Other administrative expenditure deriving from the action

Budget line (number and heading)	Additional Amount € required for H4	Method of calculation
Overall allocation (Title A7)		
B6-6013 – Missions	42000	
A07030 – Meetings		
A07031 – Compulsory committees ¹		
A07032 – Non-compulsory committees ¹		
A07040 – Conferences		
A0705 – Studies and consultations		
Other expenditure (specify)		
END (B6-6013)		
Information systems (A-5001/A-4300)		
Other expenditure - Part A (specify)		
Total	42000	

The amounts are total expenditure for twelve months.

¹ Specify the type of committee and the group to which it belongs.

I.	Annual total (7.2 + 7.3)	€
II.	Duration of action	4 years
III.	Total cost of action (I x II)	€

8. FOLLOW-UP AND EVALUATION

The co-operation within the framework agreement will be co-ordinated and implemented, as described in Article 8, by

Joint and concomitant meetings of the Council of the European Union and the Council of ESA at Ministerial Level

A Secretariat composed of officials of the European Commission and the ESA-Executive

8.1. Follow-up arrangements: not applicable

8.2. Arrangements and schedule for the planned evaluation: not applicable

9. ANTI-FRAUD MEASURES: NOT APPLICABLE