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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	9898/18 + ADD 1
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the space programme of the Union and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013, (EU) No 377/2014 and Decision 541/2014/EU <i>- Mandate for negotiations with the European Parliament</i>

I. INTRODUCTION

1. On 6 June 2018 the Commission presented the above-mentioned proposal for a Regulation¹ to the European Parliament and the Council.
2. The Presidency was granted a negotiating mandate² on 19 December 2018.

¹ Doc. 9898/18 + ADD 1

² Doc. 15490/18

3. The European Parliament adopted the ITRE Committee report³ (voted in Committee on 21 November 2018) during the Plenary on 13 December 2018. The Rapporteur Mr. Massimiliano SALINI (EPP, IT) was then granted a mandate to start negotiations with the Council on this basis.
4. The European Economic and Social Committee adopted its opinion⁴ on 17 October 2018.
5. The Committee of the Regions adopted its opinion⁵ on 5-6 December 2018.
6. The first Trilogue took place on 15 January 2019. At the second and last Trilogue under the previous legislature, held on 26 February 2019, the Presidency reached a comprehensive Common Understanding with the representatives of the European Parliament.
7. On 13 March 2019, the Committee of the Permanent Representatives confirmed the Common Understanding (doc. 7481/19 + COR1). It was understood at the time that elements in brackets in the text were left outside of the scope of the negotiations at this stage, as they require the completion of negotiations on the Multiannual Financial Framework 2021-2027 (MFF) for the Council to establish its position. On 17 April 2019, the European Parliament voted on its legislative resolution on the proposal. That vote paved the way forward for an early second Reading agreement between the co-legislators.

³ P8_TA(2018)0520

⁴ Doc. 13686/18

⁵ Doc.15568/18

II. STATE OF PLAY

8. In order to finalise the Council mandate, the Working Party on Space held 12 meetings⁶, under the Croatian and German Presidencies.
9. In order to resume work with the European Parliament, the Presidency proposes a full mandate, which, in particular, takes into account the political guidance provided by the European Council on 21 July 2020.
10. Without prejudice to the ongoing discussions at horizontal level, in particular on the MFF Regulation, it is the intention of the Presidency to enter into the final round of negotiations with the European Parliament with a view to reaching a political agreement by the end of the year.
11. On the basis of the discussions at the informal video-conference of the members of the Working Party on 27 October 2020, the Presidency submits to the Permanent Representatives Committee compromise suggestions revising the mandate granted to the Presidency. They are presented in **bold/underlined** and ~~striketrough~~ in the white parts and with **additional grey shaded** in the **light green parts** of the Addendum to this Note (doc. 12413/20 ADD 1). They would serve as a basis for negotiations with the European Parliament, aiming at exploring the possibilities for a rapid agreement.

III. MAIN ISSUES/ LATEST ELEMENTS OF THE COMPROMISE PROPOSAL

12. Modifications of the text:

Previously bracketed provisions can be grouped into the following main categories:

- (a) provisions related to the MFF: cumulative funding (part of Recital (8) and Article 22), the overall target of the EU budget expenditures supporting climate objectives (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)) and the overall financial envelope for the implementation of the Programme (Article 11(1) and part of Article 11(6)).

⁶ Working Party with physical presence on 15 July 2020, while the other meetings were held as informal video-conference.

- (b) provisions related to the participation of third countries and/or international organisations in the Space Programme (part of Recital (24), Recital (37), part of Recital (61a), Article 7, Article 8, Article 9(3) and (4), Article 25, Article 32(1)(b)).

The wording of some provisions has been adjusted in order to take into account the political guidance from the conclusions of the European Council on the MFF. Also, some clerical errors have been found in doc. 7481/19+COR1 and have been corrected. This was presented in detail to the Space Working Party (doc. 11272/20).

In case the text is not adopted by the end of the year, a retroactivity clause will be inserted in due time.

13. Duration of the programme (Article 1)

Recital (99a) and Article 1 also take account of the political guidance. It should be noted that considering the specific operational nature of the programme, the Commission requested that Article 1 should not include the proposed restriction in duration. Many delegations supported this view, but a some delegations consider this is a horizontal issue that could create a precedent for other programmes.

14. Cooperation with third countries (Article 7):

This article raised two issues in the discussions:

- (a) The Presidency compromise proposal maintains that the space surveillance and tracking (SST) component of the Space Programme is not open to participation to third countries, in line with the Commission proposal. This compromise is supported by most delegations.
- (b) The Presidency compromise proposal provides that participation of third countries (except EEA) to Galileo and EGNOS be subject to agreements in accordance with Article 218 TFEU. This compromise departs from the Commission proposal but is supported by many delegations and not opposed by the Commission.

15. Eligibility and participation conditions (Article 25)

The compromise proposal drafted in the Space Working Party was accepted by the Council Security Committee that examined it on 29 September and 19 October and gave its opinion to the Space Working Party the same day (doc. 12108/20). This text is supported by most delegations.

16. Delegated/implementing acts:

At the request of the European Parliament, a number of provisions regarding institutional matters, namely implementing/delegated acts (Recital (27), Article 11(1a), Article 29(4), Article 31a(2) and (3), Article 57(8), Article 100, Article 107(4)), were left outside of the scope of the common understanding reached in March 2019.

It is the intention of the Presidency to stick at this stage to the current mandate as presented in ADD1 to this Note. However, it is likely that there will be a need for some flexibility on this issue during discussions with the European Parliament. It should be noted that some of those acts are considered by the co-legislator with a horizontal approach for all MFF related files.

IV. CONCLUSION

17. The Permanent Representatives Committee is invited to:

- examine the elements as set out in Part III above; and
- mandate the Presidency to resume the negotiations with the Parliament in forthcoming trilogues on the basis of the compromise suggestions set out in the ADD 1 to this Note.