



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL DECISION

on the signing of the Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS) between the European Community and its Member States and the Republic of Korea

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The international nature of the Galileo programme has triggered several countries to apply for a cooperation agreement with the European Union.

Korea officially expressed its interest in March 2005. The European Commission, on the basis of a negotiation mandate from the Council in July 2005, initialled an Agreement with the Korean Authorities in January 2006.

The European Commission proposes to the Council to authorise the signature of the Cooperation Agreement between the European Community and its Member States and the Republic of Korea.

- **General context**

The Republic of Korea is a country with capabilities in space technology and applications. It is currently an active user of GPS services in various sectors including transport, fleet management, science and geodesy. Korean interlocutors have expressed a specific interest in extending the use of satellite navigation through Galileo to various sectors including transport and fisheries and to the upgrade their differential GPS station network to Galileo signals.

Preliminary contacts with Korea on GNSS date back to January 2000 at the occasion of the EC-Korea Ministerial meeting in Seoul.

The first discussions on the participation of the Republic of Korea in the Galileo Programme took place between the representatives the Ministry for Fisheries and Maritime Affairs (with all other Ministries concerned by satellite navigation, i.e. Trade and External Affairs, Government and Internal Affairs, Industry and Energy, Information and Communication, Science and Technology, Transport and Construction, Civil Aviation) and the European Commission's Directorate-General for Energy and Transport on 4 December 2003 in Seoul.

An information day for Korean industries was also organised in Seoul on 3 December 2003 which attracted some 150 industries.

A new round of exploratory talks on the status and objectives of the respective policies on satellite navigation and on possible forms of cooperation took place in Brussels on 19 October 2004 with some 15 Korean delegates from the Ministries concerned, under the leadership of the Ministry of Foreign Affairs, followed by another meeting in Brussels with the same representatives on 17 June 2005 at the occasion of a Joint Committee Meeting.

In March 2005, the Republic of Korea formally asked to start negotiations on a co-operation agreement on Egnos/Galileo. The Council gave a negotiation mandate to the Commission on 18 July 2005.

In formal negotiations in Brussels on 12 January 2006, the representatives of the Commission and the Republic of Korea have agreed on the content and initialled the enclosed Agreement.

- **Existing provisions in the area of the proposal**

On 18 February 2004, the Commission adopted a Communication entitled "Progress report on the Galileo research programme as at the beginning of 2004" Chapter 2 of which, entitled "International cooperation takes off", sets out a strategy for developing the international dimension of Galileo.

In its conclusions adopted on 9 March 2004 on the basis of this Communication, the Council "encourages the development of international cooperation in this area".

On 18 July 2005 the Council adopted negotiation directives authorising the Commission to open negotiations for establishing a cooperation agreement on a Civil Global Navigation Satellite System (GNSS) between the European Community and its Member States and the Republic of Korea.

- **Consistency with the other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

The Galileo Special Committee of the Council has been consulted in accordance with the negotiation directives. The Galileo Security Board has also been kept informed throughout the whole negotiations process.

Summary of responses and how they have been taken into account

All comments from Member States have been duly taken into account, both at the level of security matters (including items related to the Public Regulated Service) and financial contribution of potential non-EU countries into the GNSS Supervisory Authority.

- **Collection and use of expertise**

Scientific/expertise domains concerned

The area of expertise concentrated on satellite navigation and space infrastructures.

Methodology used

Experts have been regularly consulted and participated to visits in the Republic of Korea in order to ascertain the capabilities and interest of the country to join the programme.

Main organisations/experts consulted

Both the Galileo Joint Undertaking, which manages the overall development phase of the Galileo programme, and the European Space Agency which implements the in-orbit validation phase, have been deeply involved and participated at all steps of the negotiation procedure.

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has not been mentioned.

While advises from the European Space Agency focused on the potential areas for technical cooperation and contribution of Korea into the infrastructure itself, the Galileo Joint Undertaking underlined the importance of Galileo application development in the Asian market.

Means used to make the expert advice publicly available

The conclusions of experts are integrated into the Agreement.

- **Impact assessment**

As Korea is one of the leading nations in the field of electronic devices, the introduction of Galileo services into the Asian markets has an important economic impact.

It is foreseen that satellite navigation services will create by 2020 a worldwide market of some €300 billions with at least 3 billion receivers in use. Galileo will be responsible for the creation of 150.000 highly qualified jobs in Europe.

The European GNSS Supervisory Authority, created by Council Regulation 1321/2004 of 12 July 2004, will ensure proper system certification and become the conceding Authority for the Galileo concession. The Authority will also follow up the activities covered under this Agreement.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The Commission proposes to the Council to authorise the signature of the Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS) between the European Community and its Member States and the Republic of Korea.

- **Legal basis**

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,

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason(s).

Galileo, whose costs are estimated above € billions, is a European initiative which no single state is willing to finance on its own.

Community action will better achieve the objectives of the proposal for the following reason(s).

The industrial knowledge in the space sector is spread in several European countries.

The global satellite navigation infrastructure does cover the whole European territories.

The items which fall under this Agreement relate to items which, by nature, require action at Community level, e.g. standardisation and certification.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

The agreement is as simple as possible as it ensures that non-European countries will support the programme in all key aspects (standards, certification, frequency allocation, etc.). It allows as well performing specific joint research projects in the field of satellite navigation.

The Agreement is based on a non exchange of fund basis.

- **Choice of instruments**

Proposed instruments: other.

Other means would not be adequate for the following reason(s).

An international agreement is the sole instrument which ensures cooperation of the Republic of Korea in promoting Galileo. If no agreement is reached, this country would base all its positioning and navigation services on other systems (mainly GPS), endangering the economic success of Galileo.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

5) ADDITIONAL INFORMATION

- **Review/revision/sunset clause**

The proposal includes a sunset clause.

Proposal

The Commission proposes 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 Navigation Satellite System (GNSS) between the European Community and its Member States and the Republic of Korea.

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on the signing of the Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS) between the European Community and its Member States and the Republic of Korea

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,

Having regard to the proposal from the Commission¹,

Whereas:

- (1) The Commission has negotiated an Agreement with the republic of Korea
- (2) Subject to its possible conclusion at a later date, the Agreement initialled on 12 January 2006 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 on a Civil Global Navigation Satellite System (GNSS) between the European Community and its Member States, and the Republic of Korea.

The text of the Agreement is attached to this Decision

Done at Brussels,

*For the Council
The President*

¹ OJ C , , p. .

ANNEX

Cooperation Agreement On a Civil Global Navigation Satellite System between the European Community and Its Member States on one part and the Republic of Korea on the other part

The European Community (hereinafter referred to as the “Community”),

and

THE KINGDOM OF BELGIUM,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

NORTHERN IRELAND,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

THE REPUBLIC OF MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting parties to the Treaty establishing the European Community, hereinafter referred to as “Member States”, on one part,

and

the Republic of Korea (hereinafter referred to as “Korea”), on the other part,

hereinafter jointly referred to as “the Parties”;

CONSIDERING the common interests in the development of a global navigation satellite system (hereinafter referred to as “GNSS”) for civil use,

RECOGNISING the importance of GALILEO as a contribution to the navigation and information infrastructure in Europe and Korea,

RECOGNISING the advanced level of Korea’s satellite navigation activities,

CONSIDERING the increasing development of GNSS applications in Korea, Europe and other areas in the world,

Have agreed as follows:

ARTICLE 1

Objective of the agreement

The objective of the agreement is to encourage, facilitate and enhance cooperation between the Parties in civil global satellite navigation within European and Korean contributions to a civil global navigation satellite system (GNSS).

ARTICLE 2

Definitions

For the purpose of this Agreement:

- (a) "Augmentation" means regional or local mechanisms such as the European Geostationary Navigation Overlay System (EGNOS). These mechanisms enable users of global GNSS to obtain enhanced performance, such as increased accuracy, availability, integrity, and reliability.
- (b) "GALILEO" means an autonomous civil European global satellite positioning navigation and timing system under civil control, for the provision of GNSS services designed and developed by the Community, its Member States and the European Space Agency. The operation of GALILEO may be transferred to a private party. GALILEO envisages open, commercial, safety of life and search and rescue services in addition to a secured public regulated service with restricted access designed to meet the needs of authorised public sector users.
- (c) "GALILEO local elements" are local mechanisms that provide the users of GALILEO satellite-based navigation and timing signals with input information, in addition 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) "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.
- (e) "Regulatory measure" means any law, regulation, rule, procedure, decision, policy or administrative action.
- (f) "Interoperability" means a situation at user level in which a dual-system receiver can use signals from two systems together for equal or better performance than when only one system is used.
- (g) "Intellectual property" shall have the meaning given in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967.

- (h) "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).
- (i) "Classified information" is information, whether it originates in the EU or is received from Member States, non-EU countries or international organisation, that requires protection against unauthorized disclosure, which could harm in various degrees the essential interests, including national security, of the Parties or of individual Member States. Its classification is indicated by a classification marking. Such information is classified in accordance with applicable laws and regulations and must be protected against any loss of confidentiality, integrity or availability.

ARTICLE 3

Principles of cooperation

The Parties agreed to apply the following principles to cooperation activities covered by this Agreement:

1. Mutual benefit based on an overall balance of rights and obligations including contributions.
2. Partnership in the GALILEO Programme in accordance with the procedures and rules governing the management of GALILEO.
3. Reciprocal opportunities to engage in cooperative activities in the European Community and its Member States and Korean GNSS projects for civil use.
4. Timely exchange of information that may affect cooperative activities.
5. Appropriate protection of intellectual property rights as referred to in Article 8(3) of this Agreement.
6. Freedom to provide satellite navigation services in the territories of the Parties.
7. Unrestricted trade in GNSS goods in the territories of the Parties.

ARTICLE 4

Scope of cooperation activities

1. The sectors for cooperative activities in satellite navigation and timing are: radio-spectrum, scientific research and training, industrial cooperation, trade and market development, standards, certification and regulatory measures, augmentations, security, liability and cost recovery. The Parties may adapt the list in paragraph 1 by decision of the Joint Steering Committee established under Article 14 of this agreement.
2. The present agreement does not include cooperation between the Parties in the following areas. If it is agreed by the Parties that mutual benefits will be derived

from the extension of cooperation to any of the following areas, this will require the negotiation and conclusion of appropriate agreements between the Parties:

- 2.1. GALILEO sensitive technologies and items under export control and non-proliferation regulatory measures applicable in the European Community or its Member States,
 - 2.2. GALILEO cryptography and information security (INFOSEC)
 - 2.3. GALILEO System Security Architecture (space, ground and user segments),
 - 2.4. Security control features of the GALILEO global segments,
 - 2.5. Public Regulated Services in their definition, development, implementation, test and evaluation and operational (management and use) phases, and
 - 2.6. Exchange of classified information concerning satellite navigation and GALILEO.
3. This Agreement shall not affect the institutional structure established by the European Community law for the purpose of the operations of the GALILEO programme. Neither does this Agreement affect the applicable regulatory measures implementing non-proliferation and export control commitments, including control of intangible transfers of technology, nor does it affect national security measures.

ARTICLE 5

Forms of cooperation activities

1. Subject to their applicable regulatory measures, the Parties shall foster, to the fullest extent practicable, the cooperative 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 cooperative activities as mentioned in Articles 6 to 13 of this Agreement.

ARTICLE 6

Radio spectrum

1. Building on past successes in the framework of the International Telecommunication Union, the Parties agree to continue their cooperation 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 prospective Korean GNSS including the Satellite Based Augmentation System (SBAS) in order to ensure the availability of GALILEO services for the benefit of users worldwide and notably in Korea and in the Community.

3. Recognizing the importance of protecting the radio navigation spectrum from disruption and interference, the Parties 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.
5. Nothing in this Agreement shall be construed as derogating from the applicable provisions of the International Telecommunications Union, including the ITU Radio Regulations.

ARTICLE 7

Scientific research

The Parties shall promote joint research activities in the field of GNSS through European and Korean research programmes including the European Community Framework Programme for Research and Development, the research programmes of the European Space Agency, and the Ministries and agencies of Korea related to GNSS.

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

The Parties agree to task the Committee under Article 14 to define the appropriate mechanism aimed at ensuring effective contacts and participation in the research programmes.

ARTICLE 8

Industrial cooperation

1. The Parties shall encourage and support cooperation between the industries of the two sides, through such means as joint ventures and Korean participation in relevant European industrial associations as well as European participation in relevant Korean industrial associations, with the objective of setting up 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 cooperation under the Steering Committee set up under Article 14 in order to investigate and guide the cooperation on satellite development and manufacturing, launch services, ground station facilities, and application products.
3. To facilitate industrial cooperation the Parties shall grant and ensure adequate and effective protection of intellectual property rights in the fields and sectors relevant to the development and operation of GALILEO/EGNOS, in accordance with the relevant international standards set by the TRIPS Agreement and international conventions to which both parties are signatories, including effective means of enforcing such standards.
4. Exports by Korea to third countries of sensitive items and technologies specifically developed and funded by the GALILEO programme, and defined by the competent GALILEO security authority to be under export control, will have to be submitted by Korea for prior authorization by the competent GALILEO security authority. Any

separate agreement referred to in Article 4(2) of the Agreement shall also provide an appropriate mechanism for the Parties to recommend potential items to be subject to export authorization.

5. In order to contribute to the objectives of the Agreement, the Parties shall encourage strengthened ties between the European Space Agency and the Ministries and agencies of Korea related to GNSS.

ARTICLE 9

Trade and market development

1. The Parties shall encourage trade and investment in European and Korean satellite navigation infrastructure, equipment, GALILEO local elements and applications.
2. To this end, the Parties shall make an effort to raise the level of public awareness concerning the GALILEO satellite navigation activities, 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 Parties shall consider establishing a joint GNSS user forum.
4. This Agreement shall not affect the rights and obligations of the Parties under the Marrakech Agreement establishing the World Trade Organization.

ARTICLE 10

Standards, Certification and Regulatory Measures

1. Recognizing the value of coordinating approaches in international standardization and certification concerning global satellite navigation services, the Parties will jointly support the development of GALILEO standards and promote their application worldwide, emphasizing interoperability with other GNSS systems.

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

2. To promote and implement the objectives of this Agreement, the Parties shall, as appropriate, cooperate on satellite positioning, navigation and timing-related matters that arise particularly in the International Civil Aviation Organization, the International Maritime Organization and the International Telecommunications Union.
3. At the bilateral level the Parties shall ensure that measures relating to technical standards, certification and licensing requirements and procedures concerning GNSS do not constitute unnecessary barriers to trade. Domestic requirements shall be based on objective, non-discriminatory and applicable transparent criteria.
4. The Parties shall take the necessary regulatory measures to allow the use of Galileo receivers, ground and space segments in the territories under their jurisdiction. In this

regard, the government of the Republic of Korea in the area of radio communications shall grant Galileo treatment no less favourable than that accorded to any other like services.

5. The Parties shall promote the participation of Korean representatives in European standardization organizations.

ARTICLE 11

Development of global and regional GNSS ground augmentation systems

1. The Parties shall cooperate with one other to define and implement ground system architectures allowing an optimal guarantee of GALILEO/EGNOS integrity, accuracy and continuity of GALILEO and EGNOS services and interoperability with other GNSS systems.
2. To this end the Parties will cooperate at the regional level with a view to implementing a ground regional augmentation system based on the GALILEO system in Korea. Such a regional system is expected to provide regional integrity services in addition to those provided by the GALILEO system globally. As a precursor, the Parties may consider the extension of EGNOS in the East Asian region.
3. At the local level, the Parties shall facilitate the development of local GALILEO elements.

ARTICLE 12

Security

1. The Parties shall protect the 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 jurisdiction.
3. The Parties recognize that cooperation to ensure the security of the GALILEO system and services is an important common objective.
4. Hence the Parties shall establish an appropriate consultation channel to address GNSS security issues.

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 shall cooperate to define and implement a liability regime and cost recovery arrangements in order to facilitate the provision of civil GNSS services.

ARTICLE 14

Cooperative mechanism

1. The coordination and facilitation of cooperative activities under this Agreement shall be accomplished by the Government of the Republic of Korea on behalf of Korea and by the European Commission on behalf of the Community and its Member States.
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 based on mutual consensus.

The functions of the Steering Committee shall include:

- (a) Promoting, making recommendations to the Parties and overseeing the different cooperative activities related to the Agreement;
 - (b) Advising the Parties on the ways to enhance and improve cooperation in line with the principles set out in this Agreement; and
 - (c) Reviewing the efficient functioning and implementation of this Agreement;
 - (d) Discussing the possibility of extending cooperation to the areas referred in Paragraph 2 of Article 4.
3. The Committee shall, as a general rule, meet annually. The meetings will be held alternatively in the Community and in Korea. Extraordinary meetings may be organized at the request of either Party.

The costs incurred by the Committee or in its name shall be borne by the Party which recommended or designated the member or members of the Committee. 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 the Parties consider appropriate, such as industrial cooperation and standardization.

4. The Parties welcome the potential participation of Korea in the European GNSS Supervisory Authority, in accordance with the applicable European Community legislation and the modalities and procedures governing such participation.

ARTICLE 15

Funding

1. Each Party shall bear the costs of fulfilling its respective responsibilities under this Agreement, unless otherwise agreed upon by the Parties, taking into consideration the Korean financial contribution and the applicable legislation, modalities and procedures referred to in Paragraph 4, Article 14.

2. The Parties shall take all reasonable steps in accordance with their laws and regulations to facilitate entry into, stay in and exit from its territory of persons, capital, material, data and equipment involved in or used in cooperative activities under this Agreement.
3. When specific co-operative schemes of one Party provide for financial support for participants from the other Party, any such grants, financial contributions or other forms of contribution 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 relevant laws and regulations in force in the territories of each Party at the time such grants and financial contributions or other forms of contribution are made.

ARTICLE 16

Exchange of information

1. The Parties shall establish administrative arrangements and enquiry points in order to provide for consultations and effective implementation of the provisions of this Agreement.
2. The Parties shall encourage further exchanges of information concerning satellite navigation among the institutions and enterprises of the two sides.

ARTICLE 17

Consultation and dispute resolution

1. The Parties shall promptly discuss, at the request of any of them, on any questions arising from 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 Agreements.

ARTICLE 18

Entry into force and termination

1. This Agreement enters into force the first day of the month following that by which the Parties have notified the completion of the procedures necessary for this purpose. Notifications shall be sent to the Council of the European Union who shall be the depository of this Agreement.
2. The termination of this agreement shall not affect the validity or duration of any arrangements made under it or any specific rights or obligations that have ensued 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 the first day of the month following that by which the Parties have notified the Depository of the completion of their procedures necessary for this purpose.

4. This Agreement shall remain in force for a period of five years and shall continue in force thereafter unless terminated by either Party at the end of the initial five-year period or at any time thereafter by giving to the other Party an advance notice of at least six months in writing of its intention to terminate this Agreement.

This Agreement is drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovakian, Slovenian, Spanish, Swedish and Korean languages, each text being authentic.