

STANDARD FORM OF EXPLANATORY MEMORANDUM FOR EUROPEAN UNION

LEGISLATION AND DOCUMENTS

Unnumbered document

SECURITY OF SYSTEMS AND SERVICES DEPLOYED, UNDER THE EUROPEAN SPACE PROGRAMME

Submitted by the Department for Business, Energy and Industrial Strategy on 9 October 2018

SUBJECT MATTER

1. This document sets out a proposal to repeal and replace the EU Joint Action Decision 2014/496/CFSP¹. That Decision set out responsibilities to be exercised by the European Council and the High Representative of the Union for Foreign Affairs and Security Policy to avert a threat to the operation and use of the European Global Navigation Satellite System (GNSS) service, Galileo², where the operation of the GNSS could affect the security of the European Union or its Member States.
2. This new Decision, if adopted, provides additional detail on how Joint Action procedures would operate, and extends the scope to all components of the EU Space Programme. This means that in addition to applying to Galileo, it would also apply to EGNOS³, Copernicus, Space Surveillance and Tracking (SST) and Government Satellite Communications (GOVSATCOM). This is in keeping with the EU's proposals for consolidating governance across the components of the EU Space Programme for the period 2021-27, which are currently being discussed and refined in the European Council and Parliament. Further detail on those proposals was provided in EM9898/18.
3. The new draft Decision states that third countries with international agreements granting them access to a component of the EU Space Programme can also have agreements which stipulate how they participate in Joint Action procedures. These would include detail on how participating third countries could be informed of threats to security, and the actions taken by the Council and High Representative to avert/prevent and respond to these threats. This is in line with the approach set out in the previous Decision.

SCRUTINY HISTORY

4. This a new proposal, which has not previously been considered.

¹ Repeals Joint Action 2004/552/CFSP.

² Currently defined under Regulation (EU) No 1285/2013.

³ European Geostationary Navigation Overlay Service

5. EM 9898/18 on the draft EU Space Programme Regulation was submitted by the Department for Business, Energy and Industrial Strategy on 25 June 2018. This is still being scrutinised by the Lords European Union Committee.

MINISTERIAL RESPONSIBILITY

6. The Secretary of State for Business, Energy and Industrial Strategy has responsibility for Space Policy, including UK participation in the EU Space Programme and the satellite and infrastructure elements of Copernicus.
7. The Secretary of State for the Environment, Food and Rural Affairs has overall responsibility for the Copernicus component of the Programme.
8. The Secretary of State for Defence and the Secretary of State for Foreign and Commonwealth Affairs also have an interest in Galileo.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

9. Space is a reserved matter under the UK's devolution settlements and no devolved administration interests arise in relation to this document. The devolved administrations have therefore not been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

10.
 - i. Legal basis
Article 28 of the Treaty on the European Union.
 - ii. European Parliament Procedure
None. The Council Decision is not a legislative act.
 - iii. Voting procedure [grateful for confirmation from legal]
Unanimity
 - iv. Impact on United Kingdom Law
The legislation has no impact on UK law
 - v. Application to Gibraltar
Yes

- vi. Fundamental rights analysis
No issues arise

APPLICATION TO THE EUROPEAN ECONOMIC AREA

- 11. This Decision would apply to any EEA countries which participate in the EU Space Programme. The proposals are consistent with those in the Decision it is repealing and replacing.

SUBSIDIARITY

- 12. The Government accepts that space is an inherently collaborative exercise, and that the scale of the activities involved lend themselves to international cooperation. For the EU Space Programme, it is appropriate for the Commission to ensure the development of EU-wide space infrastructures and EU-wide space-based services, alongside national space programmes. It is therefore also appropriate for the Council and the High Representative to be responsible for the measures required to protect those EU-wide infrastructures and services.

POLICY IMPLICATIONS

- 13. On 23 June 2016, the EU referendum was held, and the people of the United Kingdom voted to leave the European Union. The Government respected the result and triggered Article 50 of the Treaty on European Union on 29th March 2017 to begin the process of exit. Until the UK leaves the EU, it remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will also continue to negotiate, implement and apply EU legislation.
- 14. The proposed Joint Action Decision takes a similar approach to that taken in the previous Decision (2014/496/CFSP). It makes clear that third countries, as the UK will be once we have withdrawn from the EU, can inform the High Representative of potential threats and be informed of any decision to suspend services. Were the UK to conclude international agreements to participate in components of the Space Programme as a third country, the Decision could affect the UK's access to those components should Joint Action procedures be initiated. The likely impact would depend on the terms of any international agreements the UK concluded with the EU.
- 15. On the 24th May 2018 the UK's position on Galileo and access to PRS was set out in a published technical note. One of the UK's core requirements for participation in Galileo was that the UK would not be subject to any restriction on access to the signal, including the PRS, which EU Member States are not equally subject to. The proposed Joint Action Decision introduces no additional issues for the UK to achieve its requirements on Galileo.

16. The UK recognises that it is important for the EU to put in place appropriate safeguards for its Space Programme. Whilst the UK remains a full EU Member State, officials will continue to work with the European External Action Service and the European Commission to ensure that any Joint Action procedures that are put in place for the EU Space Programme are adequate and proportionate.

CONSULTATION

17. No detailed consultation has been carried out for these proposals. However, the most significant change – the application of these procedures to all components of the EU Space Programme – is being taken as part of the finalisation of the draft EU Space Programme Regulation. This draft regulation is currently going through scrutiny processes in the European Council and Parliament, in which the UK is playing a full part.

IMPACT ASSESSMENT

18. No impact assessment has been carried out for this proposal. The EU published its own assessment of the impact of the draft EU Space Programme Regulation, which was laid with the House alongside that draft regulation. The draft Regulation contains the proposal to standardise governance across the components of the Programme, which is the most significant aspect of this change.

FINANCIAL IMPLICATIONS

19. There are no direct financial implications for the UK from this proposal.

TIMETABLE

20. The timetable for finalisation of the proposal has not been yet specified in detail. The timetable for agreement will be dependent on the outcome of discussions of the draft EU Space Programme Regulation.



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