



EUROPEAN COMMISSION

Brussels, 4.9.2012  
COM(2012) 470 final

2012/0231 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the conclusion of the Cooperation Agreement between the European Union and its Member States of the one part, and the Swiss Confederation, of the other, on the European Satellite Navigation Programmes**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **1.1. General context**

Switzerland is one of the Union's closest third country cooperation partners in the Galileo programme since the early days of the programme. Switzerland has contributed politically, technically and financially to all phases of the Galileo programme through its membership in the European Space Agency (ESA) and its informal participation in the Galileo-specific EU governance structures over the years. This Agreement will formalise and deepen this close integration of Switzerland in the European GNSS programmes. Without this agreement, there would be uncertainty about the nature of the collaboration in areas such as security, export control, standardisation, certification and radio spectrum. Moreover, the Agreement allows the EU to set overall principles including safeguard measures in the areas of security and export control.

#### **1.2. Existing provisions in the area of the proposal**

Cooperation of Switzerland in Galileo will be organised in the enclosed Agreement to provide an umbrella for the cooperation including principles of future cooperation and complementary provisions concerning cooperation in security, standardisation and certification.

#### **1.3. Consistency with the other policies and objectives of the Union**

The proposal is in line with the policy of integrating into the European GNSS programmes certain third countries that are Member of ESA and therefore participated in the Galileo and EGNOS programmes from the beginning. Moreover, it supports the objectives of the Commission in reinforcing the Union aspect of cooperation in policies relevant to non-proliferation.

### **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

#### **2.1. Consultation of interested parties**

##### *Consultation methods, main sectors targeted and general profile of respondents*

The Special Committee of the Council, authorities of the Member States and Switzerland have been consulted through bilateral meetings both at the stage of negotiation directives and during negotiations. The respondents included technical, security and transport experts of Member States and Swiss authorities, Ministries of Foreign Affairs, Defence and Interior, ESA and national space agencies.

##### *Summary of responses and how they have been taken into account*

These stakeholders have supported the close integration of Switzerland in cooperation in the European GNSS programmes matters and underlined the importance of including issues such as security and export control in the Agreement.

#### **2.2. Collection and use of expertise**

##### *Scientific/expertise domains concerned*

Space technology/ ground facilities, Security/ Industrial and governmental security, information security and international law/ privileges and immunities

Methodology used

Meetings and exchange of information

Main organisations/experts consulted

EU MS ministries and space agencies ESA, space industry

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has not been mentioned.

There was a broad consensus over the principles of cooperation foreseen in the Agreement and the objective of closely integrating Switzerland in the programme including rights and corresponding obligations.

Means used to make the expert advice publicly available

The conclusions of the experts have not been made publicly available.

### **2.3. Impact assessment**

The action aims at ensuring a close involvement of Switzerland in the construction and operations phases of the Galileo and EGNOS programmes. These two initiatives contain significant industrial, economic and strategic components. The governance of the European GNSS programmes has been reformed in Regulation (EC) No 683/2008 whereby the focus has been shifted from a Public-Private-Partnership to programmes managed and systems owned by the Union. This evolution and the content of the cooperation with security implications require formal regulatory measures. Consequently, three options were considered to achieve this goal.

The first one was an association of Switzerland to the programme through a specific international cooperation body (Galileo International Board) grouping all third countries interested in the Galileo programme. After long discussions over this body with Switzerland and other third countries such as Norway, the option was abandoned. Switzerland felt it was unjust to have the same treatment as considerably less integrated non-European third countries that do not contribute financially to the programme.

The second option was the conclusion of the enclosed Agreement. This allowed practically to reinforce provisions on security and export control and to provide principles and messages paving the way for a mutually beneficial long term cooperative relationship, and to obtain additional funding.

The third option would have been no action at all. This would have led to uncertain relations in the area of GNSS with Switzerland.

## **3. LEGAL ELEMENTS OF THE PROPOSAL**

### **3.1. Summary of the proposed action**

The Commission proposes to the Council to authorise the signing and provisional application of a Cooperation agreement on European Satellite Navigation Programmes between the EU, its Member States and Switzerland. Provisional application for the elements of the Agreement falling within the EU competence is a necessary measure to speed up the application of the Agreement and to receive the Swiss financial contribution to the programmes.

### **3.2. Legal basis**

Article 172, in conjunction with articles 218(6)(a) and the first subparagraph of Article 218(8) of the Treaty on the Functioning of the European Union.

### **3.3. Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Union.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reasons.

The Galileo programme, whose costs are estimated at several billions of Euros, is a European initiative that no single state alone is willing to finance. The content of the proposed Agreement cannot be limited to any single Member State or a group of Member States but affects the Union as a whole and in some aspects has even a worldwide impact.

The industrial and technical knowledge in the space sector is spread over several European

countries, including Switzerland, with no one state capable of mastering all of it. Without a coordinated effort and information sharing, the risks of agreeing on sub-optimal solutions with Switzerland would increase. Errors in the area of security could compromise the security of supply of export controlled components to the European GNSS programmes. This would drive up the costs of the programmes.

Also, the size and complexity of the European GNSS programmes require centralised and simple management structures and clear interfaces between the Union and third countries. A large network of bilateral relations with Switzerland would bear a high risk of inefficiencies, delays and contradictions which in an industrial project quickly translate into higher costs to be borne by the Union budget. Also, Member States acting individually might have smaller chances to impose principles and conditionality towards Switzerland than what is achieved through cooperation.

The Agreement is limited to the common principles and commitments of cooperation and to the specific issues forming part of the Union-owned European GNSS programmes. The Agreement relies on existing capabilities of the Member States (e.g. in export control, exchange of sensitive information) in the implementation of most provisions of the Agreement.

The proposal therefore complies with the subsidiarity principle.

### **3.4. Proportionality principle**

The proposal complies with the proportionality principle for the following reasons.

The Agreement is a traditional well-known instrument in international relations, defined in collaboration with existing expert working groups and to be approved by the existing decision-making structures. It does not establish new administrative structures.

### **3.5. Choice of instruments**

An international agreement is the sole instrument which ensures Union-wide coherency in relations with Switzerland in satellite navigation. Uniformity in application is particularly important in security which forms a major part of the Agreement. At the same time the Agreement allows flexibility as to the implementing measures in particular in the area of standardisation and certification where the Member States are key actors in the international organisations. The Treaties do not provide other viable options for regulating the relationships with a third country.

## **4. BUDGETARY IMPLICATION**

The proposal has only a positive implication for the Union budget. Switzerland will financially participate in the European GNSS programmes following the same formula as for the Swiss participation in the 7<sup>th</sup> EU RTD Framework Programmes (FP7). The Swiss contribution shall be calculated on the basis of the proportionality factor which is obtained by establishing the ratio between Switzerland's gross domestic product, at market prices, and the sum of the gross domestic products, at market prices of the Member States of the European Union.

## **5. OPTIONAL ELEMENTS**

The proposal includes a review clause.

Proposal for a

## COUNCIL DECISION

### **on the conclusion of the Cooperation Agreement between the European Union and its Member States of the one part, and the Swiss Confederation, of the other, on the European Satellite Navigation Programmes**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament<sup>1</sup>,

Whereas:

- (1) By its Decision of 29 June 2010, the Council authorised the Commission to open negotiations with Switzerland for establishing a cooperation agreement on satellite navigation.
- (2) The Commission has negotiated the Cooperation Agreement on European Satellite Navigation Programmes with Switzerland (hereafter referred to as 'the Agreement') in accordance with the negotiation directives approved by the Council.
- (3) This cooperation agreement allows for Swiss participation in the European satellite navigation programmes. In return Switzerland will financially contribute to the programmes.
- (4) The Agreement was signed on behalf of the Union on [...] subject to its possible conclusion at later date and its elements of Union competence have been applied provisionally from [...] pending its entry into force.
- (5) The Agreement should be approved,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The Cooperation Agreement on the European Satellite Navigation Programmes between the European Union and its Member States and Switzerland is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

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<sup>1</sup> Opinion delivered on...

*Article 2*

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, to the deposit of the instrument of approval of the Agreement, in order to express the consent of the European Union to be bound by the Agreement.

*Article 3*

The position to be taken by the Union in the Joint Committee and the groups referred to in Article 20(4) of the Agreement shall be adopted by the Council, on a proposal from the Commission.

*Article 4*

This Decision shall enter into force on the day of its adoption. It shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council  
The President*



**LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE**

**1. NAME OF THE PROPOSAL:**

COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE SWISS CONFEDERATION, OF THE OTHER, ON THE EUROPEAN SATELLITE NAVIGATION PROGRAMMES.

**2. BUDGET LINES:**

Chapter: 66

Article: 660

Item: 6600

Amount budgeted for the year concerned: p.m.

**3. FINANCIAL IMPACT**

The proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

(in €)

Budget line	Revenue	12 month period, starting on	2012
Article 660; Item 6600	Other assigned contributions and refunds – Assigned revenue	01/01/2012	20 000 000

Situation following action					
	2013	2014	2015	2016	...
Article 660; Item 6600	40 000 000	20 050 870	To be calculated later	To be calculated later	To be calculated later

**4. ANTI-FRAUD MEASURES**

**5. OTHER REMARKS**

- (a) This EU-Switzerland GNSS Cooperation Agreement is of indefinite duration. The Swiss financial contribution to the European Satellite Navigation Programmes for the period 2008-2013 amounts to 60 000 000 € and for 2014 amounts to 20 050 870 €

- (b) The Swiss financial contribution will be calculated on the proportionality factor spelled out in article 18 of the Agreement. For the period 2008-2013 this proportionality factor is applied on the amount of EUR 3 005 Million. From 2014 onwards the same proportionality factor will be applied on the annual budget appropriations of the European Satellite Navigation Programmes.