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REGULATIONS OF THE EUROPEAN SPACE AGENCY

Industrial Policy Rules and Regulations

Regulation concerning the calculation of the geographical return coefficients and on the publication of corresponding statistics and forecasts

According to Article VII of the ESA Convention ESA's Industrial Policy shall in particular be designed to:

- a) meet the requirements of the European space programme and the coordinated national space programmes in a cost effective manner;
- b) improve the world-wide competitiveness of European industry;
- c) ensure that all Member States participate in an equitable manner, having regard to their financial contribution, in implementing the European space programme and in the associated development of space technology;
- d) exploit the advantages of free competitive bidding in all cases, except where this would be incompatible with other defined objectives of industrial policy.

Other objectives may be defined by the Council and the detailed arrangements for the attainment of these objectives shall be those set out in Annex V to the Convention and in rules that shall be adopted by the Council.

In application of these provisions, ESA Council has adopted the attached Regulation for the attainment of the above objectives. It concerns the calculation of the geographical return coefficients as well as the publication of the corresponding statistics and forecasts.

The Regulation was adopted by Council on 10 June 2015 and has come into force retroactively on 1 January 2015.

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INDUSTRIAL POLICY RULES AND REGULATIONS

Regulation concerning the calculation of the geographical return coefficients and on the publication of corresponding statistics and forecasts

ARTICLE 1

(Purpose – scope)

1. The purpose of this Regulation is to establish a basis for pursuit of the industrial policy objectives defined in Article VII of and Annex V to the Convention and to implement the Council Resolution on the Discontinuation of Geographical Return Statistics and the Return Coefficient and the Strategic Initiative, adopted 13 June 2013 (ESA/C/CCXXXVII/Res.2 (Final)).
2. This Regulation covers the interpretation and implementation of the provisions of Articles IV and V of Annex V to the Convention. The term “programme” as used in this Regulation applies to programmes and activities undertaken within the framework of the Agency in pursuance of Article V.1 (a) and (b) of the Convention.
3. This Regulation covers all contracts including sub-contracts, riders and/or any other supplementary contractual arrangements placed for programmes and mandatory activities as from 1 January 2015, and also applies to changes after that date made to contracts placed before that date.
4. This Regulation also covers retroactively all contracts including sub-contracts, riders and/or any other supplementary contractual arrangements placed for programme Declarations opened to subscription on or after 20 November 2012 and as stated in ESA/C(2012)124.

SECTION I – DEFINITIONS

ARTICLE 2

(Overall return coefficient per Member and Cooperating State)

1. For the purposes of Article IV.1 of Annex V to the Convention, “the total value of all contracts awarded among all Member States” shall also include contracts placed with industry and organisations of States that have entered into an association or cooperation agreement with the Agency.
2. The overall return coefficient per State shall be calculated by totalling the weighted values of all contracts placed with industry and organisations of that State under each of the Agency’s programmes (or “overall value of contracts”) and then comparing that value with the sum of ideal values (or “overall ideal value”) for the same programmes for that State.

ARTICLE 3

(Value of contracts)

1. The value of contracts placed with industry and organisations of a State under each of the Agency’s programmes shall be weighted by using the technological weighting factors, which are in force in the Agency at the time of calculation and entered by the Agency, in EURO, in the Agency’s geographical return data bank at the date and value of the relevant commitment. All commitments made in national currencies are converted into EURO in the manner specified in the Agency Financial Regulations and Instructions in force at the time of calculation of the geographical distribution of contracts.
2. In line with the threshold set for procurement actions in the ESA Procurement Regulations and related Implementing Instructions for contracts and contract riders exceeding the overall value of 20 MEURO, the related sub- contracts and/or any other supplementary contractual arrangements shall be entered into the Agency’s geographical return data bank as and when they are notified by the prime contractor to the Agency.
3. For the purpose of calculating the geographical return, contracts are assigned to the States in accordance with Article II.3 of Annex V to the Convention and the relevant rulings of Council and of the Industrial Policy Committee with the exception of purchase orders placed by the Agency.
4. For each contract placed with industry and organisations in cost centres, the cascading

mechanism in force in the Agency at that time will be applied.

5. The overall value of contracts placed with a State shall include the contracts awarded to industry and organisations of that State under those optional programmes whose Declarations or Implementing Rules provide for automatic adjustments of contributions or other provisions in order to guarantee a return coefficient of 1 on programme completion, it being understood that in such cases the ideal value considered shall be equal to the value of contracts awarded to industry and organisations of that State under the said optional programmes.

ARTICLE 4

(Percentage contribution)

1. The percentage contributions used are those in force at the date of calculation of the return coefficients, adjusted to total 100 per cent in cases where the scale of contributions is less than or exceeds that figure.
2. In the event of a participating State in any of the optional programmes modifying its percentage contribution, a combined percentage contribution reflecting that State's real contribution to the programme as a whole shall be used, in the economic conditions stated in the original Declaration.
3. For mandatory activities referred to in Article V.1 (a) of the Convention, a State's percentage contribution shall be the sum of that State's called-up contributions to date since 1 January 2015 together with those that will be called up according to the percentage contribution approved by Council for the current level of resources, compared with the contributions of all States calculated using the same method. Adjustments are made at the beginning of each year to take into account the contributions actually called up to date and those to be called up during the coming year.

ARTICLE 5

(Ideal value)

1. The ideal value for a State participating in any of the Agency programmes shall be, at the date of calculation, the sum of the weighted values of contracts awarded to the industry and organisations of all Member and Cooperating States in the particular programme, multiplied by that State's normalized percentage contribution to the programme in question. Where programme Declarations or Implementing Rules

provide for an automatic adjustment of contributions or other provisions for a guaranteed return coefficient of 1 at completion of the programme, the ideal value is equal to the weighted value of contracts for each participating State.

2. The overall ideal value for a Member and Cooperating State shall be the sum of the ideal values calculated for that State across all the Agency's programmes.

SECTION II – PUBLICATION OF THE GEOGRAPHICAL DISTRIBUTION OF CONTRACTS

ARTICLE 6

(Issuing of quarterly return calculations)

1. Quarterly calculations of the Member and Cooperating States' overall return coefficients and return coefficients for all Agency's optional programmes and mandatory activities shall be issued as part of the Industrial Policy Committee's work and shall consist of statistics of the overall returns, combined statistics of mandatory activities, combined statistics of programme domains (as per the Resolution on the Evolution of the Industrial Policy of Optional Programmes and Mandatory Programmes and Activities (ESA/C/CCXLIII/Res.1 (Final)) and any modification thereof), and statistics for each on-going optional programme.
2. The quarterly return calculations shall comprise the unweighted and weighted value of contracts, the ideal value, the percentage contribution, the return coefficients and the deviation from the ideal value of contracts (surplus/deficit).

ARTICLE 7

(Issuing of annual estimates of end-of-programme return coefficients, forecast of an overall return coefficient at the end of the current five-year period and forecast in support of adjustment of contributions)

1. Annual estimates of the return coefficients on completion of major optional programmes shall be issued as part of the Industrial Policy Committee's work. The estimated return coefficient at completion of a major on-going optional programme shall be calculated by totalling the weighted values of all contracts placed and forecast to be placed for each participating State, and by comparing that value with the estimated ideal return for each participating State in the programme.
2. For those major optional programmes, opened for subscription on or after 20 November 2012, whose Declaration or Implementing Rules provide for automatic adjustments to contributions to guarantee a return coefficient of 1 at the end of the programme an intermediate adjustment of contribution scales shall be calculated every second year on the basis of forecasted return coefficients at completion, in accordance with the relevant provisions of the ESA Financial Regulations, or as required in the programme Declaration or Implementing Rules.
3. Annual forecasts for the overall return coefficient at the end of the current five-year period referred to in Article IV.5 of Annex V to the Convention shall be issued

as part of the Industrial Policy Committee's work. The forecast of the overall return coefficient shall be calculated by totalling the weighted values of all contracts placed and forecast to be placed for each Member and Cooperating State under all the Agency's programmes within the current five-year period. This total will be compared with the estimated overall ideal return for each Member and Cooperating State in the said period.

4. The annual estimates of end-of-programme return coefficients and the forecast of the overall return coefficient at the end of the current five-year period shall be published in the course of the first quarter of every year.
5. At the time of the formal review to be held at the end of each five-year period in accordance with Article IV.5 of Annex V to the Convention, overall return coefficients calculated in accordance with the provisions of Articles 1 to 6 above shall be issued for each Member State.
6. In addition, at the time of the formal review to be held at the end of each five- year period in accordance with Article IV.5 of Annex V to the Convention, supplementary information shall be available in the form of forecasts of industrial return coefficients which will include, for contracts actually placed and referred to in Article 3.2 above, the related subcontracts and/or any supplementary contractual arrangements not yet formally effective.

SECTION III – FINAL PROVISION

ARTICLE 8

(Entry into force)

This Regulation shall enter into force retroactively on 1 January 2015 having retroactive effect for programme Declarations open to subscription on or after 20 November 2012 and as stated in ESA/C(2012)124.