



EUROPEAN
COMMISSION

Brussels, 20.11.2017
COM(2017) 670 final

This document was downgraded/declassified	
Date	27.11.2017
By	Matthias Petschke
Authority	DG/GROW

Recommendation for a

COUNCIL DECISION

authorising the Commission to open negotiations with the Swiss Confederation on an agreement laying down the terms and conditions for the participation of the Swiss Confederation in the European GNSS Agency

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE RECOMMENDATION

• **Reasons for and objectives of the recommendation**

The European GNSS Agency (“the Agency”) is set up by Regulation (EU) 912/2010¹. It is tasked with significant security and marketing tasks relating to the European GNSS programmes - Galileo and EGNOS - and it is also entrusted by the European Commission with programme management tasks relating to the exploitation of the programmes.

The Agency is open to third countries participation through the conclusion of an international agreement between the Union and the concerned country. Norway is the first non-EU country that already participates in the Agency.

Switzerland has been a long standing partner and contributor to the European GNSS Programmes EGNOS and Galileo since the 1990s through its membership in the European Space Agency (ESA). Swiss industry has specific, sometimes exclusive, technical know-how in certain sectors of satellite navigation technology. Switzerland is hosting an EGNOS ground station.

Following the re-profiling of the EU GNSS Programmes in 2008, the cooperation on satellite navigation between the EU and Switzerland is based on the Cooperation Agreement between the EU, its Member States and Switzerland on European Satellite Navigation Programmes, hereafter ‘the GNSS Cooperation Agreement’, signed in 2013 and provisionally applied since 1 January 2014².

Article 16 of the GNSS Cooperation Agreement stipulates that: ‘Switzerland shall have the right to participate in the European GNSS Agency under the conditions to be laid down in an agreement between the European Union and Switzerland. Those negotiations shall start as soon as a request to this effect is submitted by Switzerland and the necessary procedures on the side of the European Union have been completed.’

Switzerland submitted its request to participate in the Agency by letter on 20 May 2014.

Consequently, this document contains a recommendation to open negotiations with Switzerland to establish an agreement laying down the terms and conditions for the participation of Switzerland in the Agency.

Such participation is expected to further strengthen the long standing EU-Swiss partnership in the area of satellite navigation.

For the period 2014-2017 Switzerland has financially contributed to the European GNSS programmes with approximately € 240 million.

¹ Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council, OJ L 276, 20.10.2010, p.11

² OJ L 15 of 20 January 2014, p.1

- **Consistency with existing policy provisions in the policy area**

Article 23 of Regulation (EU) N°912/2010 of the European Parliament and of the Council setting up the Agency³ stipulates that: ‘The Agency shall be open to participation of third countries and international organisations. Such participation and the conditions thereof shall be established in an agreement between the Union and that third country or international organisation, in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union.’

Article 16 of the GNSS Cooperation Agreement stipulates that: ‘Switzerland shall have the right to participate in the European GNSS Agency under the conditions to be laid down in an agreement between the European Union and Switzerland.’

- **Consistency with other Union policies**

The European Global Navigation Satellite Systems (“GNSS”) are important elements in the European Union's policy to ensure the full integration of land, sea and air transport infrastructure for safe, seamless, economic and environmentally friendly navigation. It is part of the European GNSS international strategy to promote cooperation agreements on satellite navigation with a number of countries including Switzerland.

The recommended negotiating directives aim to allow Switzerland, a key partner of the European GNSS Programmes, to participate in the Agency. This involves extending to Switzerland a set of rights and obligations applicable for this participation in the Agency.

The recommendation does not foresee conferring ownership or decision-making rights to Switzerland.

2. **LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

Article 218(3) and Article 218(4) of the Treaty on the Functioning of the European Union.

- **Subsidiarity (for non-exclusive competence)**

The objectives of the proposal cannot be sufficiently achieved by the Member States. The Agency is a Union body set up by Union law and therefore participation of third countries in the Agency cannot be authorised by any single Member State. It should instead be regulated through an international agreement entered into by the Union. The agreement is limited to topics that are necessary to allow the Swiss participation in the Agency.

- **Proportionality**

N/A

³ Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council, OJ L 276, 20.10.2010, p.11

- **Choice of the instrument**

An international agreement is the sole instrument which ensures EU-wide coherence and legal certainty in the relation with Switzerland regarding its participation in the Agency. The Treaty does not provide other viable options for regulating the relationship with a third country.

In addition the international agreement is also required under article 23 of Regulation (EU) N°912/2010.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A.

- **Stakeholder consultations**

The Commission consulted the EU Member States on this initiative. It has been acknowledged that such initiative is beneficial for the Union and the in particular for the further implementation of the European GNSS programmes and the functioning of the Agency.

- **Collection and use of expertise**

N/A

- **Impact assessment**

N/A

- **Regulatory fitness and simplification**

N/A

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

Switzerland should contribute financially to the budget of the Agency to cover the full costs relating to its participation to the works of the Agency.

For the Union budget there will thus be no financial implication.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

N/A

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

The European Commission and Switzerland have discussed ways of formalising the Swiss participation in the Agency on various occasions over the last years.

As a result of the conclusion of the GNSS Cooperation Agreement Switzerland is allowed to participate in the European GNSS programmes committee as an observer without the right to vote.

The envisaged agreement should not allow Switzerland to participate in Public Regulated Service (PRS) -relevant fora, working groups or discussions.

Finally, the agreement should include a mechanism to allow a flexible adaption to new developments such as any future EU legislation relating to the Agency .

Recommendation for a

COUNCIL DECISION

authorising the Commission to open negotiations with the Swiss Confederation on an agreement laying down the terms and conditions for the participation of the Swiss Confederation in the European GNSS Agency

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on Functioning of the European Union, and in particular Article 218 (3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas negotiations should be opened with a view to concluding an agreement with the Swiss Confederation laying down the terms and conditions for the participation of the Swiss Confederation in the European GNSS Agency.

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the Union, an international agreement with the Swiss Confederation on the terms and conditions for the participation of the Swiss Confederation in the European GNSS Agency.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the [*to be added by the Council: name of the Committee composed of the representatives of the Member States*].

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

For the Council

The President