

EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

EUROCONTROL

- Measures of the Permanent Commission –

MEASURE N°02/89

concerning the approval of an Agreement for Co-operation between EUROCONTROL and the European Space Agency

THE PERMANENT COMMISSION FOR THE SAFETY OF AIR NAVIGATION:

Having regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as amended by the Protocol signed at Brussels on 12 February 1981, and in particular Articles 6.3, 7.2, 11 and 12 thereof;

Considering the common interest of EUROCONTROL and the European Space Agency in establishing a general framework for mutual co-operation with regard to the use of space technology in civil aviation and notably in the areas of navigation, telecommunications and environment monitoring;

On the proposal of the Director General and of the Provisional Council,

HEREBY TAKES THE FOLLOWING MEASURE:

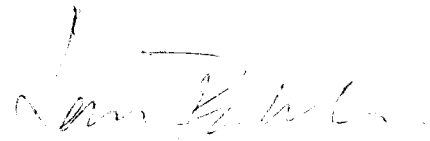
Article 1

The Agreement for Cooperation at Annex to this Measure is hereby approved.

Article 2

The Director General is authorised to sign the Agreement on behalf of the Organisation.

Done at Brussels on 12.7.2002



L. REKKE
President of the Commission

D R A F T

AGREEMENT FOR COOPERATION BETWEEN

THE EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION
(EUROCONTROL)

AND

THE EUROPEAN SPACE AGENCY
(ESA)

The European Organisation for the Safety of Air Navigation (EUROCONTROL), hereinafter referred to as "EUROCONTROL", acting through its Permanent Commission and represented by its Director General, Víctor M. AGUADO,

and

the European Space Agency, hereinafter referred to as "ESA", represented by its Director General, Antonio RODOTÀ,

hereinafter collectively referred to as "the Parties"

HAVING REGARD to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960 as amended by the Protocol signed at Brussels on 12 February 1981, and in particular Articles 6.3, 7.2, 11 and 12 thereof;

HAVING REGARD to the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, which was opened for signature at Brussels on 27 June 1997, and in particular Article 13 of the consolidated version of the Convention annexed thereto;

HAVING REGARD to Decision N° 71 taken by the Permanent Commission on 9 December 1997 on early implementation of certain provisions in the revised Convention, in particular those concerning the role and duties of the Organisation;

HAVING REGARD to Measure N° 02/88 taken by EUROCONTROL's Permanent Commission on 11 April 2002 authorising the Agency to open negotiations for the conclusion of an Agreement for Co-operation between EUROCONTROL and ESA;

HAVING REGARD to Measure No [] taken by the Permanent Commission on [] concerning the approval of the Agreement for Co-operation between EUROCONTROL and ESA, and authorising the Director General to sign the said Agreement on behalf of the Organisation;

HAVING REGARD to the Convention for the Establishment of a European Space Agency done at Paris on 30 May 1975, and in particular Article XIV thereof providing for international co-operation;

HAVING REGARD to Decision N° [...] taken by ESA's Council on 12-13 June 2002 concerning the conclusion of an Agreement for Co-operation between EUROCONTROL and ESA;

HAVING REGARD to the Agreement between the European Community, the European Space Agency and the European Organisation for the Safety of Air Navigation on a European contribution to the development of a Global Navigation Satellite System (GNSS), signed in Luxembourg on 18 June 1998;

HAVING REGARD to the decision taken by Member States of ESA at the Council meeting at ministerial level on 15 November 2001 and to the decision taken at the Council of the European Union on 26 March 2002 to launch the development and validation phase of GALILEO;

CONSIDERING the benefits to be achieved for civil aviation from the use of space technology, particularly in the areas of navigation, telecommunications and environment monitoring;

RECOGNISING the benefits resulting from the involvement of EUROCONTROL and ESA to date in the area of satellite navigation;

CONSIDERING that it would be in their mutual interest to carry out enhanced co-operation in areas common to both Parties which will provide benefits to each of the Parties in the fulfilment of their respective tasks;

DESIRING to establish, in working towards this end, a basis for co-operation which would moreover, optimise the use of their resources;

HAVE AGREED as follows:

ARTICLE I : PURPOSE AND OBJECTIVE OF THE AGREEMENT

1.1 The purpose of this Agreement is to establish a general framework for mutual co-operation and support between the Parties, with regard to the use of space technology in civil aviation, in accordance with their respective tasks and responsibilities. Such co-operation shall include:

- a) Navigation, in particular GNSS;
- b) Telecommunications;
- c) Environment;
- d) Any other areas of common interest.

1.2 The objectives of this Agreement may be achieved by the Parties through such activities as:

- the exchange of information regarding programmes and projects, research results or publications;
- the execution of joint analyses;
- the exchange of personnel;
- the co-ordination of research and development programmes and projects and their execution based on shared effort;
- the joint organisation of symposia or conferences;
- joint information and public relations activities;
- information on training of personnel and educational programmes.

ARTICLE II : IMPLEMENTATION

2.1 This Agreement shall be implemented through arrangements, whenever necessary, relating to specific activities. The arrangements shall contain the tasks and responsibilities of each of the Parties and identify the availability of the resources required to complete the activity with a co-ordinated effort. It shall also describe managerial, technical and operational interfaces between the respective activities and the roles and responsibilities of the Parties.

2.2 The content of each specific implementing arrangement shall be concluded by the Director General of EUROCONTROL and the Director General of ESA and shall be subject to the provisions of this Agreement and to the internal rules and regulations of each Party.

Article III : FINANCING

Unless otherwise provided in the implementing arrangement, each Party shall bear the cost of work to be done by it for the implementation of this Agreement, in accordance with its own rules and regulations and without exchange of funds.

Article IV : JOINT COMMITTEE

4.1 A Joint Committee, which shall consist of representatives of the Parties, is hereby established. It shall act by mutual agreement.

4.2 The Joint Committee shall be responsible for the administration of the Agreement and shall ensure its proper implementation. For this purpose, it shall:

- examine potential areas of concrete co-operation;
- evaluate the status of on-going activities;
- identify specific actions to be carried out;
- agree on the manner for the exchange of information referred to in Article V;
- review the general functioning of the Agreement;
- make recommendations, inter alia, for the implementing arrangements referred to in Article II above.

4.3 The Joint Committee may adopt its own rules of procedure.

4.4 The Joint Committee shall meet at the request of either Party.

ARTICLE V : EXCHANGE OF INFORMATION

5.1 The Parties shall inform each other of activities relevant to co-operation on the subjects referred to in Article I above, and shall invite the other Party to attend relevant meetings, subject to the applicable rules of procedure of each Party. Relevant

documentation shall be communicated to the other Party, to the extent possible, and each Party shall be entitled to propose items on the agenda, submit contributions to such meetings and participate in the discussions.

- 5.2 Each Party shall provide the other Party with all information necessary for the co-operation and the implementation of the activities agreed under this Agreement, subject to its own rules on exchange of information.
- 5.3 Any disclosure to any person permitted under this Agreement shall be in strict confidence and shall extend so far only as may be necessary for the purposes of the Agreement.
- 5.4 Information exchanged in pursuance of this Agreement shall not be disclosed to third parties nor used for commercial purposes, except with the prior approval, and on the conditions agreed between the Parties.
- 5.5 Obligations under this article shall continue to be in force after expiration or termination of this Agreement, to the extent provided by law.

ARTICLE VI : EXCHANGE OF PERSONNEL

Under this Agreement and as identified in the implementing arrangement, an exchange of personnel may be undertaken as required to pursue the co-operative activities referred to in Article I. Such personnel shall remain under the authority of the employing Party and shall accomplish work as defined by the Parties in the implementing arrangements. This exchange of personnel shall not change their administrative status towards their respective employers.

ARTICLE VII : RIGHTS AND PROPERTIES

- 7.1 Each Party shall, in accordance with its own rules and procedures, administer or retain the property and commercial rights of all software, equipment and documentation which it has financed and developed within the framework of its own activities.
- 7.2 Specific arrangements between the Parties may be required for joint developments made for the purpose of this Agreement.

7.3 Data and services generated under this Agreement shall be made available to all interested scientific and operational users, in accordance with the policy of the Parties, and taking into account the conditions of Article V above.

ARTICLE VIII : LIABILITY

8.1 The Parties agree that, with respect to activities undertaken pursuant to this Agreement, one Party shall not make a claim against the other Party with respect to injury or death of its employees or contractors or any person acting on its behalf, or with respect to damage of any kind to or loss of its own or contractors' property whether such injury, death, loss or damage arises through negligence or otherwise, except in the case of gross negligence or wilful misconduct.

8.2 Furthermore, the application and utilisation of information or deliverables exchanged in pursuance of this Agreement shall confer no liability on the Party from which such information or deliverable originated.

8.3 The waiver of liability in this Article shall not apply to :

- claims between a Party and its contractors;
- claims with regard to intellectual property rights.

ARTICLE IX : LIAISON

Upon the signature of this Agreement, the Director General of EUROCONTROL and the Director General of ESA shall designate contact persons for the specific areas of co-operation mentioned in Article I as well as each Party's representative to the Joint Committee.

ARTICLE X : PUBLIC RELATIONS

10.1 Each Party shall undertake to co-ordinate with the other in advance concerning its own or joint public relations activities related to the subjects covered by this Agreement.

10.2 In all relevant media activities, the role of each Party shall be clearly identified and mentioned.

ARTICLE XI : SETTLEMENT OF DISPUTES

Any dispute which may arise regarding the interpretation or application of this Agreement which it has not been possible to resolve by direct negotiation or any other method shall be referred to arbitration in accordance with the Optional Rules for Arbitration of the Permanent Court of Arbitration.

ARTICLE XII : ENTRY INTO FORCE AND DURATION

12.1 This Agreement shall come into force on the day on which it is signed by the Parties. It shall remain in force for a period of five years. It may be extended for additional periods as may be mutually agreed in writing between the Parties.

12.2 Notwithstanding the above provision, either Party may terminate the Agreement at any time by giving six months' notice in writing to the other Party.

12.3 This Agreement may be amended or modified by mutual written agreement signed by the duly authorised signatories of the Parties.

In witness whereof, the undersigned, duly authorised, hereby sign the present Agreement.

Done at [.....], on [.....], in two originals in the English language,

For the European Organisation
for the Safety of Air Navigation
(EUROCONTROL)

For the European Space Agency
(ESA)

Víctor M. AGUADO
Director General

Antonio RODOTÀ
Director General