



CONSEIL DE
L'UNION EUROPÉENNE

Bruxelles, le 18 novembre 2011 (22.11)
(OR. en)

17172/11

LIMITE

COSDP 1092
POLARM 18
IND 148
RECH 377
ECO 138
CH 32

NOTE POINT "I/A"

du: Secrétariat général du Conseil

au: Coreper/Conseil

Objet: Projet de cadre de coopération entre l'Agence européenne de défense et le département fédéral de la défense, de la protection de la population et des sports de la Confédération suisse

- Approbation

1. Le 11 novembre 2011, le comité directeur de l'Agence européenne de défense (AED) a pris acte du projet de cadre de coopération entre l'Agence européenne de défense et le département fédéral de la défense, de la protection de la population et des sports de la Confédération suisse. Conformément à l'article 24 de la décision 2011/411/PESC du Conseil du 12 juillet 2011 définissant le statut, le siège et les modalités de fonctionnement de l'Agence européenne de défense¹, qui dispose que le comité directeur de l'AED conclut des arrangements administratifs après approbation du Conseil, le comité directeur de l'AED est convenu de transmettre le projet de cadre de coopération au Conseil.

¹ JO L 183 du 13.7.2011, p. 16.

2. La décision du comité directeur de l'AED intervient à la suite des négociations engagées entre l'AED et la Suisse en vertu du mandat de négociation donné par le comité directeur au chef de l'agence le 14 octobre 2010.
3. Le 17 novembre 2011, le Groupe des conseillers pour les relations extérieures (RELEX) a examiné et approuvé, sans y apporter de modification, le texte du projet de cadre de coopération entre l'Agence européenne de défense et le département fédéral de la défense, de la protection de la population et des sports de la Confédération suisse.
4. Dans ces conditions, le Coreper est invité à:
 - confirmer l'accord intervenu sur le projet de cadre de coopération entre l'Agence européenne de défense et le département fédéral de la défense, de la protection de la population et des sports de la Confédération suisse, dont le texte figure à l'annexe de la présente note;
 - recommander au Conseil d'approuver ledit projet de cadre de coopération en vue de sa conclusion par le comité directeur de l'AED.

DRAFT
FRAMEWORK FOR COOPERATION BETWEEN
THE EUROPEAN DEFENCE AGENCY AND
THE FEDERAL DEPARTMENT OF DEFENCE, CIVIL PROTECTION AND SPORTS OF
THE SWISS CONFEDERATION

The Head of the European Defence Agency (EDA) and the Head of the Federal Department of Defence, Civil Protection and Sports (DDPS) on behalf of the Swiss Confederation have set this Framework for Cooperation between the European Defence Agency (EDA) and the Federal Department of Defence, Civil Protection and Sports (DDPS) (hereinafter referred to as “Participants”). It is noted that this Framework for Cooperation fulfils the requirements of Article 24 of the Council Decision 2011/411/CFSP of 12 July 2011 defining the statute, seat and operational rules of the European Defence Agency and repealing Joint Action 2004/551/CFSP (hereinafter referred to as "Council Decision").

Principle of the relationship

1. The DDPS and the EDA share a desire to exchange views and information on matters of common interest falling within the scope of the Agency's mission, and to ensure that the DDPS is kept fully informed of opportunities for future co-operation. The EDA intends to provide the DDPS with the fullest possible transparency regarding the Agency's specific projects and programmes with a view to the DDPS's participation therein as appropriate. The relationship between the EDA and the DDPS is limited to research and technology and armaments co-operation at project and programme level. The relationship, including any contractual commitments which may be entered into for the implementation of cooperative projects and programmes, will be conducted with full respect for the decision-making autonomy of both the European Union and the Swiss Confederation, and the single institutional framework of the EU. The Annex to this Framework for Cooperation sets out the procedures for DDPS participation in such projects and programmes.

Provisions for consultation

2. Representatives of the DDPS will participate in the Consultative Committee foreseen in Article 24 of the Council Decision which will provide a forum for exchanging views and information on matters of common interest falling within the scope of the EDA's mission.
3. In its general composition, the Consultative Committee will be chaired by the Chief Executive or his/her representative and should normally meet twice yearly, and on other occasions when a mutual interest is recognised.
4. The Consultative Committee may also meet in specific compositions dealing with specialised issues such as research and technology or armaments.
5. Information will be provided on a basis of reciprocal transparency. Documents exchanged in the framework of the Consultative Committee will be regarded as officially representing the views of the originating Participant. The Consultative Committee may use a written procedure to exchange information in the framework of this Committee without convening a meeting. The EDA will record these exchanges, solely for archiving purposes.
6. A Point of Contact will be established in the Agency's staff, and a liaison officer will be designated by the DDPS in an appropriate Swiss Office, in addition to the Consultative Committee. The primary objective of this Framework for Cooperation is to speed up the flow of information, in relation to Consultative Committee activities, between the Participants concerning participation in projects and programmes. The Point of Contact and Liaison Officer will also ensure that the appropriate "matters of common interest" are identified for discussion at the Consultative Committee meetings and that those meetings are effectively structured. In order not to impede the information flow, neither the Agency nor the DDPS will be bound by the content of these exchanges. The corresponding documents will have an indicative nature. The EDA will record these exchanges.

7. The Participants intend to ensure that the Consultative Committee and Liaison Officer/Point of Contact arrangements operate with sufficient frequency and transparency:
- to give the DDPS maximum advance warning, visibility and details on which to base its decisions on participation in specific projects and programmes;
 - to provide the EDA with well-based and authoritative information about the potential contribution of the Swiss Confederation to specific projects and programmes, enabling it to provide such information to its Steering Board in accordance with the relevant provisions of the Council Decision.
8. Involvement of the DDPS in EDA ad hoc projects and programmes will be subject to the arrangements specified in Chapter IV of the Council Decision, bearing in mind the principle of the relationship between the Participants referred to in paragraph 1 of this Framework for Cooperation.
9. In accordance with Article 8.7 of the Council Decision, the Steering Board may decide to invite representatives of the DDPS as appropriate, to attend meetings on matters of common interest.

Security matters

10. The rules and modalities governing all provision or exchange of information under this Framework for Cooperation, including its Annex, are consistent with the Agreement between the Swiss Confederation and the EU on the Security Procedures for the Exchange of Classified Information.

Review

- 11. This Framework for Cooperation, including its Annex, may be reviewed at any time in the light of lessons learned and experience gained. Amendments will be agreed in conformity with each Participant's internal procedures.

Coming into effect and termination

- 12. This Framework for Cooperation, including its Annex, will take effect at the date of its signature. It will apply for an unlimited period of time and may be terminated by either Participant at any time.

For the DDPS

For the EDA

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ANNEX

PARTICIPATION BY THE DDPS IN EDA AD HOC PROJECTS AND PROGRAMMES REGIME APPLICABLE TO CONTRACTS TO BE LET BY THE EDA

1. This Annex sets out the procedures for the participation by the DDPS in ad hoc projects or programmes of the EDA, and the regime applicable to contracts to be let by the EDA in this context.

Participation by the DDPS in ad hoc projects and programmes

2. The DDPS may take part in ad hoc projects and programmes in accordance with the provisions of Chapter IV of the Council Decision.

Where the DDPS wishes to participate in ad hoc projects and programmes, whether or not the EDA is requested to let a contract or contracts by the contributing Members and the DDPS in these projects and programmes, the following procedure will apply with respect to the DDPS:

- (1) The DDPS will send a letter to the EDA identifying the ad hoc project(s) and programme(s) in which the DDPS wishes to participate with other Contributing Members specifying, as the case may be, the modalities agreed upon with the Members contributing to such project or programme and the tasks (if any) required to be performed by the EDA;
- (2) The EDA will seek the Steering Board approval of the DDPS' contribution to the ad hoc project(s) and programme(s) and of the EDA's tasks under such project(s) and programme(s);
- (3) When the Steering Board has approved the ad hoc project(s) and programme(s) with the DDPS' participation, as well as the tasks to be performed by the EDA, the EDA will forthwith inform the DDPS in writing about such approval and/or decisions by the Steering Board.

Regime applicable to Contracts to be let by the EDA

3. Where the Contributing Members and the DDPS in an ad hoc project or programme wish the EDA to let a contract or contracts and provided that the EDA has been given such authority by the Steering Board, the EDA will enter into a contract or contracts in accordance with its own contracting principles for ad hoc projects and programmes. The EDA will, when the DDPS is contributing in such projects or programmes, let the contract or contracts in the same manner as for the other Contributing Members, and will secure the rights and obligations of the DDPS in accordance with the arrangements made among the Contributing Members and the DDPS.
