



Council of the
European Union

Brussels, 12 January 2024
(OR. en)

5401/24

LIMITE

CORLX 49
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COPS 12
POLMIL 9
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COVER NOTE

From:	European External Action Service
date of receipt:	12 January 2024
To:	Delegations
Subject:	Draft Administrative Arrangement between the European Space Agency and the EU Satellite Centre concerning their continued cooperation

Delegations will find attached document EEAS(2024) 41.

Encl.: EEAS(2024) 41

EUROPEAN EXTERNAL ACTION SERVICE



SecDefPol.5 - Space

Working document of the European External Action Service

of 11 January 2024

EEAS Reference	EEAS(2024) 41
Distribution marking	<i>Limited</i>
To [and/or GSC distribution acronyms]	RELEX Working Party CSDP / CFSP / COPS / ESPACE / CSC
Title / Subject	Draft Administrative Arrangement between the European Space Agency and the EU Satellite Centre concerning their continued cooperation
Ref. prev. doc.	EEAS(2023) 1509

As set out in Article 20(1) and 20(2) of Council Decision 2014/401/CFSP¹,

1. For the purpose of fulfilling its mission, SATCEN may establish working relations and cooperate with third States, organisations or entities. To this effect, it may enter into administrative arrangements with competent authorities of third States, international organisations or entities.

2. The Board shall decide to authorise the Director to negotiate such administrative arrangements and shall address directives in this regard to the Director. The negotiations shall be conducted in consultation with the Board. Every such arrangement shall be concluded by SATCEN upon approval by the Council and shall be signed by the Director."

Negotiations on the administrative arrangement allowing for the continuation of their structured relationship and mutually beneficial cooperation between the two parts, under the Administrative Arrangement concluded and signed in 2016 and expired in January 2023, have been held in 2023 and led to a draft text agreeable by the two agencies.

The draft Administrative Arrangement was submitted to the SatCen Board, which gave the authorization to the SatCen Director on 13 October 2023 to negotiate the prolongation of the Administrative Arrangement with ESA.

On 9 January 2024, the Political and Security Committee, which exercises political supervision on SatCen's activities, pursuant to Article 3(1) of Council Decision 2014/401/CFSP, endorsed SatCen's intention to sign the Administrative Arrangement with the European Space Agency, with a view to its approval by the Council, via COREPER.

Pursuant to Article 20(2) of Council Decision 2014/401/CFSP, the Council is hereby invited to approve the administrative arrangement before it can be signed by the SatCen Director and ESA Director General.

Background

Since 2002, the cooperation with the European Space Agency (ESA) has been on-going mainly focusing on topics related to Data Access, the Security dimension of Copernicus, Image Processing and Information Mining as well as contributing together to international initiatives such as those related to the Group on Earth Observations.

In 2015, SatCen and ESA began negotiating an agreement to establish a broader, long-term cooperation. After the necessary modification of the Council Decision so that ESA could be invited to SatCen's Board of Directors, the Administrative Arrangement (AA) was approved by the Council in 2017. On 23 January 2018, following approval by the Council of the EU, the AA was signed and entered into force for a period of 5 years.

¹ Council Decision 2014/401/CFSP of 26 June 2014 on the European Union Satellite Centre and repealing Joint Action 2001/555/CFSP on the establishment of a European Union Satellite Centre, as last amended by Council Decision (CFSP) 2016/2112 of 1 December 2016.

The purpose of the AA was to set an explicit legal frame, giving visibility to the ruling bodies of the two Organisations, as well as to render practical cooperation in specific projects as easy as possible. From 2018 to 2023, ESA and SatCen have been formally cooperating under the AA, which constituted a structured framework to put in place activities of common interest facilitating access to the latest European space capabilities, thereby improving several elements of the data value chain, such as access to data and the identification of potential technologies useful to SatCen.

Considering that the agreement expired on 22 January 2023 and the cooperation between the two organisations was fruitful, it was in the interest of both organisations to continue the mutually beneficial cooperation on the basis of the same provisions already agreed in the Administrative Arrangement concluded 5 years ago.

As outlined in the attached draft, the aim of the Administrative Arrangement is to provide for the continuation of the structured relationship and a mutually beneficial co-operation between SatCen and ESA through the co-ordination of their respective activities taking into account their relevant responsibilities and tasks as defined in their constituent acts and fully respecting their institutional settings and operational frameworks. The cooperation to be undertaken by SatCen and ESA will in particular aim at exploring the added value and contribution of space assets to the development of European capabilities to benefit the Member States of ESA and the European Union. The cooperation will also seek to improve synergies between space and security activities.

The Administrative Agreement provides for co-operation to be carried out without the exchange of funds unless deemed necessary for specific projects through the respective implementing arrangements. Annual activity plans will be agreed between the two Executives.

As a novelty, this Administrative Arrangement will be automatically extended for 5 years periods, unless either part will notify in writing the other part about their intention to terminate the arrangement with 6 month prior to the intention date of termination.

ADMINISTRATIVE ARRANGEMENT
BETWEEN
THE EUROPEAN SPACE AGENCY
AND
THE EUROPEAN UNION SATELLITE CENTRE
CONCERNING
THEIR CONTINUED COOPERATION



The European Space Agency, referred to hereinafter as “ESA”, an intergovernmental organisation established by the Convention which was opened for signature in Paris on 30 May 1975 and entered into force on 30 October 1980 (referred to hereinafter as “the ESA Convention”), represented by its Director General, Josef Aschbacher, on the one part,

and

The European Union Satellite Centre, referred to hereinafter as “SatCen”, established by the Joint Action 2001/555/CFS on the establishment of a European Union Satellite Centre repealed by COUNCIL DECISION 2014/401/CFSP of 26 June 2014 on the European Union Satellite Centre (referred to hereinafter as “the Council Decision”), represented by its Director, Sorin Ducaru, on the other part,

in consideration of the following:

Preamble

- i. The mission of SatCen, as defined in Article 2.1 of the Council Decision, is to support the decision making and actions of the Union in the field of the Common Foreign and Security Policy and in particular the Common Security and Defence Policy, including European Union crisis management missions and operations, by providing, at the request of the Council or the High Representative, products and services resulting from the exploitation of relevant space assets and collateral data, including satellite and aerial imagery, and related services;
- ii. The purpose of ESA, pursuant to Article II of the ESA Convention, is to provide for and to promote, for exclusively peaceful purposes, cooperation among European States in space research and technology and their space applications, with a view to their being used for scientific purposes and for operational space application systems;
- iii. Article XIV.1 of the ESA Convention states that the Agency may, upon decisions of the Council taken by unanimous votes of all Member States, cooperate with other international organisations and institutions and with Governments, organisations and institutions of non-member States, and conclude agreements with them to this effect;
- iv. The Framework Agreement between the European Union and the European Space Agency was signed on 25 November 2003 and entered into force on 28 May 2004;
- v. The Agreement between the European Union and the European Space Agency on the Security and the Exchange of Information entered into force on 1 August 2008 (hereinafter referred to as the EU-ESA Security Agreement);

- vi. The Administrative Arrangement between ESA and the European Union Satellite Centre concerning the establishment of their cooperation entered into force on 23 January 2018 for a period of five years until 22 January 2023 and allowed both parties to benefit from a framework for their mutual cooperation;
- vii. The Administrative Arrangement provided in its preamble that the development of close working relations between SatCen and ESA was a result of progress in implementing the following:
- a Resolution on the European Space Policy approved by both the Council of the European Union and the Council of ESA on 22 May 2007, in particular Chapter I 1. and Chapter II B. 8 respectively entitled the “Vision for Europe and general Strategy” and “Security and Defence”;
 - a Resolution on “Taking Forward the European Space Policy” approved by both the Council of the European Union and the Council of ESA on 26 September 2008, in particular Chapter III C. entitled “New Priorities within the European Space Policy”;
 - “Space Council Orientations” approved by both the Council of the European Union and the Council of ESA on 29 May 2009, in particular the second paragraph of its Preamble regarding cooperative space for security and defence activities;
 - a Resolution on "Global challenges: taking full benefit of European space systems" approved by both the Council of the European Union and the Council of ESA on 25 November 2010, in particular Chapter IV entitled “The Role of Space Systems for Security Policies and the Security of Space Systems”;
- viii. SatCen’s and ESA’s complementary roles and activities and their continued close cooperation would further strengthen mutual benefits and synergies;
- ix. The Council of the European Union, at its meeting on [date], and the ESA Council, at its meeting on [date], approved the text of the arrangement and authorised the SatCen Director and the ESA Director General, respectively, to sign the present arrangement;

HAVE COME TO THE FOLLOWING UNDERSTANDING:

1. Purpose and Objectives of the Cooperation

- 1.1 The aim of this Arrangement is to provide a structured relationship and a mutually beneficial cooperation between SatCen and ESA through the coordination of activities of mutual interest taking into account their responsibilities and tasks as defined in their constituent acts and fully respecting their institutional settings and operational frameworks.

1.2 The cooperation to be undertaken by SatCen and ESA, in line with their respective purposes, will in particular aim at exploring the added value and contribution of space assets to the development of European capabilities to serve all Member States of ESA and the European Union and to support efforts to better protect Europe and its citizens from crises and risks. The cooperation will also seek to improve synergies between space and security activities.

2. Modalities of the Cooperation

2.1 For the implementation of this Arrangement, SatCen and ESA will undertake, each in compliance with its own prerogatives, legal instruments and procedures, such actions as are required to achieve the purpose of the cooperation provided for in paragraph 1.

2.2 When implementing this Arrangement pursuant to paragraph 1 above, SatCen and ESA will:

- identify those capability gaps or shortfalls that could be filled by space assets for the sustainable and effective implementation of the relevant policies;
- investigate whether identified capability requirements can be shared and thus supported by both SatCen and ESA;
- coordinate research, technology, innovation and demonstration activities, including access to study as appropriate and subject to their respective rules and procedures;
- investigate synergies between existing SatCen and ESA activities and programmes, their future evolution and potential new initiatives of mutual interest;

2.3 Within the scope of this cooperation ESA and SatCen may enter into implementing arrangements for specific projects in accordance with their applicable rules and procedures.

3. Funding

3.1 The activities undertaken in pursuance of this Arrangement are carried out on a voluntary and reciprocal basis, within the existing mandates and in accordance with the internal rules and procedures of SatCen and of ESA respectively. Therefore, no funding will be exchanged in order to carry out the activities under this Arrangement and SatCen and ESA will, unless otherwise provided for in the implementing arrangements referred to in paragraph 2.3, each bear their respective costs and or expenditures they incur under this Arrangement, including travel and subsistence of their respective staff and transportation of all equipment and documentation for which they are responsible.

3.2 In the execution of this cooperation specific activities may require specific financial arrangements, which SatCen and ESA may conclude pursuant to paragraph 2.3 above and in accordance with their applicable rules and procedures.

4. Consultation

SatCen and ESA will consult each other regularly on matters of common interest. SatCen and ESA will inform each other of any initiatives within their activities and programmes which may be of interest to the other.

5. Coordination and Facilitation Mechanisms

5.1 The ESA Director General and the SatCen Director or their representatives will meet at least once a year in particular to agree on a yearly plan of cooperative activities under this Arrangement.

5.2 The ESA Director General and the SatCen Director will appoint a person of contact in their respective organisations for daily contacts and the follow-up of the aforementioned agreed activities.

5.3 SatCen may be invited by the ESA Council to attend, on a case by case basis, meetings of the ESA Council and/or relevant subordinate bodies for agenda points on matters of common interest relating to the implementation of this Arrangement, as an Observer through one or more representatives, without voting rights. SatCen will receive relevant documents to that effect.

5.4 ESA may be invited by the SatCen Board to attend, on a case by case basis, meetings of the SatCen Board for agenda points on matters of common interest relating to the implementation of this Arrangement, as an Observer through one or more representatives, without voting rights. ESA will receive relevant documents to that effect.

6. Disclosure and Use of Information

6.1 SatCen and ESA will exchange information at their disposal which may be required for the implementation of this Arrangement, subject to their respective rules and procedures.

6.2 Except when otherwise provided, SatCen or ESA will not disclose any information exchanged in connection with this Arrangement to any third party other than those officially entitled to handle such information without the written consent of the other nor will they use it for commercial purposes. Such disclosure will extend only so far as may be necessary for the purpose of this Arrangement set out in paragraph 1 and will be treated in strict confidence when and if requested by either SatCen or ESA.

6.3 Nothing in this Arrangement will be construed as granting or implying any rights to, or interest in, patents, patent rights, inventions, copyrights, trade secrets, trademarks, and other proprietary rights of SatCen, ESA or their contractors or subcontractors or of third parties.

7. Exchange of classified information

Noting the EU-ESA Security Agreement, SatCen and ESA agree that a security arrangement between SatCen and ESA will lay down the implementing measures for the exchange of classified information between them in accordance with their respective applicable security regulations.

8. Exchange of Personnel

SatCen and ESA may exchange experts for specified periods in order to share expertise and develop mutual understanding on specific activities agreed by both SatCen and ESA. Such exchanges shall be in conformity with their respective staff regulations and Article 3.1 above.

9. Liability

Implementing arrangements concluded pursuant to paragraph 2.3 of this Arrangement will contain, as appropriate, specific provisions addressing risks related to potential liabilities arising out of the execution of a specific cooperative activity.

10. Coming into effect, Duration, Amendments and Termination

10.1 This Arrangement will come into effect upon signature by both SatCen and ESA, with retroactive effect as from the date of expiration of the foregoing arrangement referred to in section v. of the preamble.

10.2 This Arrangement will remain in effect for 5 years from the date of its coming into effect. It will be automatically extended for subsequent periods of 5 years unless either SatCen or ESA notifies the other in writing of its intention to terminate it, at least six months before the expiry of any of its periods of duration.

10.3 This Arrangement will be reviewed when either ESA or SatCen extends its membership to a State not being a member of the EU or of ESA at the time of coming into effect of this Arrangement.

10.4 This Arrangement will terminate upon the expiry of six months after the receipt of written notification by either SatCen or ESA sent by the other.

10.5 If pursuant to paragraph 10.4 above, the Arrangement ceases to have effect on account of any such termination, its provisions will continue to apply for the period and to the extent necessary to secure the implementation of any specific implementing arrangements entered into pursuant to paragraph 2.3 above and still effective on the date upon which the present Arrangement ceases to have effect.

10.6 This Arrangement will be amended only by written agreement between SatCen and ESA in accordance with their respective rules and procedures.

11. Settlement of Disputes

11.1 Any dispute in the interpretation or implementation of the terms of this Arrangement will be referred to the Director General of ESA and the Director of SatCen for settlement.

11.2 Implementing arrangements as referred to in paragraph 2.3 of this Arrangement will contain their own dispute-settlement provisions, which will include the procedures and modalities for arbitration.

This Arrangement is drawn up in two originals in the English language which are authoritative for the purpose of interpretation. Translations of this Arrangement may be provided by SatCen and ESA in accordance with their respective rules and procedures.

[Date, Place and Signatures]

For the European Space Agency

For the European Union Satellite Centre

EEAS CMS TRANSMISSION SHEET

Issue date	11/01/2024
Title of document	Draft Administrative Arrangement between the European Space Agency and the EU Satellite Centre - information of the Political and Security Committee
EEAS Document number	EEAS(2024)41
Type of Document	Working document of the EEAS
Level of marking or classification	unclassified LIMITE
EEAS CMS Service	Name: SecDefPol.5 Space Division Functional mailbox: space@eeas.europa.eu
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EEAS Validation	Name: Patrick Chatard-Moulin, Acting EEAS Special Envoy for Space and Acting Head of SecDefPol.5 – Space Division Date: 11/01/2024
Council Working Party concerned	RELEX
Date of Working Party meeting	22/01/2024
For GSC DG C use ONLY	
ST or MD document number	