



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 03.10.2003
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Proposal for a

COUNCIL DECISION

**on the signing of the Cooperation Agreement on a Civil Global Navigation
Satellite System (GNSS) - GALILEO between the European Community and its
Member States and the People's Republic of China.**

(presented by the Commission)

EXPLANATORY MEMORANDUM

In January 1998, the Commission presented a Communication entitled ‘Towards a Trans-European Positioning and Navigation Network, including a European Strategy for Global Navigation Satellite Systems (GNSS)¹.’ This set out a strategy for developing an integrated network of navigation aids, making best use of satellite navigation to achieve an optimal service for the whole of Europe, including the northernmost latitudes, at an acceptable price.

In its Communication entitled “Building a Comprehensive Partnership with China” which was endorsed by the European Council of Ministers on 29 June 1998, the Commission noted that the EU-China trade dialogue could be further strengthened through the conclusion of specific bilateral agreements in areas of particular interest.

On 10 February 1999, the Commission adopted a Communication entitled ‘GALILEO – involving Europe in a new generation of Satellite Navigation Services².’ This sets out a strategy for developing GALILEO, a global European component of GNSS-2 in four phases; definition, development and validation, deployment and operational phase. GALILEO will be independent but fully interoperable with the US GPS system and open to cooperation with other third countries.

On 19 July 1999, the Council adopted a Resolution welcoming the Commission Communication and inviting the Commission to explore possibilities for cooperation.

On 5 April 2001, the Council adopted a Resolution³ in which it encourages the continuation, under its political control, of the contacts with non-member States that are interested in contributing to the development of GALILEO. Furthermore it called for active preparations to be made for WRC-2003 in order to consolidate the achievements of WRC 2000 by establishing the appropriate common approach for the GALILEO spectrum.

On 24 September 2002, the Commission adopted a Communication on GALILEO⁴ in which it invited guidelines on plans for negotiations with Peoples’ Republic of China.

On 6 December 2002 the Council adopted conclusions⁵ in which it invited the Commission to present, taking due account of security considerations, a proposal for negotiations directives with China.

In formal negotiations on 16 of May and 18 of September 2003 the representatives of the Commission and People’s Republic of China have agreed on the content and initialled the Agreement. The Special Committee of the Council has been consulted in accordance with the negotiation directives.

¹ COM(1998)29 final of 21 January 1998

² COM(1999)54 final of 10 February 1999

³ Council Resolution on GALILEO, OJ C 157, 30 May 2001

⁴ COM(2002)518 final of 24 September 2002

⁵ Doc nr 15628/2002 of 13 Dec 2002

Proposed decision

The Commission recommends to the Council, on the basis of Articles 133 and 170, in conjunction with the first sentence of the first subparagraph of Article 300 (2) of the Treaty establishing the European Community, to authorise the signature of the Cooperation Agreement on a Civil Global Navigations Satellite System (GNSS) – GALILEO between the European Community and its Member States and the People's Republic of China.

Proposal for a

COUNCIL DECISION

on the signing of the Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS) - GALILEO between the European Community and its Member States and the People's Republic of China.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 133 and 170, in conjunction with the first sentence of the first subparagraph of Article 300 (2) thereof,

Whereas:

- (1) The Commission has negotiated on behalf of the Community an Agreement with the People's Republic of China
- (2) Subject to its possible conclusion at a later date, the Agreement initialled on 18 September 2003 should be signed,

HAS DECIDED AS FOLLOWS:

Sole Article

Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the person empowered to sign, on behalf of the European Community, the Cooperation Agreement between the European Community and the People's Republic of China on a Civil Global Navigation Satellite System (GNSS) – GALILEO.

The text of the Agreement is attached to this Decision.

Done at Brussels,

*For the Council
The President*

ANNEX

Co-operation Agreement on a Civil Global Navigation Satellite System (GNSS) – GALILEO between the European Community and its Member States and the People’s Republic of China

People’s Republic of China hereinafter also referred to as “China”, of the one part,

and

the European Community hereinafter referred to as the “Community”,

and

parties to the Treaty establishing the European Community, hereinafter referred to as “Member States of the Community”, of the other part,

Considering the common interests in the development of a global navigation satellite system for civil use,

Recognising the importance of GALILEO as a contribution to navigation and information infrastructure in Europe and China,

Recognising the advanced state of China’s satellite navigation activities, notably the Beidou programme,

Considering the increasing development of GNSS applications in China, Europe and other areas in the world,

Desiring to strengthen the co-operation between China and the Community

Have agreed as follows:

Article 1

Objective of the agreement

The objective of the agreement is to encourage, facilitate and enhance co-operation between the parties within European and Chinese contributions to a civil global navigation satellite system (GNSS) - GALILEO programme.

Article 2

Definitions

For the purposes of this Agreement:

a. "Augmentation" means regional or local mechanisms such as the European Geostationary Navigation Overlay System (EGNOS), or China’s wide Area Differential Satellite Navigation System (CWADSNS). They provide the users of

satellite-based navigation and timing signals with input information, extra to that derived from the main constellation(s) in use, and additional range/pseudo-range inputs or corrections to, or enhancements of, existing pseudo-range inputs. These mechanisms enable users to obtain enhanced performance.

b. "Beidou" means a satellite navigation system including an augmentation system that is designed, developed and operated by the People's Republic of China.

c. GALILEO local elements are local mechanisms that provide the users of GALILEO satellite-based navigation and timing signals with input information, extra to that derived from the main constellation in use. Local elements may be deployed for additional performance around airports, seaports and in urban or other geographically challenging environments. GALILEO will provide generic models for local elements.

d. "GALILEO" means an autonomous civil European global satellite navigation and timing system under civil control, for the provision of GNSS services designed and developed by the Community and its Member States. The operation of GALILEO may be transferred to a private party. GALILEO envisages one or more services for open, commercial and safety of life purposes.

e. "Global navigation, positioning and timing equipment" means any civil end user equipment designed to transmit, receive, or process satellite-based navigation or timing signals to provide a service, or to operate with a regional augmentation.

f. "Regulatory measure" means any law, regulation, rule, procedure, decision, administrative action or similar action by a Party.

g. "Interoperability" means at user level a situation where a dual-system receiver can use signals from two systems together for equal or better performance than by using only one system.

i. "Intellectual property" shall have the meaning found in Article 2 of the Convention Establishing the World Intellectual Property Organisation, done at Stockholm, July 14, 1967.

j. "Liability" means the legal accountability of a person or legal entity to compensate for damage caused to another person or legal entity in accordance with specific legal principles and rules. This obligation may be prescribed in an agreement (contractual liability) or in a legal norm (non-contractual liability).

Article 3

Principles of the co-operation

The parties agreed to apply the following principles to co-operation activities covered by this agreement:

a) Mutual benefit based on an overall balance of rights and obligations including contributions,

- b) Partnership in the GALILEO Programme in accordance with the procedures and rules governing the management of GALILEO,
- c) Reciprocal opportunities to engage in co-operative activities in European and Chinese GNSS projects,
- d) Timely exchange of information that may affect co-operative activities,
- e) Appropriate protection of intellectual property rights,

Article 4

Scope of co-operation activities

1. The sectors for co-operative activities in satellite navigation and timing are: scientific research, industrial manufacturing, training, application, service and market development, trade, radio-spectrum issues, integrity issues, standardisation and certification and security. The Parties may adapt the list in paragraph 1 by decision by the Joint Steering Committee established under Article 14 of this Agreement.
2. Extending cooperation, if requested by the Parties to GALILEO Public Regulated Service, system security features (definition, management, use) and critical control features of the GALILEO global segment as well as exchange of classified GALILEO-information, would be subject to an appropriate separate agreement to be concluded between European Union and China.
3. This Agreement shall not affect the application of the Council Regulation (EC) N° 876/2002 of 21 May 2002 on the establishment of the GALILEO Joint Undertaking and the institutional structure established by it or any other Regulation or rule establishing a successor entity to the GALILEO Joint Undertaking. Nor does this Agreement affect the applicable laws, regulations and policies implementing non-proliferation commitments and export control for dual-use items and national domestic measures regarding security and controls of intangible transfers of technology.

Article 5

Forms of co-operation activities

1. Subject to their applicable laws and regulations, the Parties shall foster, to the fullest extent practicable, the co-operative activities under this Agreement with a view to providing comparable opportunities for participation in their activities in the sectors listed under Article 4.
2. The Parties agree to conduct co-operative activities as follows:

Article 6

Scientific research

The parties shall promote joint research activities in the field of GNSS through European and Chinese research programs including the European Community Framework Program for Research and Development, and the research programs of European Space Agency, and the Ministry of Science and Technology of China.

The joint research activities should contribute to planning the future developments of a GNSS for civil use.

Training activities shall be co-ordinated through the China-Europe GNSS Technical Training and Co-operation Centre established in Beijing.

Article 7

Radio spectrum

1. Building on past successes in the framework of the International Telecommunication Union, the Parties agree to continue co-operation and mutual support in radio-spectrum issues.

2. In this context the Parties shall exchange information on frequency filings and promote adequate frequency allocations for GALILEO and Beidou in order to ensure the availability of their services for the benefit of users world-wide and notably in China and in the Community.

3. Moreover, the Parties recognise the importance to protect radionavigation spectrum from disruption and interference. To this end they shall identify sources of interference and seek mutually acceptable solutions to combat such interference.

4. The Parties agree to task the Committee under Article 14 to define the appropriate mechanism in order to ensure effective contacts and collaboration in this sector.

Article 8

Industrial co-operation

1. The parties encourage and support the co-operation between the industries of the two sides, including by the means of joint ventures with the objective of setting up of the GALILEO system as well as promoting the use and development of GALILEO applications and services.

2. The parties will establish a joint advisory group on industrial co-operation under the Steering Committee set up under Article 14 in order to investigate and guide the co-operation on satellite manufacturing, launch services, ground station building, and application products.

3. To facilitate industrial co-operation the Parties shall protect intellectual property in accordance to the relevant international standards.

4. Exports by China to third countries of sensitive items related to the GALILEO programme will have to be submitted for prior authorisation by the competent GALILEO security authority, if the authority has recommended to the EU Member States that these items be subject to export authorisation.

5. The Parties encourage reinforced links between Ministry of Science and Technology of China, the Chinese National Space Administration, and the European Space Agency to contribute to the objectives of the Agreement.

Article 9

Trade and market development

1. The parties encourage trade and investment in European and Chinese satellite navigation infrastructure, equipment, GALILEO local elements and applications.

2. To this end the Parties shall raise awareness of the public on GALILEO satellite navigation technology, identify potential barriers to growth in GNSS applications and take appropriate measures to facilitate this growth.

3. To identify and respond effectively to user needs the Community and China shall consider establishing a joint GNSS user forum.

4. This agreement will not affect the rights and obligations of the Parties under the World Trade Organisation, relevant export control rules, Council Regulation (EC) n° 1334/2000 and its subsequent amendments, the Council Joint Action 2000/401/CFSP and other relevant international instruments such as the Hague International Code Of Conduct on Ballistic Missiles and other relevant EU Member States and Chinese legislation.

Article 10

Standards, Certification and Regulatory Measures

1. The Parties recognise the value of co-ordinating approaches in international standardisation and certification fora concerning global satellite navigation services. In particular the Parties will jointly support the development of GALILEO standards and promote their application world-wide.

One objective of the co-ordination is to promote broad and innovative use of the GALILEO services for open, commercial and safety of life purposes as a world-wide navigation and timing standard. The Parties agree to create favourable conditions for developing GALILEO applications.

2. Consequently, to promote and implement the objectives of this Agreement, the Parties shall, as appropriate, cooperate on all satellite navigation related matters that arise in the International Civil Aviation Organisation, the International Maritime Organisation and the International Telecommunications Union.

3. At bilateral level the Parties shall ensure that measures relating to technical standards, certification and licensing requirements and procedures do not constitute

unnecessary barriers to trade. Domestic requirements shall be based on objective, non-discriminatory, pre-established transparent criteria.

4. At expert level the parties intend to organise co-operation and exchanges through the Committee under Article 14 on standards covering codes, navigation, ground receiver equipment and navigation application security. Moreover, the Parties shall promote the participation of Chinese representatives in European standardisation organisations.

Article 11

Development of global and regional GNSS systems

1. Interoperability of global and regional satellite navigation systems enhances the quality of services available to users. The Parties shall collaborate to define and implement system architectures allowing an optimal guarantee of GALILEO integrity and continuity of GALILEO services.

2. At the regional level the Parties shall cooperate on building a regional augmentations system based on GALILEO system in China. Such a regional system is foreseen to provide regional integrity services additional to those provided by the GALILEO system globally.

At local level the Parties shall facilitate the development of GALILEO local elements.

Article 12

Security

1. The Parties are convinced of the need to protect Global Navigation Satellite Systems against misuse, interference, disruption and hostile acts.

2. The Parties shall take all practicable steps to ensure the continuity and safety of the satellite navigation services and the related infrastructure in their territories.

3. The parties recognise that cooperation to ensure security of the GALILEO system and services are important common objectives.

4. Hence the parties shall establish an appropriate consultation channel to address GNSS security issues. This channel shall be used to ensure the continuity of the GNSS services.

The practical arrangements and procedures are to be defined between the competent security authorities of both parties.

Article 13

Liability and cost recovery

The Parties will cooperate, as appropriate, to define and implement a liability regime and cost recovery arrangements in order to facilitate the provision of civil GNSS services.

Article 14

Co-operative mechanism

1. The co-ordination and facilitation of co-operative activities under this Agreement shall be accomplished on behalf of China, by the Ministry of Science and Technology and, on behalf of the Community, by the European Commission.

2. In accordance with the objective in Article 1 these two entities shall establish a GNSS Steering Committee hereinafter referred to as the “Committee” for the management of this Agreement. This Committee shall consist of official representatives of each Party and it shall establish its own rules of procedure

The functions of the Steering Committee shall include:

- a) Promoting, making recommendations to and overseeing the different co-operative activities as mentioned in Articles 4 to 12 of the agreement;
- b) Advising the Parties on ways to enhance and improve co-operation consistent with the principles set out in this Agreement;
- c) Reviewing the efficient functioning and implementation of this Agreement;

3. The Committee shall, as a general rule, meet annually. The meetings should be held alternatively in the Community and in China. Extraordinary meetings may be organised at the request of either Party.

The costs incurred by the Committee or in its name shall be borne by the Party to whom members relate. The costs other than those for travel and accommodation which are directly associated with meetings of the Committee shall be borne by the host Party. The Committee may set up Joint Technical Working Groups on specific subjects where the Parties consider it appropriate.

4. The Parties welcome the participation of a relevant Chinese entity in the Joint Undertaking (JU) according to the procedure laid out in Council Regulation (EC) n° 876/2002 of 21 May 2002.

Article 15

Exchange of information

1. The Parties shall establish administrative arrangements and enquiry points in order to provide for these consultations and the effective implementation of the provisions of this Agreement.

2. The China-Europe GNSS Training and Technical Co-operation Centre established in Beijing shall contribute to preparing and distributing information on satellite navigation activities to industry representatives, scientists, journalists and the public in China and the Community.

3. The parties encourage further information exchanges concerning satellite navigation among the institutions and enterprises of the two sides.

Article 16

Funding

1. China shall provide a financial contribution to the GALILEO Program through the GALILEO Joint Undertaking. The amount and arrangements of the contribution will be subject to a separate agreement and in accordance with the institutional arrangements of Council Regulation (EC) No 876/2002 or any subsequent regulation.
2. When specific co-operative schemes of one Party provide for financial support to participants from the other Party, any such grants, financial or other contributions from one Party to the participants of the other Party in support of those activities shall be granted tax and customs exemption in accordance with the laws and regulations applicable in the territories of each Party.

Article 17

Consultation and dispute resolution

1. The Parties shall promptly consult, at the request of any of them, on any question arising out of the interpretation or application of this Agreement. Any disputes concerning the interpretation or application of this agreement shall be settled by friendly consultations between the Parties.
2. Paragraph 1 shall not prevent the Parties from having recourse to dispute settlement under the WTO Agreement.

Article 18

Entry into force and termination

1. This Agreement shall, after its signature by the Parties, enter into force upon the date on which the Parties have notified each other that their respective internal procedures necessary for its entry into force have been completed.
2. The termination of this agreement shall not affect the validity or duration of any arrangements made under it or any specific rights and obligations that have accrued in the field of intellectual property rights.
3. This Agreement may be amended by mutual agreement of the parties in writing. Any amendment shall enter into force on the date on which the Parties exchange diplomatic notes informing each other that their respective internal procedures necessary for its entry into force have been completed.
4. This Agreement shall remain in force for a period of five years from the date of its entry into force. Thereafter, it shall be extended automatically for further periods of five years each. Either Party may, by giving three months' notice to the other in writing, terminate this Agreement.

This Agreement is drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Chinese languages.

English and Chinese shall be the authentic languages.