

# Procurement

## Evolution of the Agency's Procurement and Industrial Policies

### FINPOL: results and way forward

The so-called FINPOL Resolution (ESA/C/CLXXI/Res.2 (Final)) approved unanimously by Council in June 2004 is meant to reform some aspects of the Agency's industrial and procurement policy, the details of which will be worked out by mid-2005.

- The future of the *technology harmonisation process* calls for the enforcement by the Director General of the recommendations regarding the process itself in ESA programmes, where he has direct power, and for increased promotion of the conclusions of the said process within Member States and industry for their programmes, where that process can only be implemented on a voluntary basis.
- Total convergence was achieved on the need for developing a *strategic European procurement policy*, in order to ensure that strategic areas such as technologies, components and equipment remain under the control/leadership of European industry.
- The principle of the proposal to *foster the participation of European industry in national programmes* was supported by a large majority of Member States, with the understanding that it can only be implemented with the agreement of those States involved, since it impinges on national prerogatives, and on a reciprocity basis.
- Another profound change approved by Council is the *hierarchy of return rules*. It foresees a pyramid-like approach, in which greater flexibility is allowed for the return rules of individual programmes and a narrower flexibility is set for the overall return, whilst maintaining the need to target the ideal return coefficient of one.
- The need for further *mastering of risks* for programmatic and procurement purposes has been recognised. Accordingly, adequate

funding has to be assured by Member States within the programme envelopes for the preparatory activities and early phases of programmes, before embarking on the development phase. It will be necessary to prepare a *development dossier* before initiating development-phase procurement. An *incremental approach to procurement* when risks are deemed very high (e.g. in the case of interfaces not under the Agency's direct control) is also foreseen.

- The *Code of Best Practices*, which dictates the rules to be followed by the Prime Contractor in a competitive environment vis-à-vis its subcontractors, will be revised and presented to the Industrial Policy Committee (IPC) for approval, to reinforce the Code's use as a general tool for fair competition. It will be complemented by the 'Make or Buy' Plan. Furthermore, the *return requirements approach* will become the basis for the achievement of competitive offers.

### Procurement Rules and Procedures

The new Intellectual Property Rights regime approved by Council in October 2003 was put in place in 2004, and several implementation aspects had to be regulated. In particular, a new policy on fees due to ESA in the event of subsequent exploitation by the contractor of the contract results was adopted: henceforth, fees will be claimed only when a contractor grants a licence allowing production of articles to a third party established outside the ESA Member States.

The revision of the General Conditions of Tender (GCoT) was completed. As a result, two sets of GCoTs were produced, one addressing the characteristics of large contracts and including several explanations and examples, and a second, much smaller one tailored for smaller contracts. These new GCoTs are expected to enter into force in early 2005.

### Industrial Cost-auditing Activities

These activities were reinforced during the year, the main reason being the auditing activity mandated by the Directorate of Launchers for the Ariane EGAS programme. This focussed

initially on the industrial-return data to be used for the calculation of the programme's initial contribution scales, and audit activities were carried out at all industries involved in the production activities (manufacturing, integration, and operational) for the Arianespace order placed in May covering the production of 30 Ariane-5 launchers.

The other main focus was on the dossier presented to the Council covering ESA's purchasing power and the potential consequences for the Agency of the costs incurred by European space industry for reorganisation and restructuring. Discussions and exchanges in a dedicated working group and within the Council resulted in a number of directives being implemented to ensure that the purchasing power of the ESA budget remains as high as possible.

Furthermore, the new policy is aimed at achieving multi-year labour/facility and overhead agreements with space industry, to provide the necessary stability in terms of planning figures for both the industries involved and ESA. It will be implemented in collaboration with the various national audit authorities, with whom cooperation and coordination has been intensified.

## Facts and Figures

### Procurement Activities

416 Invitations to Tender (ITTs) were sent to Industry in 2004:

- 165 in open competition
- 10 in restricted competition
- 241 in direct negotiation.

ESA also placed:

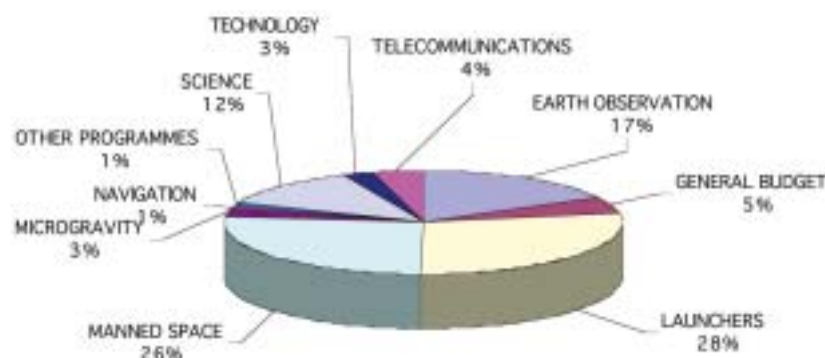
- 795 contracts
- 183 riders
- 219 work orders
- 2410 Contract Change Notices

with total released funding of 2822 MEuro.

Among the most significant contracts placed or prepared were those for:

- JWST Near-Infrared Spectrograph implementation phase  
69 MEuro
- Launch Services for Galileo GSTB V2  
75 MEuro
- Industrialisation of ISS Exploitation Programme  
128 MEuro
- Ariane-5 Development Programme Slice-9  
165 MEuro
- PATP for Galileo Phase-C/D/E1  
149 MEuro
- Ariane EGAS  
950 MEuro.

Value of commitments made to industry in 2004, per Programme



**Total: 2650 MEuro**

The ESA Adjudication Committee (AC) and Industrial Policy Committee (IPC) were involved as follows:

- 422 procurement proposals were submitted to the AC, of which 216 were presented to the IPC, and
- 42 contract proposals were submitted to the AC, of which 15 were submitted to the IPC.

The value of the contract proposals submitted to the AC was 2569 MEuro. Of these, contracts worth 257 MEuro were finalised at AC level, and the remainder, worth 2312 MEuro, were passed on to the IPC for a final decision.

### Industrial Activity and Evolution of Industrial Return

Industrial activity was maintained at a sound level, with some 2650 MEuro of weighted commitments placed with European and Canadian space industry during the year. The accompanying pie charts show the distribution of activities per Programme and per State. Application Programmes (Telecommunications, Navigation and Earth Observation) accounted for about 22% of the total contract value. 28% was related to Launchers, 29% to the Human Spaceflight, Microgravity and Exploration Programme, and 12% to the Scientific Programme, with the remaining 9% being split between the General Budget and Technology.

About 249 MEuro committed with industry is not yet included in the above figures, pending finalisation of the relevant subcontracts (mostly underway).

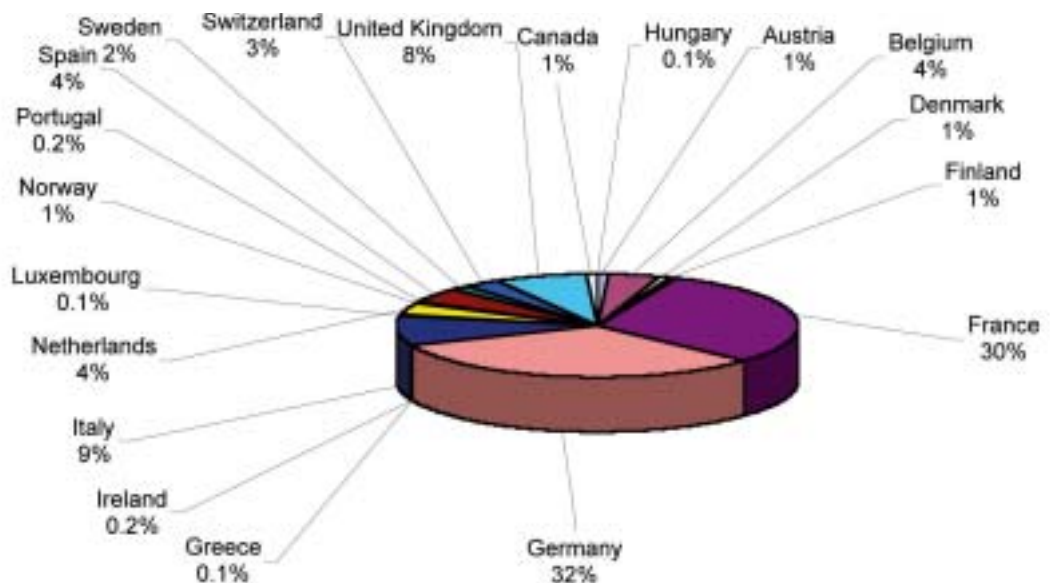
The return situation will be presented at the Formal Review of the geographical distribution of contracts for the period 2000-2004, to be conducted by the IPC in March 2005.

### Third-party Activities

In 2004, six new third-party activities for the European Community were started, with a total contract value of 5 MEuro, and the resulting income during the year to ESA amounted to 1.5 MEuro. These new activities include the Community's support for the 'Soyuz at CSG' project.

ESA (through ESOC) submitted a total of 18 formal proposals in 2004, comprising 3 to other space agencies (CNES, DLR, Eumetsat) and 15 to European industrial entities: Astrium (F), Eutelsat (F), Fugro (N), GFZ Potsdam (D), KSAT (N), SES Astra (Lux), SSC (S), Telespazio (I), Vitrociset (I). They related to services in the areas of technical support, provision of infrastructure for hosting equipment, stations and network provision, LEOP and routine operations. As a result of these 18 proposals, 7 contracts were awarded to ESA and 7 proposals were still under

Value of commitments made to industry in 2004, per Member State



Total: 2650 MEuro

negotiation at the end of the year. The total value of the new contracts received in 2004 amounted to 3.2 MEuro, and the proposals still under negotiation at year's end were valued at 13 MEuro.

Cooperation agreements are in place with Swedish Space Corporation (S), the Norwegian Space Centre (N), Astrium GmbH (Dornier Space Systems) (D) and Merlin Communications International (UK). These are non-exclusive arrangements to facilitate mutual utilisation of facilities, whereby each activity is the subject of a separate contract.

A Frame Contract for the mutual exchange of TT&C services to be rendered by ESOC is in place with CNES (F). A similar contract is under discussion with DLR (D).

In addition, ESA (through ESTEC) has undertaken a considerable number of activities in the areas of general technical support, individual consultancies and testing.

The ESTEC External Customer desk handled 126 enquiries (of which 25 were carried forward from previous years, and 101 were new) in 2004 concerning services performed at the Establishment. This resulted in the receipt of 71 contracts with a total value of 3.8 MEuro (including subsidies for technical support for European Space Incubators).

In addition, ETS (NL) the contractor currently responsible for the management, marketing, sales, maintenance and operation of the ESTEC Test Facilities handled some 100 enquiries, 13 of which resulted in contracts.