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**CHARTER OF THE
NATO COMMUNICATIONS AND INFORMATION
ORGANISATION (NCIO)**

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14 June 2012

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Silence Procedure ends:
19 Jun 12:00

NATO AGENCIES REFORM

Establishment of the new NATO Communications & Information Organisation

Note by the Deputy Secretary General

1. In accordance with the Implementation Plan for Agencies Reform, approved by Defence Ministers in June 2011 (PO(2011)0242), the Defence Policy and Planning Committee (Reinforced) has submitted the Charter for a new NATO Communications and Information Organisation (at Annex 1) to be established by 1 July 2012. To transfer current functions and services and to close the concerned existing Organisations on that same day, a "Transition Directive" is attached (at Annex 2), which also requires Council approval.
2. NATO Office of the Legal Advisor (OLA) has reviewed the final versions and nations have ensured compliance with national law requirements. It follows from that review (attached at Annex 3 for information), that there is neither a significant risk for potential legal conflicts nor for business continuity in delivery of services and capabilities.
3. I do not believe that the Charter and transition measure require further discussion by Council. Therefore, unless I hear to the contrary by **12:00hrs on Tuesday, 19 June 2012**, I will assume that the Council has approved the documents at Annexes 1 and 2.

(signed) Alexander Vershbow

3 Annexes

Original: English

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¹ Annexes will be added to this Charter in accordance with article 38 (for common-funded Programmes) and article 45 (for Multinational Programmes).

**CHARTER OF THE
NATO COMMUNICATIONS AND INFORMATION
ORGANISATION (NCIO)**

SECTION I - GENERAL PROVISIONS

1. Definition

The NATO Communications and Information Organisation (NCIO) is established as a subsidiary body:

- (a) created within the framework of the North Atlantic Treaty Organisation for the implementation of tasks arising out of that Treaty; established by the North Atlantic Council (NAC) pursuant to Article 9 of the North Atlantic Treaty and within the meaning of the Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, signed in Ottawa on 20 September 1951 (hereinafter referred to as the Ottawa Agreement);
- (b) to which the NAC grants, within the framework of the North Atlantic Treaty Organisation, a clearly defined organisational, administrative and financial independence, and;
- (c) established with a view to meeting to the best advantage the collective requirements of some or all NATO nations in the fields of capability delivery and service provision related to Consultation, Command & Control as well as Communications, Information and Cyber Defence functions, thereby also facilitating the integration of Intelligence, Surveillance, Reconnaissance, Target Acquisition functions and their associated information exchange.

**SECTION II - ESTABLISHMENT. MODIFICATION AND
DISSOLUTION PROCEDURES**

2. General Provisions

The NCIO shall be under the authority of the NAC. Only the NAC can establish or dissolve the NCIO and grant, amend or revoke its Charter or parts thereof. Requests for such action shall be submitted by the Agency Supervisory Board (ASB) to the NAC through the Secretary General of NATO.

3. Modification

Any request to the NAC seeking modification of this Charter, including Annexes, shall be accompanied by separate justification. The Secretary General of NATO will advise the NAC accordingly, taking into account the advice of the NATO committee(s) concerned, when appropriate.

4. Membership of the NCIO

- (a) All NATO Nations are members of the NCIO.
- (b) In the event a nation is granted accession to NATO, and thereby to the NCIO, the accession shall be subject to such conditions, consistent with NATO Regulations and this Charter, as agreed by the NAC.

5. Association of non-NATO nations

Non-NATO nations may apply for association with the NCIO if they wish to participate in the NCIO activities. Their participation shall be subject to such conditions, consistent with NATO regulations and this Charter, as the participating NATO nations and the non-NATO nation agree. This agreement shall regulate all necessary aspects of such participation, including rights and responsibilities vis-à-vis NATO, and be approved by the NAC.

6. Withdrawal from membership and Dissolution

In the event a nation elects to withdraw from NATO and thus from membership in the NCIO, the withdrawal of that nation shall be subject to such conditions, consistent with the NPLSO Regulations and this Charter as the remaining nations and the withdrawing nation agree. If relevant, the remaining nations shall, in the absence of express decision of the ASB to the contrary, absorb on a pro-rata basis the withdrawing nation's share of costs of the NCIO. In case of dissolution, the provisions of C-M (66) 9 will be duly taken into account.

SECTION III — LEGAL STATUS

7. Juridical Personality

- (a) The NCIO constitutes an integral part of the North Atlantic Treaty Organisation;
- (b) It shares in the international personality of NATO, as well as the juridical personality possessed by NATO by virtue of Article IV of the Ottawa Agreement. The juridical personality of the NCIO is an intrinsic part of that of NATO and cannot be distinguished from it.
- (c) While a non-NATO nation will not share in the international personality of NATO nor in the juridical personality possessed by NATO by virtue Article IV of the Ottawa Agreement, its rights and responsibilities should be similar to those of NATO nations to the extent possible.

8. Privileges and Immunities

By virtue of the definitions contained in Articles I (a) and I (c) of the Ottawa Agreement, all pertinent provisions of that Agreement and of any relevant applicable agreement or arrangement between NATO and the host nation shall effectively be applied to the NCIO under the conditions defined in article 9 (Exercise of Rights) below.

9. Exercise of Rights

- (a) The exercise by the NCIO of those rights and privileges which it enjoys in accordance with article 7 (Juridical Personality) and article 8 (Privileges and Immunities) above shall be within the limits and subject to the terms and conditions specified either in this Charter as agreed by the NAC or in any other relevant NAC decisions, as well as in the agreements or arrangements concluded between NATO and those NATO nations on whose territory the NCIO or part of it is set up, or between NATO and other interested NATO nations, that specify how the provisions of the Ottawa Agreement are implemented.
- (b) NATO may conclude agreements or arrangements with the host nation or other interested NATO nations in order to specify, taking into account Article III of the Ottawa Agreement, the manner of implementation of the provisions of the Ottawa Agreement. Such agreements or arrangements shall include any appropriate administrative provisions, in particular with respect to customs and fiscal matters in connection with Articles IX and X of the Ottawa Agreement. These agreements or arrangements shall be concluded with a view to facilitating the NCIO's activities and to avoid harming the economy of NATO nations

SECTION IV — AGREEMENTS AND CONTRACTS

10. General Provisions

The NAC grants to the NCIO, within the scope of its functions, authority to:

- (a) conclude agreements and contracts, and acquire and dispose of property in the name of NATO;
- (b) conclude administrative agreements with other NATO bodies.

11. Agreements with non-NATO entities

The NCIO shall obtain advance approval in principle of the NAC before concluding any agreement or contract involving a nation not being a member of NATO or an agreement or contract with an international organisation² or any international agreement requiring Parliamentary approval by a NATO nation. The ASB, in consultation with Steering Committees or Programme Boards if appropriate, shall submit the request to the NAC. NAC approval to conclude such agreements or contracts is either specific or results from earlier relevant applicable decisions of the NAC, which would constitute such approval.

By delegation of the NAC,

- (a) the NCIO is authorised to conclude agreements within the scope of its agreed mission and activities, subject to prior clearance by the NATO Office of Security, with nations that have received authorisation by the NAC to contribute to NATO-led operations or nations that have a

² A body established pursuant to Article 9 of the North Atlantic Treaty is not an international organisation.

partnership programme with NATO such as the Partnership for Peace, Mediterranean Dialogue and the Istanbul Cooperation Initiative;

- (b) the NCIO is authorised to let contracts in nations that are not members of NATO for those initiatives under the NATO/PfP Trust Fund Policy³ led by a NATO nation and for which the NATO Communications and Information Agency (NCIA) is the Executing Agent.

12. Exercise of Authority

The authority granted to the NCIO as defined in article 10 above shall be exercised, with due observance of the requirement stated in article 11 above, either by the ASB or by the General Manager of the NCIA where the ASB so decides. Authority is granted to the General Manager of the NCIA to conclude contracts or agreements that fall within the purview of routine management or business activities. However, the ASB shall not authorise the General Manager of the NCIA to conclude international agreements.

13. Delegation of Authority

The provision of articles 11 (Agreements with non-NATO entities) and 12 (Exercise of Authority) above shall not prevent the ASB from delegating to the General Manager of the NCIA the performance of the executive act of signing an agreement appropriately approved.

SECTION V — OWNERSHIP OF ASSETS

14. General Provisions

- (a) In implementation of articles 10(a) and 10(b) above, all assets acquired by the NCIO shall be acquired in the name of and as property of NATO. The conditions of transfer of these assets to member nations shall be defined in directives approved by the ASB.
- (b) However, the NCIO shall exercise all rights enjoyed by NATO in accordance with subparagraph (a) above.
- (c) The accounting treatment of assets shall be governed in accordance with NAC approved regulations including those related to the application of International Public Sector Accounting Standards.
- (d) Assets acquired by a NATO nation in the framework of the NCIO, or by the agent of such nation, which are jointly financed by all NATO nations, may be used and disposed of only in accordance with the agreement of the ASB.
- (e) Assets acquired by a NATO nation, or by the agent of such nation, which are jointly financed by participating nations in a Multinational Programme, may be used and disposed of only in accordance with the agreement of the relevant Programme Board.

³ EAPC(C)D(2009)0016

15. Assets acquired from NATO common funds

The ownership of common funded assets acquired or developed by the NCIO and their disposal, is governed by the agreed NATO rules and financial regulations in effect.

16. Assets acquired from other funds

Whenever assets are acquired on behalf of a nation, or of a group of nations, special arrangements shall be concluded by the participating nations and shall specify the ownership and the methods of financing, managing, selling and disposing.

17. Patents Rights, Copyrights and Proprietary Technical Information

Intellectual property rights, including patent rights, copyrights, proprietary technical information and other sensitive commercial or industrial matters pertaining to the NCIO shall be handled according to NCIO policies and procedures approved by the ASB.

18. Liquidation and settlement after dissolution

In the event of dissolution of the NCIO, the difference between the proceeds derived from the sale of assets and any liabilities shall be shared or borne by NATO nations, in accordance with NAC agreed cost share for NATO Military Budget. The difference between proceeds and liabilities for Multinational Programmes and C&I Partnerships shall be shared or borne based on agreement by the participating nations in such Programmes and C&I Partnerships.

SECTION VI — RESPONSIBILITY

19. General Provisions

- (a) Responsibility for the activities of the NCIO, including any agreement concluded in accordance with Section IV above, shall be borne by NATO.
- (b) As for activities undertaken by a subgroup of nations, only the participating nations shall jointly assume responsibility vis-à-vis NATO as a whole, and shall bear any resulting costs, in proportion to their financial contribution to those activities or according to any other rule as agreed among the participating nations.

20. Arbitration Clause

Whenever an arbitration clause is contained in one of the contracts concluded by the NCIO, the clause shall be in conformity with the applicable NAC approved text, attached at Appendix I.

21. Dispute Settlement

The NCIO shall comply with any provision which the NAC may make, in accordance with Article XXIV of the Ottawa Agreement for appropriate modes of settlement of disputes of a private character of an origin other than contractual. Any disputes resulting from the application of the

NATO Civilian Personnel Regulations (NCPR) shall be addressed in conformity with the provisions of the NCPR.

SECTION VII — ORGANISATION AND OPERATION

General provisions

22. Composition

The NCIO shall comprise:

- (a) an Agency Supervisory Board (ASB);
- (b) an Executive body composed of a General Manager and his/her staff (the NATO Communications and Information Agency, NCIA);

and shall also include, when established:

- (c) Multinational Programmes, in accordance with articles 41 to 45;
- (d) C&I Partnerships, in accordance with articles 46 to 48;

23. Communications with nations

A government may communicate with the NCIO either through its national delegation to NATO or through its representatives on the ASB. The representatives on the ASB are expected to keep their national delegation informed of the activities of that Board.

24. Liaison with NATO Military Authorities

The ASB may invite NATO Military Authorities to establish peacetime liaison with the NCIO. The relationship between the NCIO and the appropriate NATO Military Authorities, in time of war, imminent war or crisis, shall be in accordance with any applicable decisions taken by the NAC.

Agency Supervisory Board

25. Membership

- (a) The ASB is composed of a representative for each NATO nation; each national representative shall have decision-making authority.
- (b) Each NATO nation shall communicate to the chairperson of the ASB the names of its representative and any alternate representatives(s) on the Board.
- (c) Each national representative on the ASB may be assisted by national experts who may participate in the discussion at Board meetings.
- (d) The nomination as a staff member of the NCIA of a person who has served as a representative on the ASB or any Steering Committees or Programme Boards for any period during the three years preceding his/her nomination must be unanimously approved by the ASB.

- (e) The ASB may invite representatives of other NATO bodies, or third parties to attend or participate on a permanent or temporary basis in certain meetings or parts of meetings of the ASB, without decision-making authority. As the NCIA's main customers, ACO, ACT, NATO HQ as well as the NATO Support Agency and the NATO Procurement Agency shall have a permanent representative in the ASB without decision-making authority.

26. Chairperson

- (a) The ASB shall elect its chairperson from individuals from among its participating nations. The tenure of duty of the chairperson shall be two years with the possibility of a one-year extension. In addition, the ASB may have a national vice-chairperson who will act in the absence of the national chairperson.
- (b) The chairperson/vice-chairperson elected, if a sitting member of the ASB, must relinquish his/her authority as representative with decision-making authority to another authorized representative of his/her nation.
- (c) The chairperson/vice-chairperson shall act in a neutral way and not as a national representative and, as a consequence, will have no decision-making authority.
- (d) The chairperson/vice-chairperson derives his/her authority from the ASB. He/she must account for all actions he/she may take in accordance with this Charter and the decisions taken by the ASB.
- (e) The chairperson/vice-chairperson is supported in carrying out his/her duties by a small independent ASB Executive Secretariat that is only responsible to that chairperson/vice-chairperson.

27. Organisation

- (a) The ASB shall establish its own internal rules and operating procedures in accordance with the NPLSO Regulations and this Charter, taking due account of existing relevant NATO procedures.
- (b) The ASB shall meet at least twice a year in plenary sessions and at such intervals as shall enable it to carry out effectively its responsibilities, and as soon as possible in response to a specific request by any participating nation.
- (c) The ASB may establish a permanent group of ASB Representatives of all NATO nations that is responsible to the ASB and provide a forum for urgent business, for coordinating the activities of the ASB and to act on behalf of the ASB if so decided by that Board.
- (d) The ASB, with due regard to articles 23 (Communication with nations), 55 (Management of Information), and 62 (Audit) herein, may restrict as appropriate the distribution of documents and materials covering special technical information and property rights, or other commercial, industrial, or personnel matters of a confidential nature, duly taking into account any existing NATO agreements in this respect.

28. Sub-committees

- (a) The ASB may establish subordinate committees as required comprising government representatives and where appropriate other stakeholders. Before creating such committees, the ASB shall assess whether already existing expert groups could provide required support and assistance in carrying out its duties.
- (b) It shall establish a Finance Committee of all NATO nations or allocate this responsibility to an existing committee.
- (c) These committees shall advise and assist the ASB in carrying out its duties and shall submit to it their recommendations which the ASB shall take into consideration when arriving at its decisions

29. Decisions

The ASB takes its decisions by consensus.

30. Authority and responsibilities

The ASB is responsible for the organisational governance of the NCIA. Organisational governance is the mechanism by which NATO directs, administers and controls the NCIA and enables it to accomplish its mission, functions and tasks. It is the set of rules and best practices through which the ASB pursues the interests of NATO as a whole as well as individual or groups of NATO nations, ensuring efficiency, effectiveness, accountability and transparency of the NCIA. The ASB is the sole entity reporting to the NAC on behalf of the NCIO. It will provide strategic direction and guidance to the NCIA and oversee its activities and performance. It will be responsible for:

- (a) Strategic direction and guidance
 - (1) give strategic direction to the NCIA;
 - (2) approve the NCIA business model and strategic plan;
 - (3) take general organisational policy decisions, and decisions on organisational governance and Key Performance Indicators to enable the NCIA to carry out its mission in an effective and efficient manner.
- (b) Operational direction and guidance
 - (1) approve all directives regarding organisational governance;
 - (2) provide guidance for the operation and administration of the NCIA, promoting best business practices and directing maximum use of the Shared Services environment if effectiveness and cost savings can be realised while ensuring that no disruption of services or capabilities will occur;
 - (3) approve the NCIA business plan and Programme of Work (POW);
 - (4) establish annual objectives for the NCIA General Manager;
 - (5) delegate authority to the NCIA General Manager to sign contracts.
- (c) Adherence
 - (1) ensure consistency of NATO policy implementation within the NCIO;

- (2) ensure the NCIO adherence to Corporate Governance principles, including transparency, integrity and accountability and the reporting requirements as set forth in C-M(2005)0087;
- (3) ensure that all activities are undertaken with due consideration of NAC-approved NATO policies, and other directives and guidance.

(d) Organisation and Staff

- (1) approve the NCIA organisation;
- (2) approve the overall NCIA's personnel establishment, in coordination with the Military Committee for all military posts⁴;
- (3) nominate the NCIA General Manager, after consultation with the Secretary General of NATO who will confirm the decision through the signing of his/her contract;
- (4) approve the selection of personnel of grade A.5 and above and accept personnel of grade OF.5 and above within the NCIA, except for A.5/OF.5 and above personnel directly working in Programme Offices for Multinational Programmes which will be approved by Programme Boards. (For common-funded Programmes see article 39(c)(7); for Multinational Programmes see article 42).

(e) Reporting

- (1) approve the NCIA reports;
- (2) submit annual report to the NAC in accordance with Corporate Governance Guidelines.

(f) Finance oversight and approval

- (1) review the NCIA financial information;
- (2) approve the NCIA annual Financial Plan⁵;
- (3) approve the NCIA annual financial statements;
- (4) facilitate IBAN access to any information required for the purpose of auditing the accounts, operations and performance of the NCIO, and provide comments on IBAN reports to the NAC in accordance with Appendix II to this Charter.

(g) Performance monitoring and control

- (1) ensure that effective risk management measures are in place and monitor performance execution on that basis;
- (2) exercise management control by comparison of the NCIA activities with applicable ASB directives;
- (3) oversee the delivery of results against targets;
- (4) evaluate the performance against objectives of the NCIA;
- (5) benchmark the NCIA against comparable organisations.

⁴ The Military Committee (MC), supported by the NATO Defence Manpower Committee (NDMC), will govern the military manpower in the NCIA and support the ASB accordingly.

⁵ For the allocation and commitment of funds by the Agency, approval of the annual Financial Plan constitutes budgetary approval. Approval of the annual Financial Plan does not imply availability of common funded resources

NATO Communications and Information Agency (NCIA)

31. Covering the entire capability life cycle, the NCIA will act as NATO's principal C3 capability deliverer and CIS service provider for the full range of its entitled requirements holders and customers. It will be, to the maximum extent feasible⁶, the provider of IT-support to NATO business processes (to include provision of IT shared services) to NATO HQ, the NATO Command Structure and NATO Agencies (including itself).

(a) Its mission is to:

- (1) deliver C3 capabilities to its requirements holders, whilst ensuring their coherence and interoperability in compliance with agreed NATO architectures⁷,
- (2) ensure provision of secure CIS services to its customers,
- (3) deliver capabilities and provide services "Other than C3/CIS"⁸ to NATO and nations, as approved by the ASB,

in order to enable NATO's Consultation, Command and Control and to facilitate, inter alia, the seamless integration of Intelligence, Surveillance, Reconnaissance, Target Acquisition functions and their associated information exchange, while continuously improving coherency, effectiveness, efficiency, and delivering cost savings.

(b) As part of this mission, and in view of NATO's level of ambition, the NCIA must be capable of ensuring continuous CIS support to all operations in which NATO is engaged in accordance with approved C2 arrangements between SACEUR and the General Manager of the NCIA. The NATO CIS Group of the NATO Command Structure is not part of the NCIO. However, as it is part of the overall NATO CIS service provision set up, it is essential that the NCIA will collaborate effectively with the NATO CIS Group.

(c) The NCIA will perform the following functions and tasks:

- (1) work with all relevant stakeholders in order to develop NATO C3's architectures to support Senior Policy Committees' capability coherence and implement NATO technical coherence;
- (2) perform central planning, technical planning, systems design and engineering, integration and configuration management, testing and technical support for assigned NATO systems or installations;
- (3) operate, control and support assigned in-service NATO CIS and installations, and any other assigned in-service systems, providing appropriate systems support including

⁶ See paragraph 31 of PO(2011)0242

⁷ Defining interrelationships between entities or services which need to interface with each other is facilitated by using an architecture framework approach.

⁸ e.g.: Counter-Improvised Explosive Devices (C-IED), etc.

- hardware and software maintenance and configuration management, and ensuring the commensurate training of personnel for operations and maintenance ;
- (4) manage and execute Programmes and other projects assigned to it;
 - (5) act as Host Nation for assigned NSIP projects as recommended by the Resource Policy and Planning Board (RPPB) and approved by the NAC, or as approved by the Investment Committee (IC);
 - (6) exercise ownership of assigned infrastructures and assets in support of its mission;
 - (7) provide Information Assurance and Cyber Defence for NATO's Communications and Information Infrastructures consistent with NATO Cyber Defence Policy, C-M(2011)0042;
 - (8) provide technical advice to nations participating in the NATO Force Structure when interfacing their C3 systems with those of NATO;
 - (9) perform studies, provide advice and support NATO bodies and other customers in the scientific, technical and operational analysis domains;
 - (10) provide shared services other than IT if so directed.

32. General Manager – Nomination

The General Manager of the NCIA shall be nominated by the ASB, after consultation with the Secretary General of NATO, who will confirm the decision through the signing of his/her contract.

33. General Manager – Authority

The General Manager of the NCIA shall:

- (a) direct and manage the activities of the NCIA;
- (b) exercise the authority delegated to him/her by the ASB in accordance with articles 12 and 13 above ;
- (c) exercise the role of Peacetime Establishment Authority (PEA) for all NCIA's civilian and military posts;
- (d) act as Head of NATO body for the NCIA and hold the responsibility for the selection, appointment and release of the NCIA staff within the agreed personnel establishment in conformity with the NATO Civilian Personnel Regulations (NCPR) and in accordance with this Charter;
- (e) take measures to protect NATO information infrastructure consistent with NATO Cyber Defence Policy⁹.

34. General Manager – Responsibilities

- (a) The General Manager shall be directly responsible to the ASB for the efficient and effective operation and administration of the NCIA to include:

⁹ C-M(2011)0042

- (1) implementation of the decisions of the ASB and converting the directives and policies established by the ASB into operating policy;
 - (2) preparation of plans for organisation, operation and administration of the NCIA, including streamlined processes and structures for programme management and coordination between programmes where appropriate, and their submission for approval by the ASB;
 - (3) preparation of an annual Financial Plan and annual financial statements for submission to the ASB, in accordance with articles 50 to 53 below;
 - (4) preparation of the annual report mentioned in article 61 (Annual report) below;
 - (5) reporting regularly to the ASB on progress against the plans and other objectives in accordance with established key performance indicators, including an adequate risk management process set by the ASB, and prompt notification of any issue requiring urgent direction from participating nations;
 - (6) participation in all meetings of the ASB unless otherwise decided, in special cases, by that Board;
 - (7) representing the NCIA at Senior Policy Committees or other committees as required;
 - (8) managing the public relations policy, in conjunction with the participating nations;
 - (9) implementation of best practices, lessons learned, policies and tools in relation to common functions;
 - (10) facilitating the use of shared services, within the shared services environment and under the direction of the ASB.
- (b) The General Manager shall be responsible to Steering Committees or Programme Boards for:
- (1) the execution of common-funded or Multinational Programmes assigned to the NCIA, in accordance with their relative programmatic directives and guidance and applicable NATO financial regulations;
 - (2) participating in all meetings of Steering Committees;
 - (3) participating in Programme Boards' meetings unless otherwise decided, in special cases, by these Boards;
 - (4) reporting on progress against Programmes plans and objectives managed by the NCIA in accordance with established key performance indicators as required by the respective Steering Committees or Programme Boards.
- (c) The General Manager is responsible for ensuring internal cross-coordination and resolution of managerial conflicts between Programmes assigned to the NCIA. He will act to resolve issues between Programmes and other issues that impact Programme delivery in close coordination

with their respective Steering Committees or Programme Boards. Issues that cannot be resolved in this way shall be reported to the ASB by the General Manager.

- (d) The General Manager shall be responsible for the execution of host nation and/ procurement functions for assigned projects in accordance with the appropriate NATO financial regulations.
- (e) The General Manager shall be responsible to the NCIA customers for the effective performance of assigned tasks.
- (f) The General Manager shall ensure that the NCIA responds, in an effective and efficient way, to the tasking authorities/customers for the execution of their agreed part of the Programme of Work.
- (g) The General Manager shall be responsible to SACEUR for ensuring continuous CIS support to ongoing operations as defined in C2 arrangements between SACEUR and the General Manager of the NCIA.

35. Personnel

Personnel employed by the NCIA are:

- (a) Those categories of personnel who, by virtue of any relevant applicable agreement or arrangement concluded in accordance with Article XVII of the Ottawa Agreement between the Secretary General of NATO and the host nation, constitute NATO International personnel. Such personnel shall be accorded the privileges and immunities set forth in the said agreements or arrangements, and shall, in the absence of express decision of the NAC to the contrary, be subject to the same staff rules as members of the NATO International Staff of corresponding grade, including those provisions relating to the applicable Social Security System and relevant Pension Scheme. Recruitment of staff shall take place in conformity with NATO Civilian Personnel Regulations (NCPR). The ASB shall ensure that the number of positions established within such categories is restricted to those requiring the concomitant privileges and immunities for their performance;
- (b) Those civilian personnel not having international status. Their employment shall be governed by the national social legislation of the place of employment;
- (c) Nationally-provided military personnel and civilian employees of an armed service of a party to the North Atlantic Treaty shall be covered by the NATO Status of Forces Agreement, signed at London, June 19, 1951. They, together with their spouses and dependent children, shall enjoy such status, privileges and immunities as laid down in any relevant applicable agreement and arrangement between the host nation and the North Atlantic Treaty Organisation.

36. Personnel Co-ordination

The NCIA shall be represented on the Advisory Panel established by the Secretary General of NATO for the purpose of consultation and co-ordination on civilian personnel matters.

37. Administrative Co-ordination

- (a) The Secretary General of NATO shall make the necessary arrangements, in collaboration with the NCIO, in order to standardize administrative, operating and financial rules and regulations.
- (b) The NCIO shall adhere to such standardized rules and regulations as the NAC shall approve and designate as compulsory.
- (c) Those standardized rules and regulations not designated as compulsory by the NAC, as well as other International Staff rules and regulations appropriately promulgated, shall, nevertheless, not be unnecessary deviated by the ASB.

Common-funded Programme Governance and Management

38. Governance of common-funded Programmes

- (a) A programme funded by all NATO nations using NATO common funding (common-funded programme) and assigned to the NCIA will be programmatically governed by a dedicated Steering Committee where the NAC so decides, in which case such a programme is referred to as a “common-funded Programme”¹⁰.
- (b) The creation of a common-funded Programme shall be based on a NAC decision following a joint recommendation from the ASB, relevant Senior Policy Committees, Resource Committees and other stakeholders where appropriate.
- (c) NAC decision for the creation of a common-funded Programme assigned to the NCIA shall include approval and insertion of an associated Programme Annex into this Charter. This Programme Annex shall in particular set forth the objectives, scope, foreseen budget and duration for that Programme, and define the role, responsibilities and reporting lines of its Steering Committee in accordance with this Charter.

39. Steering Committees role and responsibilities

- (a) Steering Committees are responsible for programme governance and shall guide and oversee the execution of common-funded Programmes ensuring the proper achievement of the Programme’s objectives and the alignment of the Programme with NATO strategic direction to include NATO Strategic Capability requirements and overall adherence with NAC approved policies and directives, and other guidance from relevant Senior Policy Committees.
- (b) Steering Committees will receive guidance and shall report directly to a designated responsible Senior Policy Committee as decided by the NAC and specified in each Programme Annex attached to this Charter. Where multiple Senior Policy Committees are identified as stakeholders for a given common-funded Programme, one responsible Senior Policy Committee will be designated as lead coordinating Senior Policy Committee responsible for that Programme.

¹⁰ see definition of “programme” and “common-funded Programme” at Appendix III to this Charter.

- (c) Steering Committees are responsible for providing Programme specific direction and oversight of Programme's performance, to include in particular:
- (1) providing direction and guidance for continuous alignment of the Programme with NATO strategic direction to include NATO Strategic Capability requirements and overall adherence with NAC approved policies, directives and guidance from the responsible Senior Policy Committee while informing the ASB of the steps undertaken;
 - (2) reviewing and monitoring progress in Programme execution against Programme Plan and cost, delay and performance objectives including key Programme milestones and deliverables;
 - (3) providing advice to Resource Committees on NCIA project related funding requests which fall within the Steering Committees' Programme, with a view to identifying duplication, making suggestions for the acquisition approach and identifying areas where savings could be made;
 - (4) providing subject matter expertise dedicated to interoperability at the interfaces with other NATO, multinational or national programmes, bringing to attention of the NCIA and relevant Senior Policy Committees any inconsistencies it perceives in the orderly implementation of the Programme or in relation with other programmes;
 - (5) providing coordination support and guidance where a common-funded Programme represents a system of systems, some of which are the subject of collaborative effort between a group of nations or between NATO and nations;
 - (6) reviewing, and if applicable commenting on the General Manager annual report submission to the ASB for the portion related to progress on their Programme;
 - (7) endorsing the General Manager's proposal for the selection of the Programme Manager and where applicable Deputy Programme Manager, if any, before submission for approval by the ASB.
- (d) Steering Committees and the General Manager of the NCIA shall act together to resolve issues that would impact Programme delivery. Issues that cannot be resolved this way shall be reported respectively to the designated responsible Senior Policy Committee and the ASB to resolve.
- (e) Steering Committees shall coordinate among each other to help ensure cross-coordination and coherence across interrelated Programmes. Coordination and conflict resolution between Programmes is the primary responsibility of the General Manager of the NCIA at Programme management and execution level, working in close coordination with their respective Steering Committees. Issues that cannot be resolved this way shall be escalated to the designated responsible Senior Policy Committee and the ASB to resolve.
- (f) Steering Committees shall exercise their responsibilities in accordance with applicable rules and fully respecting the responsibilities of the Resource Committees and other Senior Committees as detailed in their NAC approved Terms of Reference.

- (g) Steering Committees detailed Terms of Reference shall be established in accordance with this Charter and the relevant Programme Annex, and shall be approved by the designated responsible Senior Policy Committee following prior endorsement by the ASB.
- (h) As a rule, Steering Committees shall be disbanded as soon as the Programme has completed the mission and met the goals and objectives for which it was created. Sunset clauses shall be incorporated accordingly in Steering Committees Terms of Reference. Extension of a Steering Committee mandate shall require joint approval by the designated responsible Senior Policy Committee and the ASB following recommendation by the Steering Committee.

40. Programme management and execution

- (a) The NCIA, as the executive body of the NCIO, is responsible for the management and the execution of common-funded Programmes according to programmatic directives and guidance established by the relevant Steering Committees, and in accordance with all applicable NATO financial rules and regulations.
- (b) Each common-funded Programme assigned to the NCIA will be managed by a Programme Manager.
- (c) The Programme Manager, and where applicable the Deputy Programme Manager, is selected by the General Manager, who will sign his/her contract after endorsement by the Steering Committee and approval by the ASB.
- (d) The Programme Manager is accountable to the General Manager of the NCIA for the execution, management and delivery of the Programme according to the programmatic directives and guidance established by the relevant Steering Committee.

Multinational Programme Governance and Management

- 41. Multinational Programmes¹¹ may only be established within the NCIO following recommendation by the ASB and approval by the NAC. Multinational Programmes will be governed and implemented through a dedicated governance structure which will consist of a Programme Board directing the execution of the Programme.
- 42. Programme Boards, for Multinational Programmes, are responsible for provision of guidance, decision-making and oversight of performance, schedule and approval of the Programme budget as well as endorsement of the operational costs of their respective Programme Office, comprised of direct and indirect administrative expenditure. They shall approve the General Managers' selection of its Programme Manager and shall also approve all civilian personnel of grade A-5 and above and accept all personnel of grade OF.5 and above working for their respective Programme Office.

¹¹ see definition of "Multinational Programme" at Appendix III to this Charter.

43. Multinational Programmes constitute an integral part of the NCIO and share in the juridical personality of NATO.
44. A Programme Board shall be disbanded as soon as the Programme has completed the mission and met the goals and objectives for which it was created. Only if there is consensus among the participating nations in the Programme and approval of the ASB, can the mandate of the Programme Board be extended; such extension shall be reported to NAC.
45. Detailed rules for participation and withdrawal from a specific Multinational Programme, together with respective roles, relationships, authority and responsibilities between the NCIA and each Programme Board shall be further described in specific Programme agreements between the NCIA and the Nations involved, in accordance with this Charter, to be endorsed by the ASB and approved by NAC, and attached as an Annex to this Charter.

C&I Partnerships

46. C&I partnerships are customer funded agreements between the NCIO, two or more NATO nations and, if mutually agreed, non-NATO nations, whereby the NCIA will provide the participating nations with technical expertise, services, or support (e.g. development of interoperability standards, common software baseline, ...) within the scope of its approved missions and activities.
47. The ASB shall approve the establishment of a C&I partnership in accordance with this Charter and with due consideration to its benefit to NATO and its contribution to NATO Strategic Goals and Objectives, Strategic Capabilities and agreed NATO Architectures.
48. C&I partnerships constitute an integral part of the NCIO and share in the juridical personality of NATO.

Other types of customer sales and service agreements

49. Agreements between the NCIA and other customers shall be governed by Service Level Agreements or other legal agreements

Financial Management

50. General Provisions

- (a) The NCIO shall be governed by the provisions of the NATO Financial Regulations, subject to such derogations there from as may be approved by the NAC upon recommendation by the Resource Policy and Planning Board.
- (b) As a rule, the NCIO shall be customer funded.

- (c) The ASB may decide to call distinct contributions from NATO nations (core funding) on the basis of the NAC-agreed cost shares for NATO's Military Budget to cover the funding of its independent secretariat and the direct costs of supporting ASB meetings, thus ensuring that an arms length relationship is maintained between the ASB and the Agency¹².
- (d) The financial management of the NCIO shall be separate and distinct from those of other NATO entities.
- (e) The NCIO shall adopt a set of financial procedures in accordance with this Charter, the NATO Financial Regulations and other regulations promulgated by the NAC. Investment Committee and Budget Committee acquisition rules will apply to common-funded procurements.

51. Financial Management

- (a) Under the customer funded regime, the General Manager shall prepare and submit an annual Financial Plan, including a Statement of Planned Income and Expenditure and a further two year planning forecast, no later than four months before the end of the preceding financial year. The Financial Plan will be elaborated on a no-profit/no-loss basis globally over the planning period.
- (b) Planned incomes shall include forecasted customer-funding income, funds otherwise made available by participating nations, miscellaneous receipts, and, where relevant, core funding.
- (c) Expected customer-funded income shall separately identify income expected from common-funded sources (Civil Budget, Military Budget, NATO Security Investment Programme, New NATO HQ Budget), from funds made available by Programme Boards, from national and multinational projects, and from providing services to nations, other NATO bodies and other authorised customers.
- (d) Planned expenditure shall include project and Programme related personnel, operation and investment costs; operating and running costs; direct and indirect overheads, capital costs, and costs in support of the ASB and its independent secretariat.
- (e) The annual Financial Plan shall be approved by the ASB upon advice of its Finance Committee. The Finance Committee will monitor the execution of the Financial Plan during the year.
- (f) The approved annual Financial Plan shall be forwarded to the NATO Budget Committee for information.
- (g) The ASB may decide to call advance funds to cover capital investments against future recuperation through customer funding. These financial commitments and the related expenditures shall be separately identified in the Agency's Financial Plan.
- (h) The financial management aspects outlined in this Charter will not infringe on the way nations manage financially and legally their activities within multinational programmes or partnerships.

¹² Such distinct contributions from NATO nations shall not be funded through NATO Common Funding.

52. Customer funding

- (a) Customers shall be charged the direct costs of the services provided plus an overhead to cover general administrative expenditures, recuperation of capital investments, as funded in accordance with article 51 para (g) above, and agency operating and running costs.
- (b) Charges to customers shall be subject to customer agreement prior to being incurred.
- (c) The ASB, or the General Manager where authority is delegated to him/her, shall not conclude contracts the financing of which would require contributions by a customer beyond what has been agreed by that customer for the given activity.
- (d) Customer rates (including overheads) shall be annually endorsed by the ASB for approval by the NATO Budget Committee on behalf of all customers. The review and approval process will make use of benchmarking techniques where appropriate.
- (e) Customer rates must be set in such a way as to ensure a balance between planned income and expenditure.

53. Financial statements

- (a) The General Manager shall submit to the ASB and the International Board of Auditors for NATO annual financial statements in accordance with NAC approved standards, including the International Public Sector Accounting Standards (IPSAS) as adopted by NATO, and the provisions of the NATO Financial Regulations no later than 30 April of the year following the financial year in question.
- (b) The ASB shall approve the annual financial statements of the General Manager upon advice of its Finance Committee and taking into account the report of the International Board of Auditors for NATO and, where relevant, comments by the Programme Boards on activities directly in support of multinational Programmes.
- (c) In addition to these annual statements, other periodic statements will be provided as directed by the ASB.
- (d) The approved annual financial statements shall be forwarded to the NATO Budget Committee for information.

Security and Management of Information

54. Security Provisions

- (a) The NCIO shall be bound by the NATO Security Policy set out in C-M(2002)49 and C-M(2002)50, including all supporting directives, supplement and amendments thereto and by such other security rules approved or authorized by the NAC as may apply to them.
- (b) The NCIO shall draw up the necessary implementing regulations in compliance with the NATO Security Policy and supporting directives. These regulations shall be endorsed by the NATO Office of Security (NOS).

- (c) The NCIO shall coordinate with the NOS investigation into cases of lost, compromised and possibly compromised classified information and provide timely reports, as required.
- (d) The NATO Office of Security (NOS) shall maintain such relationship with the NCIO and the participating nations concerned as are set forth in the current version of Appendix 1, Annex to AC/35-D/2003, and "Directive on Industrial Security". Any NATO security problem necessitating co-ordination between National Security Authorities (NSAs) / Designated Security Authorities (DSAs) of participating nations and the Communications and Information Organisation shall be referred to the NOS.
- (e) In connection with sub-paragraph (d) above, the NOS shall report as necessary to the ASB or the respective Steering Committees or Programme Boards and, where appropriate to the Secretary General of NATO.

55. Management of Information

- (a) The NCIO shall be bound by the NATO Information Management Policy (NIMP) as set out in C-M(2007)0118, and by the Management of Non-Classified NATO Information as set out in C-M(2002)60, including all supplements and amendments thereto and by any other rules approved or authorized by the NAC as may apply to them. Furthermore, the NCIO shall be bound by the NATO Public Disclosure Policy as set out in C-M(2008)0116.
- (b) Programme Information shall be subject to disclosure and use restrictions established by the participating nations in a Programme or Partnership in accordance with this Charter and the applicable Memorandum of Understanding, Memorandum of Agreement, or other such agreement or arrangement.

Co-ordination and Control

56. General Provisions

The NCIO shall be placed under the authority of the NAC. The latter may at any time raise any matter relating to its organisation or operation.

57. Relationships with NATO Senior Policy Committees

- (a) Senior Policy Committees (SPCs) are responsible for preparing top level policy in their NAC assigned areas of responsibility. Within their planning domains, SPCs ensure the linkage to and coherence within the NATO Defence Planning Process (NDPP) and translate NATO's Strategic Goals and Objectives or Capability requirements into policies, architectures and standards. Upon NAC approval, NATO staffs, Military Commands, and all NATO bodies shall conform to these policies, architectures, and standards unless granted relief by the NAC.
- (b) The NCIO shall comply with all relevant policies, architectures and standards developed by Senior Policy Committees and approved by the NAC:
 - (1) For all NATO common-funded capabilities, these policies, architectures, and standards are to be adopted by the NCIO and by NATO and non-NATO Nations for their interfaces with NATO capabilities;

- (2) For capabilities which are not common funded, SPCs may establish recommendations to individual nations or participating nations in Programme Boards established within the NCIO related to NATO-wide interoperability and coherence.
- (c) Senior Policy Committees shall support the NCIO in conforming to NAC agreed policies, and will provide guidance accordingly. In their NAC assigned areas of responsibility they shall be responsible for assuring top level coherence of all capabilities delivered by Programmes, projects, as well as for other related activities conducted by the NCIA or by any other 'host nation'. Senior Policy Committees may, when so required, advise the NATO Resource Committees on related funding issues and will closely interact with the NCIO at the level of the ASB and through those Steering Committees for which they are responsible. Senior Policy Committees may, when so required, provide advice and make recommendations to the ASB on the Programme of Work of the NCIA in their NAC assigned areas of responsibility.
- (d) Senior Policy Committees can request the NCIO to provide data and briefings on matters of their concern. In order to ensure consistency of capability development and monitoring activities and performance of the NCIA in their NAC assigned areas of responsibility, the General Manager of the NCIA will periodically update Senior Policy Committees on the tasks being performed within the NCIO. If a Senior Policy Committee is of the opinion that the NCIO action or lack of action is not in coherence with NAC agreed policy, its first recourse is consultations with the ASB. If agreement cannot be reached, either party can then bring the issue to the attention of the NAC.

58. Secretary General's Liaison Officer – Nomination

The Secretary General of NATO may designate as liaison officer (SGLO) a suitably qualified member of the International Staff to attend meetings of the ASB, without decision-making authority. Such SGLO shall, inter alia, provide advice and recommendations regarding NATO administrative procedures and practices. The designated SGLO shall have access to all documents of the NCIO and shall provide the NCIO with such NATO documents as are of interest to it.

59. SGLO Authority

The SGLO may raise, orally or in writing, any matter which they deem appropriate. The SGLO shall act in conformity with the provisions as set out in C-M(2005)0088.

60. Compliance

- (a) Should the Secretary General of NATO regard any decision of the ASB communicated to him/her by such SGLO or otherwise, as contrary to the provisions of this Charter or of a nature to jeopardize the general interest of NATO, he/she shall so inform the ASB and, if necessary, bring the matter to the notice of the NAC for such action as it may wish to take.
- (b) In time of crisis or declaration of Article 5 of the North Atlantic Treaty, the NAC may redirect the activities of the NCIA to support the crisis or declaration.

61. Annual Report

- (a) An annual report shall be submitted to the NAC by the ASB, no later than four months after the year end.

- (b) The report shall detail how work undertaken by the NCIA contributed to the achievement of NATO Strategic Goals and Objectives or NATO Capability Requirements, report delivery of efficiencies and progress on Programmes and activities, as well as a full analysis of financial performance, in particular savings and benefits achieved.
- (c) This report shall be drafted in conformity with the document "Review and Requirements for NATO's Agencies – Guidelines on Corporate Governance". (C-M(2005)0087, Appendix 1).
- (d) At least once a year, the General Manager of the NCIA and the Chairman of the ASB shall brief the NAC on the operation of the NCIA.

62. Audit

- (a) The International Board of Auditors for NATO (IBAN) shall audit the accounts of the NCIO under the conditions sets forth at Appendix II to this Charter.
- (b) IBAN shall review on a regular basis the NCIO adherence to the Guidelines on Corporate Governance as set forth in C-M (2005)0087.

APPENDIX I

ARBITRATION CLAUSE¹³

Article 1

Scope of application of the Arbitration Clause

Whenever it proves necessary to insert an arbitration clause in a contract of NCIO with a firm, in order to allow the NCIO to correctly fulfil the mission entrusted to it in its Charter, this clause shall be drawn up as set forth in Article 2 below.

Article 2

Wording of the Arbitration Clause

- i. The party instituting the arbitration proceedings shall advise the other party by registered letter, with official notice of delivery, of his desire to have recourse to arbitration. Within a period of thirty days from the date of receipt of this letter, the parties shall joint appoint an arbitrator. In the event of failure to appoint an arbitrator, the dispute or disputes shall be submitted to an Arbitration Tribunal consisting of three arbitrators, one being appointed by the NCIO, another by the other contracting party, and the third, who shall act as President of the Tribunal, by these two arbitrators. Should one of the parties fail to appoint an arbitrator during fifteen days following the expiration of the first period of thirty days, or should the two arbitrators be unable to agree on the choice of the third member of the Arbitration Tribunal, within thirty days following the expiration of the said first period, the appointment shall be made, within twenty-one days, at the request of the party instituting the proceedings, by the Secretary General of the Permanent Court of Arbitrators at The Hague.
- ii. Regardless of the procedure concerning the appointment of this Arbitration Tribunal, the third arbitrator will have to be of a nationality different from the nationality of the other two members of the Tribunal.
- iii. Any arbitrator must be of the nationality of any one of the member states of NATO and shall be bound to the rules of security in force within NATO.
- iv. Any person appearing before the Arbitration Tribunal in the capacity of an expert witness shall, if he is of the nationality of one of the member states of NATO, be bound by the rules of security in force within NATO; if he is of another nationality, no NATO classified documents or information shall be communicated to him.
- v. Any arbitrator who, for any reason whatsoever, ceases to act as an arbitrator shall be replaced under the procedure laid down in the first paragraph of this article
- vi. The Arbitration Tribunal will take its decisions by a majority vote. It shall decide where it will meet and, unless it decides otherwise, shall follow the arbitration procedures of the

¹³ See appendix I to C-M(2009)0079

International Chamber of Commerce in force at the date of the signature of the present contract.

- vii. The awards of the arbitrator or of the Arbitration Tribunal shall be final and there shall be no right to appeal or recourse of any kind. These awards shall determine the apportionment of the arbitration expenses.

APPENDIX II

**AUDIT OF THE ACCOUNTS OF THE NATO COMMUNICATIONS AND INFORMATION
ORGANISATION**

1. General Provisions

According to its Charter, the International Board of Auditors of NATO (IBAN), acting on behalf of the NAC, shall audit the financial statements of the NCIO. The Board may carry out performance audits that shall ascertain that the operations of the Organisation have been implemented in compliance with efficiency, effectiveness and economy. IBAN shall have access to any information at the NCIA that is necessary for the purpose of the audit.

2. IBAN Report

The International Board of Auditors for NATO shall submit its reports to the NAC. These reports shall include the comments of the ASB and the Programme Boards, when applicable, as well as the position of the International Board of Auditors of NATO, as appropriate. The Resource Policy & Planning Board will provide its separate advice and comments on these IBAN reports to the NAC as appropriate.

3. Common Expenditures

The common expenditures entailed by this audit system will be met by the NATO budget, under the conditions at present governing the audit of the accounts of the International Staff and the various Headquarters.

4. NATO Financial Regulations

The provisions of the NATO Financial Regulations which relate to the duties of the International Board of Auditors for NATO and to the auditing of accounts shall, in principle, be applicable. However, the adjustments required to meet the special need of the NCIO shall be jointly agreed by the International Board of Auditors for NATO and the ASB of the NCIO.

5. National audit authorities

In specific cases, national audit authorities of participating nations can – at their own costs and with the agreement of the ASB, and, if appropriate, the respective Programme Board – obtain information and documents related to that nation's participation in the NCIO, without infringing on the rights of other participating nations and the responsibilities of the International Board of Auditors for NATO.

APPENDIX III

DEFINITIONS

Assets: an economic resource. Anything tangible or intangible that is capable of being owned or controlled to produce value and that is held to have positive economic value is considered an asset (e.g. property, infrastructure equipment and material, stocks, software and copyright).

Capital or investment costs: non-recurring expenditures associated with the acquisition of assets with a significant lifespan.

C3 capabilities: C3 capabilities are functionalities required to provide CIS services. They enable service provision, but are not a service in themselves (AAP 31). C3 capabilities also underpin and facilitate the required integration of Intelligence, Surveillance, Reconnaissance and Target Acquisition functions and their associated information exchange. Ultimately, the capabilities that enable C3 are important to allow for the right "Information Sharing" between NATO and the Nations.

CIS Service: a CIS service is the successful delivery of a functionality which supports a CIS user in meeting information exchange and processing requirements. From the CIS service provider perspective, it is the product / the business output. A CIS service provider provides CIS services.

Common-funded Programme (with CAPITAL P): a programme as defined below, funded by all NATO nations using NATO common funding, assigned to the NCIA and governed by a dedicated Steering Committee in accordance with articles 38 to 40 of this Charter.

Core funding: funding that is centrally provided rather than as a charge to customers.

Customer: a NATO nation or group of nations (to include NATO Partner Nations when approved by the NAC) or a NATO entity (e.g. NATO Command or Agency), or other international entities when approved by the NAC, who is a budget holder, i.e. has authority to obligate and expend funds, and to sign an agreement with a provider for the delivery of a defined product or service, at an agreed costs, and within an agreed timeframe.

Customer funding: the mechanism whereby the Agency receives its funding on the basis of an agreement with the fund provider defining the scope, the cost and the timelines of the product or service to be provided.

Financial Plan: a document providing an overview of how the Agency intends to plan and execute its activities from a financial and resources point of view.

Multinational Funding: funding provided by two or more NATO nations, not acting within the NATO Common Funded Budgets. Multinational funding refers to arrangements by which two or more nations decide to pool their national resources to procure products or services from the Agency. The substance of the arrangements, the funding mechanism and the levels of funding required remain within the hands of the individual nations concerned.

Multinational Programme (with CAPITAL P): a programme as defined below, funded by two or more NATO nations using Multinational funding, assigned to the NCIA and governed by a Programme Board in accordance with articles 41 to 45 of this Charter.

NATO Common Funding: Common Funded Budgets include the NATO Security Investment Programme (NSIP); the NATO Military Budgets consisting of the NATO Command Structure Budget, the Alliance Operations and Missions Budget, the NATO Airborne Early Warning and Control Operations and Support Budget, and the Pensions Budget; the NATO Civil Budget; and the New NATO Headquarters Budget. These Programme and budgets are considered to be common funded in that their contribution ceilings are set by unanimous agreement of all Alliance members, although funding for individual entities within the budgets may be by less than all members of the Alliance. Common funding refers to activities where NATO nations provide the funding in accordance with agreed eligibility and cost share arrangements, but the Strategic Commands (and NATO HQ for Civil and New HQ budgets) identify the requirements and the priorities. Funding levels are agreed by the NAC on the basis of the RPPB's Medium Term Resource Plan.

Operating and running costs: recurring expenditures related to the day-to-day functioning of the Agency (i.e. facility guarding and maintenance costs; cleaning, heating and lighting costs; transport costs; insurance). Operating costs break down between project and programme operating costs (i.e. recurring expenditures directly linked to specific projects or programmes) and general operating costs (i.e. recurring expenditures not directly attributable to specific projects or programmes).

Overheads: personnel-related expenditure (salaries, travel costs, office equipment) for functions that cannot be assigned to individual projects or programmes, including such functions as General Manager, Legal Adviser, Human Resource Manager and Financial Controller together with their direct supporting and secretarial staff. In addition, overheads cover general operating and running costs and – if called as advance funds – recuperation of capital investments.

A project is a temporary endeavour undertaken to create a unique product, service or result with a defined beginning and end, usually time-constrained, and often constrained by funding or deliverables, that meet unique goals and objectives. Generally a project is, together with other projects, part of a larger programme, which focusses on strategic delivery.

A programme is a specifically defined co-operative effort to manage the development, acquisition, through life support, or operation of defence equipment or services, putting together a group of related projects and activities to be managed in a coordinated manner to obtain benefits and control not available from managing them individually, in order to meet NATO or NATO Nations requirements.

Programme Budget: the funds made available to cover all costs of a Multinational Programme, including the Programme execution costs, the costs of the Agency staff assigned to the Programme Office and overheads.

Programme Information: Information, documents and material specific to the Programme covering special technical information and/or proprietary rights, or other sensitive commercial, financial or industrial matters for use in and/or generated by the Programme.

Resource Committees: the Resource Policy and Planning Board (RPPB), the Investment Committee (IC), and the Budget Committee (BC).

APPENDIX IV

ACRONYMS

ASB: Agency Supervisory Board

C3: Consultation, Command and Control

CIS: Communication and Information Systems

C&I: Communications and Information

IT: Information Technology

NCIA: NATO Communications and Information Agency

NCIO: NATO Communications and Information Organisation

Draft Council Decision on the establishment of the NATO Communications and Information Organisation (NCIO)

As part of the implementation of Agencies Reform, as directed by Heads of State and Government at the Lisbon Summit, the NATO Communications and Information Organisation (NCIO) will be established, in order to consolidate, rationalize and optimize the functions and services provided by the following Agencies and entities:

The NATO Communication and Information System (CIS) Services Agency (NCSA) (except Deployable CIS); the NATO Consultation, Command and Control Agency (NC3A); the NATO Air Command and Control System Management Agency (NACMA); the Active Layered Theatre Ballistic Missile Defence Programme Office (ALTBMD PO) as well as Information Technology (IT) support functions at NATO Headquarters and from other NATO Agencies to the maximum extent feasible.

Furthermore, the NCIO related governance structures must be established and the functions of the relevant bodies be re-assigned, transferred or adapted. At their April 2012 meeting, Defence Ministers noted the intent to submit to Council fully harmonized Terms of Reference for future programme governance bodies well before the end of 2012 (C-M(2012)0034).

Transition measures which do not need to come into effect by 1 July 2012 will be addressed by a DPPC(R) transition plan as well as other plans.

To this end, the Council is invited:

1. To approve the attached NCIO Charter. The Charter will enter into effect on 1 July 2012, on which date the NCIO will be created as legal successor organisation to the NC3O (except for the C3 Board and its substructure and the deployable CIS functions in NCSA), the ALTBMD PMO and the NACMO (except for the functions as defined in articles 3 (k) and 3(l) below, respectively).
2. To establish on 1 July 2012 the new NCIO and to agree that all governance, business and programme execution on behalf of NC3O, NACMO and the ALTBMD PMO, will be conducted by NCIO and its executive agency in accordance with the NCIO Charter, and, correspondingly, to agree closure of the NC3O and NACMO executive agencies and the subordination of the ALTBMD PO to the General Manager of the NATO Communications and Information Agency (NCIA).

In order to accommodate the legal requirements of one NATO member nation¹, the revocation of Charters (C-M(2005)0036, C-M(90)48(final), and C-M(2005)0017), including amendments, will take effect only on the dates on which the nation concerned informs the Council that the internal measures necessary to ensure programmatic and operational support continuity have been taken².

The nation concerned is requested to update the Council no later than October 2012, regarding progress towards resolving its legal concerns, while identifying which legacy Charters, if any, may be considered for revocation at that time.

This exceptional and temporary measure has no effect on any other elements addressed in the present decision, including the approval of the NCIO Charter, and to their taking effect on 1 July 2012.

3. To direct, with effect on 1 July 2012, the following transition measures:
 - a. All rights and obligations of the NC3O, the NACMO and the ALTBMD PMO (with the limitations as defined in Article 1), will be transferred to and assumed by the NCIO under the same terms and conditions. The transfer includes the related posts and the personnel filling these posts. This transfer includes all governing instruments of the existing agencies, such as directives, policies or other regulations, unless rescinded or superseded. It further includes ownership and all ownership-related rights and obligations as well as rights and obligations related to any third party, such as contracts with industry.
 - b. All other rights and obligations resulting from other agreements between NATO or Partner nations with existing Organisations, including with the NC3O, the NACMO, and the ALTBMD PMO, will be transferred to and assumed by the NCIO under the same terms and conditions (with the limitations as defined in Article 1).

¹ United States of America.

² The provisions remaining in effect for this transitional period in order to accommodate the national legal concerns of the NATO member nation mentioned above are:

- a. Charter for the NATO C3 Organization, C-M(2005)0036, 27 April 2005, Attachment C to Annex 1, Manpower and Personnel Administration, Article 5 – Personnel Status
- b. Charter of the NATO ACCS Management Organization (NACMO), C-M(90)48 Final, 27 August 1990, Section IV (Legal Status) and Section VII (Relationships with Other Bodies).

- c. The ownership of all assets (including intellectual property rights) and infrastructure from the affected Organisations will be transferred to and assumed by the NCIO as well as IT assets and IT infrastructure from the current NATO Commands.
- d. Information Technology delivery functions and staffs of International Staff, International Military Staff, NATO Headquarters C3 Staff and Communications Branch (COMB) will be transferred to the NATO Communications and Information Agency (NCIA). The details will be submitted by the General Manager of the NCIA to the DPPC(R) as part of the Detailed Design of the NCIA.
- e. The support related to facility infrastructure, legal, human, financial or other resources currently provided by the NATO Commands to the NCSA will be provided to the NCIA.
- f. The current C2 Arrangements for NCSA will be replaced by NAC-approved C2 Arrangements between SACEUR and the General Manager of the NCIA.
- g. The existing host nation agreements continue to apply with regard to the NCIA. However, upon notification of a host nation, an amendment to the host nation agreement between the concerned Parties is to be concluded to ensure the continuation of application of the host nation agreement.
- h. Any liability, including any financial liability, resulting from the actions or inactions of the previous entities before 1 July 2012, will be borne by the Nations participating in the previous Organisations.
- i. The General Manager of the NCIA will become the Peacetime Establishment Authority (PEA) for all military posts and the Head of NATO Body for international civilian personnel transferred from the NC3A, NACMA, NCSA (except for personnel transferred to the CIS Group), ALTBMD PO and IT support staff that will be transferred to the NCIA in accordance with subparagraph 3.d above.
- j. The Consultation, Command and Control (C3) Board will develop its mandate by 30 June 2012 and revised Terms of Reference in due course in order to ensure continuity of the Consultation, Command and Control (C3) Board functions as a Senior Policy Committee.

- k. Until submission to Council of fully harmonized Terms of Reference for future programme governance bodies as noted by Defence Ministers (C-M(2012)0034), the Conference of National Armaments Directors (CNAD) will ensure business continuity for all functions of the ALTBMD PMO that are not transferred to the NCIO, including current functions of the ALTBMD Steering Committee in line with Steering Committee roles and responsibilities as described in article 39 of the NCIO Charter.
- l. Until submission to Council of fully harmonized Terms of Reference for future programme governance as noted by Defence Ministers (C-M(2012)0034),
 - i. the Air and Missile Defence Committee (AMDC) will ensure business continuity for all functions of the NACMO Board of Directors that are not transferred to the NCIO, including programme governance functions, roles and responsibilities in line with Steering Committee roles and responsibilities as described in article 39 of the NCIO Charter.
 - ii. The AMDC, in coordination with the ASB and the DPPC(R)AR, will submit to the Council, by October 30, 2012, a plan identifying those management functions of the NACMO BoD which should be performed by the NCIA.
- 4. to note that the DPPC(R) intends to address the assignment of responsibilities for Agency mission-specific IT well before the end of 2012, based on coordinated proposals by the NCIA and NSPA General Managers, and other Agencies, as appropriate.
- 5. to note that work on defining transition measures for resource related issues is currently being undertaken by the RPPB, for approval by the Council as appropriate, before 1 July 2012.

14 June 2012

To : Deputy Director, DI(STR)
From : Legal Adviser

Reference : AC/281-N(2012)0076-REV7 (R) and
AC/281-N(2012)0081-REV5 (R)

Subject: Draft Council decisions on the establishment of the new NSPO and NCIO

1. In the context of the approval by the Council of the draft new Charters for the NSPO and NCIO to be established, one Nation requested that the Legal Adviser assess the extent to which continuing certain of the provisions of the existing Charters in force could prejudice the creation and functioning of the new entities to be established.

2. The draft Council decisions at reference clearly state that the texts of the new Charters are approved and enter into effect as of 1 July 2012 (paragraph 1). They also state that the new entities are established as of that date and that all governance, business and programme execution related to the existing organizations will be conducted by the new organizations and their executive agencies in accordance with the new Charters (paragraph 2). Those decisions specify in this respect that all executive agencies related to the existing organizations are closed (paragraph 2). This means that, from 1 July, the new organizations and their executive agencies will manage all activities and programmes on the basis of the new Charters.

3. The provisions in the draft Council decisions that keep some specific parts of existing Charters in effect, for a limited period of time and solely in order to accommodate the concerns of some Allies relating to their domestic law, make clear that this is done in order not to endanger the programmatic and operational support continuity (paragraph 2). The existing Charters thus remain in effect in a manner that is strictly limited, substantively and temporally, to ensure the business continuity of the entities concerned at the national level as well as that of the Organization.

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4. It should in this context be noted that the draft Council decisions stipulate explicitly that the exceptional and temporary measures, as referred to above, do not affect the other elements addressed in the draft Council decisions (last sentence of paragraph 2). They thus do not affect the special transition measures enumerated in the draft Council decisions (paragraph 3), and they clarify the principal decisions reflected in the first two paragraphs of the draft Council decisions concerned.

5. The above confirms the clear intent of all Allies to assure the continuity of the programmes and activities. All measures taken by the Council are intended to avoid any unwanted interruptions, and the continuing applicability of certain provisions of the existing Charters is permitted only to the extent strictly required for that purpose. Within NATO, as an Organization, the new Charters will fully govern the continued functioning and daily management of the different programmes and activities.

6. For those reasons, it is our assessment that the legal risk of a potential direct conflict between provisions of the existing and new Charters is to be assessed as minimal.

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