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THE EUROPEAN UNION**

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**NOTE**

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from:	the Presidency
to:	Delegations
Subject:	Proposal for a Regulation of the European Parliament and of the Council on the European Earth observation programme (GMES) and its initial operations (2011–2013) – Presidency Compromise Text

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The delegation will find therewith the Presidency text on the draft GMES regulation.

Added text is **bold underlined** and deleted text is indicated by ~~strikethrough~~.

Please note that this Presidency text addresses only the articles and the annex of the draft Regulation.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the European Earth observation programme (GMES) and its initial operations (~~2011–2013~~)**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 157(3) thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Having regard to the opinion of the Committee of the Regions<sup>3</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

[...]

*(recitals to be discussed later)*

HAVE ADOPTED THIS REGULATION:

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ C , , p. .

Article 1  
Subject-matter

This Regulation establishes the European Earth observation programme (GMES) (hereinafter "GMES programme") and lays down the rules for the implementation of GMES initial operations.

Article 2  
GMES programme

1. The GMES programme shall build on the research activities carried out under Decision No 1982/2006/EC (hereinafter "the Seventh Framework Programme") and the GMES Space Component Programme of the European Space Agency.
2. The GMES programme shall comprise the following:
  - (a) a service component ensuring access to information covering the following thematic areas:
    - land monitoring;
    - **support to** emergency management;
    - **support to** security;
    - monitoring of the marine environment;
    - atmosphere monitoring;
    - climate change **monitoring in support to** adaptation and mitigation **policies**;
  - (b) a space component ensuring sustainable spaceborne observations for the thematic areas referred to in point (a);
  - (c) an in situ component ensuring observations through airborne, seaborne and ground-based installations for the thematic areas referred to in point (a).

### Article 3

#### GMES initial operations (2011-2013)

1. GMES initial operations shall cover the period 2011–2013 and comprise actions in the following fields:
  - (1) **Support to** emergency response services;
  - (2) land monitoring services;
  - (3) **monitoring of the marine environment**
  - (4) **atmosphere monitoring**
  - (5) **support to security**
  - (6) **climate change monitoring in support to adaptation and mitigation policies**
  - (7) measures to support take-up of services by users;
  - (8) data access, including support to in situ data collection;
  - (9) the GMES space component.
  
2. The ~~specific~~ objectives of the actions referred to in paragraph 1 are defined in the Annex.

~~The Commission may adapt the Annex to technical and scientific progress.~~

~~Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(2).~~

### Article 4

#### Organisational arrangements

1. The Commission shall ensure coordination of the GMES programme with activities at national, Community and international level **such as, for example, the Global Earth Observation System of Systems (GEOSS)**.

2. The Commission shall manage the funds allocated to the activities under this Regulation in accordance with Regulation (EC, Euratom) No 1605/2002 (hereinafter "the Financial Regulation") and shall ensure complementarity and consistency of the GMES programme with other relevant Community policies, instruments and actions, relating in particular to **environment, security**, competitiveness and innovation, cohesion, research **(in particular the FP7 activities linked to GMES)**, transport and competition, the European Global Navigation Satellite Systems (GNSS) programmes, the protection of personal data, Directive 2007/2/EC (INSPIRE), the Shared Environmental Information System (SEIS) and Community activities in the field of emergency response.

**2a. The Commission shall ensure that, as a user-driven initiative, service specifications correspond to user needs. To that end, a transparent mechanism for user involvement and consultation is established, enabling endorsement of user requirements at European and national level.**

**User interface shall be addressed in collaboration with EU agencies and bodies. A User Forum, ruled by appropriate Terms of Reference, shall be established. User Forum members should represent and be nominated by Member States.**

~~3. The Member States shall take the necessary steps to ensure the implementation of GMES at Member State level and potential synergies with relevant national, Community and international initiatives.~~

**3. The implementation of GMES shall be based on partnerships between the European Union and the Member States, in compliance with their respective rules and procedures. The voluntary contributions of Member States, and the potential synergies with relevant national, Community and international initiatives, should be defined within the Partners Board referred to in article 11a.**

4. ~~The European Space Agency shall be entrusted with~~ **Overall coordination and technical implementation** of the GMES space component **shall be delegated to the European Space Agency, relying which shall rely** on the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT) where necessary.
5. **The European Centre for Medium-range Weather Forecasting (ECMWF) shall be entrusted with the technical implementation of the atmosphere service.**
6. **The European Environment Agency (EEA) shall be entrusted with the technical co-ordination of the in-situ component and land monitoring services.**

**New Article**  
**Service Delivery**

1. **The Commission shall take adequate measures to avoid the creation of monopolies in the provision of GMES services. Adequate measures shall be put in place to ensure that SMEs are given fair opportunities.**
2. **In order to ensure a competitive market, owners of GMES Space Infrastructure or Data relevant to a specific service cannot be awarded a contract as leaders for the provision of such service.**
3. **Service provision shall be decentralised, where appropriate, to integrate at European level existing inventories and capacities in Member States.**

Article 5  
Forms of Community funding

1. Community funding may take, ~~in particular,~~ the following legal forms:
  - (-1) **delegation agreements**
  - (1) grants;
  - (2) public procurement contracts.
  
2. **[Public procurement should be the preferred funding instrument for implementing the GMES programme. Where this is justified, ]** Community grants may be provided in specific forms, including framework partnership agreement, or co-funding of operating or action grants. Operating grants to bodies pursuing objectives of general European interest shall not be subject to the degressivity provisions of the Financial Regulation. For grants, the maximum rate of co-financing shall be adopted in accordance with the procedure of Article 11(3).
  
3. **In procurements of space infrastructure, space-based data and GMES related services through Community-funds full account should be taken of the specificities of the space sector, in order to avoid monopolisation and to ensure a balanced participation of industry across the Member States.**

Article 6  
Participation of third countries

The following countries may participate in the actions referred to in Article 2(1):

- (1) European Free Trade Association (EFTA) countries which are Contracting Parties to the EEA Agreement in accordance with the conditions laid down in the EEA Agreement
  
- (2) the candidate countries, as well as potential candidates included in the stabilisation and association process in accordance with the Framework Agreements, or Protocol to an Association Agreement, on the general principles for the participation of those countries in Community programmes, concluded with those countries

- (3) the Swiss Confederation, other third countries not referred to in points (1) and (2), and international organisations, in accordance with agreements concluded by the European Community with such third countries or international organisations, pursuant to Article 300 of the EC Treaty, which shall lay down the conditions and detailed rules for their involvement.

## Article 7

### Funding

1. The financial envelope allocated to the implementation of this Regulation shall be [EUR 107 million.]
2. Appropriations shall be authorised annually by the budgetary authority within the limits laid down in the multi-annual financial framework.
3. Third countries or international organisations may also provide additional funding for the GMES programme.

Additional funds referred to in the first subparagraph shall be treated as assigned revenue, in accordance with Article 18 of the Financial Regulation.

## Article 8

### GMES Data and Information Policy

- 1.** The data and information policy for actions financed under the GMES programme shall have the following objectives:
- (a) promoting the use and sharing of GMES information and data;
  - (b) full and open access, **free of charge**, to information produced by **the Community-funded** GMES services and data collected through **Community-funded** GMES infrastructure, **requiring registration and acceptance of user licences**, subject to relevant security **and licensing restrictions**.

**(c) As a general rule, user licences for information provided by the Community-funded GMES infrastructure shall be free of charge for natural and legal persons residing/with their registered office in the European Union, and for scientific and educational use.**

**(d) The Commission may decide to limit the access to information produced by GMES services and data collected through GMES infrastructure for natural and legal persons under the jurisdiction of those third countries which do not grant full and open access to their Earth observation data and information to natural and legal persons in the EU.**

(e) strengthening Earth observation markets in Europe, in particular the downstream sector, with a view to enabling growth and job creation;

(f) contributing to the sustainability of the provision of GMES data and information;

(g) supporting the European research **and innovation** communities.

2. The Commission shall implement the objectives of the GMES data and information policy for the service component, the space component and the in situ component, in particular by ensuring that grant agreements, procurement contracts and delegation agreements concluded with GMES service providers, operators of GMES infrastructure and data providers are in line with the objectives referred to in paragraph 1, **while respecting the data policies of providers of data needed for GMES.**

**3. The Commission shall guarantee full transparency in the procurement of space data. Service data requirements shall be established by users, independently of space data providers.**

## Article 9

### Monitoring and evaluation

1. The Commission shall monitor and evaluate the implementation of actions referred to in Article 3(1).

2. The Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions an interim evaluation report by 31 December 2012 and an ex-post evaluation report **by 2015.**

Article 10  
Implementing measures

1. The Commission shall adopt the annual work programme pursuant to Article 110 of the Financial Regulation and Articles 90 and 166 of Regulation (EC, Euratom) No 2342/2002<sup>4</sup> in accordance with the procedure referred to in Article 11(3);
2. The financial allocation for the GMES programme may also cover expenses relating to preparatory, monitoring, control, audit and evaluation activities which are required directly for the management of the GMES programme and the achievement of its objectives, and in particular studies, meetings, information and publication actions, together with all other technical and administrative assistance expenses that the Commission may incur for the management of the GMES programme.

Article 11  
Committee

1. The Commission shall be assisted by a committee (the “GMES Committee”).
2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
3. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at two months.

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<sup>4</sup> OJ L 357, 31.12.2002, p. 1.

### **Article 11a**

#### **Partners board**

**The Commission shall be supported by a Partners Board, involving Member States, with relevant entities participating as observers also, to support the voluntary coordination of their activities and decisions.**

### **Article 11b**

#### **Security Board**

**The Commission shall be supported by a Security Board, involving Member States, to support the implementation of a GMES Data Security Framework.**

### Article 12

#### Protection of the Community's financial interests

1. The Commission shall ensure that, when actions financed under this Regulation are implemented, the financial interests of the Community are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by means of effective checks and by the recovery of amounts unduly paid and, if irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Regulation (EC, Euratom) No 2988/95, Regulation (Euratom, EC) No 2185/96 and Regulation (EC) No 1073/1999.
2. For the Community actions financed under this Regulation, the notion of irregularity referred to in Article 1(2) of Regulation (EC, Euratom) No 2988/95 shall mean any infringement of a provision of Community law or any breach of a contractual obligation resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities, by an unjustified item of expenditure.

3. Agreements resulting from this Regulation, including agreements concluded with participating third countries and international organisations, shall provide for supervision and financial control by the Commission, or any representative authorised by it, and audits by the Court of Auditors, if necessary on-the-spot.

### Article 13

#### Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

Objectives of GMES initial operations (2011–2013)

The actions referred to in Article ~~2~~3(1) shall have the following objectives:

- (1) emergency response services, based on existing activities in Europe, shall ensure that Earth observation data and derived products are made available for the benefit of emergency response players at international, European, national and regional levels to different types of disasters, including meteorological hazards (including storms, fires and floods), geophysical hazards (including earthquakes, tsunamis, volcanic eruptions and landslides), deliberate and accidental man-made disasters and other humanitarian disasters. As climate change could lead to an increase in emergencies, GMES emergency response will be essential to support climate change adaptation measures in this area as a part of the prevention, preparedness, response and recovery activities in Europe;
- (2) land monitoring services shall ensure that Earth observation data and derived products are made available for the benefit of European, national and regional authorities responsible for the environmental monitoring of biodiversity, soil, water, forests and national resources, as well as in general implementation of environmental policies, collection of geographical information, agriculture, energy, urban planning, infrastructure and transport. Land monitoring services shall include monitoring of climate change variables;
- (3) Marine monitoring services shall provide information on sea state and marine ecosystems for the global ocean and the European regional areas. The application areas of the GMES marine services include maritime safety, marine environment and coastal regions, marine resources as well as seasonal meteorological forecasting and climate monitoring;**

- (4) Atmosphere environmental services shall ensure the monitoring of air quality at European scale and of the chemical composition of the atmosphere at global scale. It should in particular provide information to air quality monitoring systems from local to national scales, and should contribute to the monitoring of atmospheric chemistry climate variables;**
- (5) Security Services shall provide useful information in support of the challenges Europe is facing in the security field such as border control, humanitarian operations, counterterrorism, illegal immigration and drug dealing;**
- (6) Monitoring of climate change shall allow for the adaptation and mitigation of its effects. It should in particular provide data to the provision of Essential Climate Variables (ECVs);**
- (7) measures to support take-up of services by users shall include implementation of technical interfaces adapted to the specific user environment, training, communication and development of the downstream sector;
- (8) data access, including support to in situ data collection shall ensure that Earth observation data from a wide range of European missions and other types of **observation** infrastructure, including in situ infrastructure, are collected and made available to achieve the objectives of GMES; ~~and, in particular, the emergency response and land monitoring services;~~
- (9) GMES initial operations shall ensure the operations of the GMES space component, which consists of space-borne Earth observation infrastructure and aims at ensuring observation of Earth sub-systems (including land surfaces, atmosphere and oceans). It shall be based on existing or planned national and European space infrastructure and on space infrastructure developed in the GMES Space Component Programme.
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