Resolution giving mandate to the Director General to establish appropriate relations between the European Space Agency and the European Union

(adopted on 25 October 2018)

The Council, meeting at ministerial level,

HAVING REGARD to the Convention for the establishment of a European Space Agency (hereinafter “the Convention”), which entered into force on 30 October 1980,

HAVING REGARD to the Framework Agreement between the European Community and the European Space Agency (hereinafter “the Framework Agreement”), which entered into force in 2004, and in particular Article 5.2 therein reading: “When the implementation of a joint initiative requires a detailed definition, it shall be provided for in specific arrangements to be entered into between the Parties...”,

HAVING REGARD to the Treaty on the functioning of the European Union (hereinafter “the TFEU”), and in particular the last phrase of Article 4.3 therein reading: “…however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.” and to Article 189.3 therein reading: “The Union shall establish any appropriate relations with the European Space Agency”,

RECALLING the Resolution “Towards Space 4.0 for a United Space in Europe” (ESA/C-M/CCLXIV/Res.1 (Final)) adopted at ministerial level in Lucerne on 1 December 2016, and in particular Article 2 therein reading: “STATES that ESA Member States, acting in cooperation in their common Agency, contribute substantially to the European construction; AFFIRMS that ESA Member States, exercising their competences in the area of space at national and international level, contribute significantly to the European space sector through the development and implementation of European space policy and programmes; ASSERTS that ESA Member States shall continue to act, notably within the
framework of ESA Convention, across all space domains, developing ESA’s internal capability and European scientific and industrial capacities, in particular through preparatory and technology programmes…”,

RECALLING that the purpose of the present Resolution is to implement the Resolution adopted at ministerial level in Lucerne on 1 December 2016 “Towards Space 4.0 for a United Space in Europe” (ESA/C-M/CCLXIV/Res.1 (Final)), and in particular Article 4 therein whereby the Council “invited the Director General to develop with Council and in accordance with the ESA-EU Framework Agreement of 2004, the necessary principles so as to ensure ESA’s ability to efficiently implement EU-funded space programmes and activities”,

RECALLING the “Joint Statement on Shared Vision and Goals for the Future of European Space” signed by the European Union (EU) and the European Space Agency (ESA) on 26 October 2016, and in particular paragraph 5 therein reading: “the EU and ESA emphasize their intention to reinforce their cooperation in the future, as foreseen in the EU-ESA Framework Agreement of 2004, and further develop it, taking into account the TFEU, in particular Article 189, and the ESA Convention, in particular Articles 2 and 5”,

RECALLING the long-term nature of ESA’s relationship with the EU in the last 20 years, whose programmes and activities have represented a gradually increasing share of ESA’s budgets, reaching around a quarter of the annual ESA budget in recent years,

RECALLING that the costs of providing and maintaining ESA’s basic expertise and common infrastructure, which serve to ensure ESA’s unique capabilities are sustained in the long term, and thus substantially benefit and ensure the cost-effective implementation of all programmes and activities implemented by ESA, are funded by ESA’s Member States,
RECOGNISING the experience from the successful relationship in the ESA execution of the EU flagship programmes e.g. the Copernicus management model,

RECALLING the common letter addressed to the Director General of ESA and the European Commission by the Austrian Presidency of the Council of the European Union and the Spanish Presidency of the ESA Council at ministerial level calling on both organisations to “build the ground for reaching the needed consensus both at ESA and EU level for the issues at stake” and notably for the Member States of ESA to agree at the ESA intermediate Ministerial Meeting on 25 October 2018 “on the key principles for the cooperation between ESA and the EU/European Commission”,

RECALLING that any activity carried out by ESA for other organisations must be compliant with Article II of the Convention and may neither interfere with the efficient accomplishment of the Agency’s activities and programmes nor prejudice the use of the Agency’s facilities for its own activities and programmes and that any agreement with such organisations the implementation of which may expose ESA to financial and other risks requires a decision by Council in accordance with the applicable ESA rules and procedures,

RECALLING that ESA has declared its acceptance of the rights and obligations of the United Nations’ space treaties to which its Member States are parties,

NOTING that the EU space programme for the 2021–2027 period (hereinafter the “EU Programme”) is in the process of being established and funded through the corresponding European Commission Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the space programme of the Union and the European Union Agency for the Space Programme (06.06.2018, COM(2018)447 Final) as part of the next EU Multi-Annual Financial Framework,

RECALLING that ESA on behalf of its Member States acts in elaborating and implementing, on the basis of Article II.a of its Convention, their long-term European space policy,
WELCOMES and SUPPORTS the aim of fully implementing the Framework Agreement and the joint position paper prepared by the Austrian Presidency of the Council of the European Union and the Spanish Presidency of the ESA Council at Ministerial level and submitted to this Council under ESA/C-M(2018)4 “Europe in Space: Roadmap towards a coordinated space policy for Europe”,

REAFFIRMS the compelling need for Europe to ensure maximum coherence and efficiency in the actions of the different public players so as to preserve and increase its position in the space sector worldwide, especially by ensuring that an efficient management and governance scheme is established for Europe’s benefit so as to avoid unnecessary duplication of public resources and overlapping of public competences to the detriment of cost-effectiveness and European space industry competitiveness, therefore

WELCOMES, based on ESA’s internationally recognised competences, heritage, technical expertise and long-standing experience in developing its own missions, those of international partners and the current EU flagship programmes Galileo, EGNOS and Copernicus, that the European Commission in its proposal establishing the space programme (06.06.2018, COM(2018)447 Final) has expressed its intention to further entrust ESA, as its privileged partner in space, with the implementation of its Programme, and to that effect:

I. OFFERS the EU to benefit from ESA’s world-class technical and managerial expertise across all space domains, human capital and laboratories, testing and launch facilities, and global infrastructure for space operations, and to leverage the existing ESA programmes, increasing the choices available to the EU for its future space programmes by decreasing the risks of EU investments through ESA preparatory/precursor activities and R&D activities, where appropriate.

II. MANDATES the Director General, in line with the Framework Agreement and Resolution “Towards Space 4.0 for a United Space in Europe”, to discuss and negotiate with the EU a Financial Framework Partnership Agreement ensuring compliance with the objectives defined here below, aimed at:
maximising the coherence and efficiency of the public investments made at European level in the space sector, and achieving the highest possible degree of complementarity of all existing public competences, infrastructures, resources and knowledge while respecting the autonomy of each of the entities concerned; and

-establishing a cooperation scheme between the EU and ESA beneficial to Europe, to all their Member States, its industry and its citizens.

In view of the necessary approval of the ESA Council, the Director General shall carry out its mandate on the basis of the legal instruments in force as recalled above and pursue the implementation and attainment of the objectives established hereunder in future agreements between ESA, on the one hand, and the EU, its institutions, bodies, offices or agencies, on the other.

Objectives of an appropriate EU - ESA partnership

1. To guarantee efficient, cost-effective implementation maximising all benefits and minimising all development and operational risks arising from the space activities, the EU may decide to entrust ESA with an adequate level of managerial responsibilities.

2. To that effect, in accordance with the budget allocations and high-level requirements provided by the EU, ESA in order to ensure the overall system performance should carry out its entrusted tasks in accordance with best practice in space programme management.

3. The forthcoming Financial Framework Partnership Agreement could cover:

   (a) definition of the perimeter and the objectives;

   (b) definition of the tasks, responsibilities, rights and obligations and any resulting liabilities of ESA;

   (c) definition of ESA’s role as implementing agency for components of the EU Space Programme;
(d) relations between ESA and EU entities active for the EU Space Programme;

(e) financial aspects;

(f) general cross-reliance on ESA’s rules, as provided for in Article 126 of the EU Financial Regulation, considering e.g. the previously accepted ESA adapted rules of the Copernicus Agreement between the EU and ESA of 28 October 2014 and its possibly necessary further adaption to comply with EU rules;

(g) the offering to the EU of the best possible financial conditions, similar to those made available to the ESA Member States;

(h) application of the EU security rules defined in the security agreement(s) entered into between the EU, and its Institutions and Agencies, with ESA, in particular with regard to the processing of classified information;

(i) assumption of ESA’s international liabilities incurred by the rights and obligations of the United Nations’ space treaties to which its Member States are parties;

(j) support, to the greatest extent possible, of European industrial competitiveness, ensuring that fair opportunities are offered to all kind of companies including SMEs.

III. INVITES the Member States to support the Director General in his negotiations.

IV. INVITES the Director General to regularly report back to Council on the status and progress of the negotiations with the EU on the Agreement and any necessary implementing instruments in view of their adoption by Council.
Europe in Space: Roadmap towards a coordinated space policy for Europe

Joint Position Paper of the Austrian Presidency of the Council of the European Union and the Spanish Presidency of the ESA Council at ministerial level

1. Rationale

Space is a key industrial sector in Europe’s economy and a strategic asset supporting Europe’s independence of action at the global stage. Europe is already the world’s second largest space power and should aim at further strengthening its global position and autonomy in the new space era to respond to growing international competition, increasing private sector involvement and major technological shifts.

Achieving this objective requires a coherent and progressive development of an overall European Space Policy. To that end, cooperation at the level of the European Union (EU) and the European Space Agency (ESA) is essential. This includes ensuring coherence and complementarity between EU and ESA, avoiding duplication of objectives and capacities as well as avoiding building up parallel structures for the implementation of publicly funded programmes.

The preparation of the new EU space programme as well as the 2018 ESA Intermediate Ministerial Council and the 2019 ESA Ministerial Council represent a short window of opportunity to streamline the European space agenda. This goal requires a governance structure with clear roles and tasks for the main actors.

2. Coordination

Political decisions at the EU level are taken by the Council of the EU (COMPET Council configuration) and the European Parliament and at ESA level by the ESA Council at Ministerial Level.

The building up of a stronger space sector and the increasing influence of Europe on the global stage, however, requires a long-term consolidated strategic position of the European Union and its Member States as well as ESA and its Member States. Against this background a strengthened cooperation between the EU and ESA should provide greater coherence and synergies to ensure the full economic and
social potential of space. It would also be a strong signal to the global market that the EU and ESA are able to pool all its forces to tackle the global challenges ahead.

This strengthened strategic cooperation and coordination at political level should address the whole European space landscape, and elaborate a shared vision and, goals.

The cooperation should be established, without prejudice to the respective decisions and legal procedures of the EC Competitiveness Council and ESA Council, according to the following scheme.

a. Informal joint EU-ESA Space Council

Based on the 2004 Framework Agreement between the European Community and ESA (Article 8 (1) in particular), a strengthened cooperation and coordination at political level shall be accomplished by regular meetings of the so-called Space Council. These meetings will be informal and in future be convened and chaired by the presidency of the EU Council and the chair of the ESA Council at Ministerial Level. The Space Council should meet once a year for strategic discussions and agree on common steps ahead with respect to space policy in Europe.

b. Coordination Group

The EC and ESA DG/Executive should establish a Coordination Group that prepares the agenda of the meetings of the informal Space Council, in coordination with the presidency of the EU Council and the chair of the ESA Council at Ministerial Level. The Coordination Group should ensure as well a maximum coherence of the public investments and efficiency in the actions of the different public players so as to maximize European positions in the space sector worldwide. The meetings should take place at the Director General level on a regular and formal basis. The presidency of the EU Council and the chair of the ESA Council at Ministerial Level should be invited as observers. Other relevant actors should be invited on a case-by-case basis.

Both EC and ESA will inform their respective relevant bodies on the evolution of the above coordination.

c. Procurement Board

The Procurement Board, as established in Copernicus, is a useful model to execute EU Space programme efficiently.
Resolution providing strategic guidelines for the preparation of Agency programmes and activities

(adopted on 25 October 2018)

The Council, meeting at ministerial level,

RECALLING the purpose of the European Space Agency (ESA) as outlined in Article II of its Convention,

RECALLING the Resolution “Towards Space 4.0 for a United Space in Europe” (ESA/C-M/CCLXIV/Res.1 (Final)) and the Resolution on ESA programmes: outlook and way forward (ESA/C-M/CCLXIV/Res.4 (Final)), both adopted at ministerial level in Lucerne on 1 December 2016,

I. Organisation of the Agency’s planning, programmes and activities

1. WELCOMES the Director General’s commitment to submit to Council a Long-Term Plan 2019-2028 which will identify the substantial evolution expected to occur in the various fields of space activity and the different roles that players and stakeholders, and primarily the Agency’s activities and programmes will be called upon to play in the coming years.

2. RECOGNISES the importance of the Agency’s mandatory activities in ensuring stability and continuity and maximising benefits for the Member States, as defined in the Convention; and UNDERLINES the objective to secure an adequate Level of Resources so that:
(a) the Scientific Programme, as a vehicle of excellence for European scientists, will continue to build on its remarkable success in past years, while giving consideration to increasing the financial resources made available to it so as to allow it to conduct more science activities, and

(b) the Agency’s Basic activities can continue to play an essential role in ensuring that the Agency is in a position to achieve its programmatic and strategic objectives.

3. NOTES the Director General’s approach consisting in taking the necessary steps, in good time before the Council meeting at ministerial level scheduled to take place in November 2019 (CM19), to plan and define his forthcoming proposals to contribute meaningfully to the evolution of the European space sector by carrying out the Agency’s programmes and activities, including for related downstream uses, starting in 2020 around the following four pillars defined for a better understanding of the overall perimeter of the Agency’s activities, and not for programmatic and managerial set up:

(a) Science and Exploration: comprising Space Science and Human and Robotic Exploration;

(b) Safety and Security: comprising Space Safety of the operating space environment, Safety and Security Applications, and Cybersecurity, for exclusively peaceful purposes, on the basis of Article II of the Convention;

(c) Applications: comprising Telecommunication, Earth Observation, and Navigation; and

(d) Enabling and Support: comprising Technology, Space Transportation and Operations.
4. ACKNOWLEDGES that the Agency’s optional programmes constitute a powerful and flexible instrument with which to continue to support the growth and competitiveness of European industry and adapt to, and benefit from, the different changes affecting the space domain, such as the increased involvement of the New Space Economy.

5. INVITES the Director General, convinced of the importance for the Agency of continuing to offer a broad range of high quality programmes to develop, based on the priorities of Member States, and taking into account those of the associate member State, and in a manner that would complement and reinforce space activities conducted by different players in Europe, attractive proposals for activities and programmes within the above pillars, to be submitted for approval by Member States at CM19.

6. ACKNOWLEDGES that the above activities and programmes are intended to further contribute to securing the desired outcome and long-term roles for the Member States, players and stakeholders concerned, to maintaining and consolidating established strategic partnerships, while creating new ones, advancing priority technologies, and ensuring the overall robustness and balance of the mission and activity roadmap.

7. CONSISTENT with the Resolution on Access to Space (ESA/C-M/CCXLVII/Res. 1 (Final)) adopted at ministerial level on 2 December 2014, REITERATES the importance of ensuring guaranteed access to space as a pillar of Europe’s freedom of action in space; WELCOMES the signature of the ESA/Arianespace Frame Contract for Ariane 6 and Vega C launch services for all ESA missions; ENCOURAGES the prompt conclusion of launch service contracts with Arianespace for the European institutional missions planned to be launched in the period 2020–2023; and ACKNOWLEDGES the signature among public entities at this ministerial meeting of the Joint Statement on the institutional exploitation of Ariane 6 and Vega C recognising the benefit of using competitive European launch services for Europe’s institutional missions, and by doing so contributing to an autonomous, reliable and cost-effective access to space for Europe.
II. Evolution of the Agency

8. INVITES the Director General:

(a) to formulate proposals to organise ESA in such a way as to continue to optimise the implementation of activities and programmes for its Member States and to ensure efficient use of its expertise and resources while providing added value to the EU Programme and to all other Requesting Parties; and

(b) in particular to review ESA’s internal structure and make the necessary adaptations, with a view to optimising interaction and cross-fertilisation between the various activities and programmes, so as to deliver integrated and coherent space solutions to ESA stakeholders and customers.

9. MANDATES the Director General to make proposals aimed at achieving greater efficiency in taking decisions at ESA, in particular by strengthening coordination among programme boards and other subordinate bodies.

10. MANDATES the Director General, in consultation with the respective boards and committees, to formulate proposals in conjunction with the preparation of CM19, for the purpose of:

(a) fostering the evolution of the Agency’s activities and programmes through the development of remoulded programme-related instruments, and the promotion of new types of partnership and of funding schemes for partners;

(b) defining visionary goals and objectives for each activity and programme to anticipate future public, private and institutional needs, in particular where there is not yet a market;
(c) making the Agency a more agile and responsive organisation able to foster innovation and new partnership and cooperation models, building on notable achievements such as the network of ESA Business Incubation Centres (BICs), the network of ESA_Labs and the ESA Grand Challenge, and for this purpose developing the use of grants, Public Private Partnership (PPP) and financing possibilities from different sources;

(d) opening up ESA to new roles within the global perspective by encouraging cross-fertilisation between the space domain and other domains, and by assessing and reinforcing the “value added of ESA” in terms of the overall impact of ESA activities on the European society as a whole, thus reflecting ESA’s goal of efficient public value management;

(e) improving and consolidating, in coordination with the Member States and the different players and stakeholders concerned, a comprehensive industrial policy with a view to balancing geographical return and responding with the necessary flexibility to the changed context through the definition of objectives, priorities and tools, and a review of the associated regulatory processes and indicators to measure the policy’s effectiveness;

(f) promoting an appropriate relationship between the Agency and industry so as to ensure that the Agency is in a position to exercise an appropriate level of monitoring and encourage the mitigation of cost and schedule overruns;

(g) strengthening the Agency’s SME Policy with a view to better benefitting from the potential for innovation provided by SMEs from all Member States by focusing on their business sustainability, supporting and incentivising their integration in the supply chain and proposing activities customised to SMEs.
11. INVITES the Director General to regularly report and consult at forthcoming Council meetings on the measures to be taken for the purpose of giving effect to this Resolution and, when necessary, submit them to Council’s approval.