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From:	General Secretariat of the Council
To:	Working Party on Space
Subject:	Articles 7 and 8 Regulation on the EU space programme

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Delegations will find attached PPT given during the informal video-conference of the Members of the Space Working Party on Thursday 15 September 2020.



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Space Working Party, 15 September 2020

# Articles 7 and 8 Regulation on the EU space programme



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## Recap

1. Discussion in SWP on 8<sup>th</sup> and 15<sup>th</sup> July 2020 on the basis of PCY discussion paper
2. Horizontal approach on third-party cooperation adopted by European Council in July 2020
3. PCY draft on Art. 7 and 8 WK 8608/2020 INIT dated 26<sup>th</sup> August 2020: presentation and discussion in SWP on 1<sup>st</sup> September 2020:
  - MFF horizontal approach,
  - MS comments.
4. Open questions: CH participation, horizontal approach with respect to Art. 7 paragraphs 1 and 2 as well as SST

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## MFF horizontal approach Alignment of Article 7 paragraphs 1 and 2

- COM provided written explanation on third-party categories.
- DE PCY is reviewing the text (in particular with regard to a need for alignment of Article 7).
- DE PCY is going to follow-up as soon as possible with COM.

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## MFF horizontal approach Openness for third-party participation in EU programmes

EUCO 10/20: **Conclusions of the special meeting of the European Council** (17, 18, 19, 20 and 21 July 2020)

Annex I: Horizontal issues, including agreement on third-party participation (para. 21)

Principle: Openness of EU programmes for third-party cooperation to:

- EEA countries, acceding countries, candidate countries and potential candidates, ENP countries  
(basis: existing arrangements or additional instruments),
- Other third countries  
(basis: agreement laying down the conditions for participation).



## MFF horizontal approach Implementation

### Guidelines:

- Sectorial discussions on the third countries participation provisions need to be coordinated by the Presidency and deviations should be kept to the minimum.
- Deviations may be justified for certain policy areas, in particular for reasons of security, sovereignty, strategic autonomy.
- Changes to the standard approach need to be signalled and specifically justified.

Exceptions have to follow the **principle of proportionality**. This means i.a. that formulating special requirements as less restrictive means are to be favoured over rigid full exclusion of third-party cooperation.

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## MFF horizontal approach SST: Sovereignty/strategic autonomy?

- Today, there is an almost complete dependency of EU SST on US SST data (ca. 95%).
  - While SST service provision is going to be developed in the scope of the EU space programme regulation (potentially MEO, GEO), there are no prospects for substantive changes to a relevant extent:
    - The subcomponent does not aim at European autonomy in SST.
    - Even optimistic architecture studies do not envisage independence from US data. In any event, the budget as decided by the European Council does not allow for optimistic scenarios.
    - As a result, the degree of independence/autonomy will largely remain the same over the course of the programme.
- **Autonomy cannot be a ground for justifying a deviation from the horizontal approach.**



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## MFF horizontal approach SST: Security and other justifications?

### Security:

- Sharing of security relevant SST information is done on military-to-military basis, thus it can be appropriately handled (there is cooperation in much more sensitive sectors than SST).
- The protection of the essential security interests as per Art. 7 paragraph 3.

Other justifications, in particular this referring to industrial policy (beyond strategic autonomy) are no valid arguments for excluding third-party cooperation.

→ Security and industrial policy cannot be a ground for justifying a deviation from the horizontal approach.



## MFF horizontal approach SST: Role of the SST Consortium

### On Substance

There is no uniform position on third-party cooperation of the SST Consortium.

### Role of the Consortium in the legislative procedure for the Regulation on the EU space programme:

- Statutory task: Implement the SST Support Framework (Decision 541/2014)
  - Co-legislators are: the Council, Commission and the European Parliament.
- There is no role of the SST Consortium in the negotiation of the Space Programme Regulation, including on matters relevant to third-party cooperation.

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## MFF horizontal approach SST: Way forward – PCY approach

- Follow the MMF horizontal approach.
  - No full exclusion from the SST subcomponent is possible (horizontal requirements).
  - But: In line with Member States' comments expressing reservation towards third-party participation in the SST subcomponent, PCY will propose a compromise solution based on:
    - No participation in the SST Consortium/-a (ensure the smooth setting up of SST governance).
    - No creation of dependencies, preventing the eventual build-up of SST autonomy (long-term).
    - Preserve Member States' interest in joining the Consortium/-a.
- Exclude full participation of third parties in the SST governance and allow for contributions of third parties (basis: Art. 218 TFEU), thus enhancing capabilities and increasing the reach of the EU Space Programme.

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## Status of Switzerland

### Newly introduced Art. 7 para. 2a:

“Third countries which have a long-term agreement to participate in at least one component shall continue to participate in accordance with the conditions laid down in that agreement.”

### Background:

CH is long-time cooperation partner for EU in space and has concluded corresponding agreements.  
CH does not fall under Art. 7 para. 1 (no EEA country).

### PCY approach:

Ensure continued contribution of CH to EU space programme (i.e. Galileo) on the basis of existing agreements. Further work on the wording of this newly introduced paragraph.



## Further procedure

- PCY work on:
  - alignment with MFF horizontal approach,
  - SST solution,
  - paragraph on the status of Switzerland.
- Presentation of a revised draft