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Subject : Amended proposal for a Regulation of the European Parliament and of the
Council on the further implementation of the European satellite radionavigation
programmes (EGNOS and Galileo)
- General approach

1. On 25 September 2007, the Commission transmitted to the Council and the European Parliament the above mentioned proposal that reflects the abandonment of the concession plan for the deployment phase of the Galileo programme and the fact that all aspects of this phase will be undertaken by the European Community. The proposed amended Regulation foresees the amount of the Community budget needed for the European GNSS programmes between 1 January 2007 and 31 December 2013. It furthermore aims at improving the public governance of the programmes, notably by applying the principle of a strict division of responsibilities.

2. Several negotiation rounds took place with the European Parliament aiming at a first reading agreement. At the informal trilogue on 3 April 2008 concerning the above mentioned Regulation, an overall compromise on the negotiation package was reached. At its meeting on 4 April, the Coreper endorsed the text agreed *ad referendum* with the European Parliament set out in Annex I.
3. The text of the Regulation as agreed by both sides will be put to vote in the ITRE Committee of the European Parliament on 8 April 2008. The vote by the EP plenary will take place as soon as possible.
4. The Council is, therefore, invited to:
 - adopt a general approach on the text of the Regulation as it appears in Annex I;
 - enter in its minutes the Declaration and statements as they appear in Annex II.

**Amended proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the further implementation of the
European satellite radionavigation programmes (EGNOS and Galileo)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 156 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) The aim of the European satellite radionavigation policy is to provide the European Community with two satellite navigation systems (GNSS). These systems are established under the EGNOS and Galileo programmes (hereinafter "the programmes") respectively. Each infrastructure is made up of satellites and a global network of earth stations.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

- (2) The programmes comply fully with the requirements of the principle of subsidiarity. The establishment of satellite radionavigation infrastructures exceeds the financial and technical capacities of any single Member State, and action at Community level is the best way to carry out these programmes.
- (3) The aim of the Galileo programme is to establish the first global satellite radionavigation and positioning infrastructure specifically designed for civilian purposes. The system established under the Galileo programme is completely independent of other existing or potential systems.
- (4) The aim of the EGNOS programme is to improve the quality of signals from existing global satellite navigation systems.
- (5) The European Parliament, the Council and the European Economic and Social Committee have consistently given their full support to European GNSS programmes.
- (6) The development of satellite radionavigation is fully in line with the Lisbon Strategy and other Community policies, such as transport policy as set out in the Commission's White Paper⁴. In the multi-annual work programme the Commission should, if appropriate, accord special attention to the development of the GNSS applications and services.

⁴ COM(2001) 370, 12.9.2001.

- (7) The programmes are among the priority projects included in the Growth initiative proposed by the Commission and endorsed by the European Council. They are also considered as one of the major achievements of the future European space programme, as described in the Communication on the European Space Policy⁵.
- (8) The Galileo programme consists of a definition phase, a development phase, a deployment phase and an exploitation phase. The deployment phase is set to begin in 2008 and end in 2013. The system should be operational by 2013.
- (9) The definition and development phases of the Galileo programme, which are the parts of the programme dedicated to research, were financed by the Community budget for trans-European networks and by the European Space Agency. The deployment phase is intended to be financed entirely by the European Community. It may be decided at a later stage that public private partnerships or any other form of contracts with the private sector are appropriate for the operation and replenishment of the system after 2013.
- (9a) It is noted that the Safety-of-Life Centre may decide to evolve to a fully qualified, equivalent Galileo Satellite Control Centre, the assets of which will be owned by the Community. The investment of this evolution will be without additional costs to the agreed Community budget for the European GNSS programmes for the period 2007-2013. It is noted that, whilst not affecting the operational capabilities of Oberpfaffenhofen and Fucino, the Commission in that case will ensure that this Centre will be fully operationally qualified as a Galileo Satellite Control Centre by the end of 2013, subject that it is able to meet all the necessary requirements applicable to all centres and will be included in the Galileo network of the three centres mentioned above.

⁵ COM(2007) 212, 26.4.2007.

- (10) It is important that the financing of the EGNOS system is ensured by the European Community, including its operations, sustainability and marketing. The operation of EGNOS could be the subject of one or more public service contracts, in particular with the private sector, until it is integrated into the operations of Galileo.
- (11) As European satellite radionavigation programmes have now reached an advanced stage of maturity and have gone well beyond the framework of simple research projects, it is necessary to put them on a specific legal basis which is better able to satisfy their needs and respond to the requirement for sound financial management.
- (11a) The systems established under the European satellite radionavigation programmes are infrastructures set up as trans-European networks of which the usage extends well beyond the national boundaries of the Member States. Furthermore, the services offered through these systems contribute in particular to the development of trans-European networks in the areas of transport, telecommunications and energy infrastructures. Article 156 of the Treaty is therefore the appropriate legal basis for this Regulation to ensure the further implementation of the European GNSS programmes.
- (12) Sound public governance of the Galileo and EGNOS systems assumes, firstly, that there is a strict division of responsibilities between the Commission, the European GNSS Supervisory Authority (hereinafter "GSA") and the European Space Agency (hereinafter "ESA") and, secondly, that the Community, represented by the Commission, ensures the management of the programmes. The Commission must establish the appropriate instruments and possess the necessary resources, in particular in terms of assistance.

(12a) In view of the importance, uniqueness and complexity of the European GNSS programmes, the Community ownership of systems resulting from the programmes, the full financing of the Community budget of the programmes for the period 2008-2013, the European Parliament, the Council, and the European Commission recognise the usefulness of close co-operation of the three institutions. To this end, the European Parliament, the Council, and the European Commission will meet in the Galileo Interinstitutional Panel (GIP) in accordance with the Joint Declaration of .../2008.

(12b) Council Regulation (EC) No 1321/2004 of 12 July 2004 on the establishment of structures for the management of the European satellite radio-navigation programmes⁶ establishes the GSA. The GSA is a Community agency, which as a body within the meaning of Article 185 of the Financial Regulation is subject to the obligations laid down for Community agencies.

(12c) Respecting the Commission's role as manager of the programmes and in accordance with guidelines issued by the Commission, the GSA should ensure the security accreditation of the system and the operation of the Galileo security centre and contribute to the preparation of the commercialisation of the systems with a view to a smooth functioning, seamless service provision and high market penetration. In addition, the GSA should also be able accomplish other tasks entrusted to it by the Commission in accordance with the provisions of Article 54(2) of the Financial Regulation applicable to the general budget of the European Communities, in particular the promotion of applications and services and ensuring the certification of the components of the systems.

⁶ OJ L 246, 20.7.2004, p. 1, as amended by Council Regulation (EC) No 1942/2006 of 12 December 2006 (OJ L 367, 22.12.2006, p. 18).

- (12d) The European Parliament and the Council invite the Commission to put forward a proposal in order to align formally the structures for the management of the programmes provided in Council Regulation (EC) No 1321/2004 to the new roles of the Commission and the GSA.
- (13) In order to guarantee the continuation of the Galileo and EGNOS programmes an appropriate financial and legal framework must be established to allow the European Community to continue to fund these programmes. It is also necessary to indicate the amount of money required between 1 January 2007 and 31 December 2013 to fund the end of the development phase and the deployment phase of Galileo, the operation of EGNOS and the preparation for the exploitation phase of the programmes.
- (14) The European Parliament and the Council decided ⁷ that the total estimated amount for costs for operating the Galileo and EGNOS systems for the period 2007-13 is EUR 3 405 million at current prices. EUR 1 005 million was already foreseen in the existing financial programming (2007-13). This amount has been increased by an additional EUR 2 000 million as decided by the budgetary authority through a review of the current financial framework (2007-13). Furthermore, a sum of EUR 400 million is made available from the Seventh Research and Development Framework Programme⁸, bringing to total available budget to 3,405 million Euro for the programmes for the period 2007 - 2013.
- (14a) In the allocation of those Community funds, effective procurement procedures and contract negotiations that obtain best value for money and secure performance completion, the seamless continuity of programmes, risk management and adherence to the proposed timetable are essential. These should be ensured by the Commission.

⁷ Decision of the European Parliament and of the Council of 18 December 2007 amending the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management as regards the multiannual financial framework (OJ L 6, 10.1.2008).

⁸ Title 6 of the Budget.

- (14b) Pursuant to Article 18 of the Financial Regulation to the general budget of the European Communities, Member States as well as third countries and international organisations may contribute financially or in-kind to the programmes on the basis of appropriate agreements.
- (15) It should be pointed out that the investment costs and the costs of operating the Galileo and EGNOS systems currently estimated for 2007-13 do not take account of unforeseen financial obligations which the European Community may be obliged to bear, in particular those relating to non-contractual liability arising from the public ownership of the systems, in particular with regard to force majeure and catastrophic failure.
- (16) Furthermore, revenue from the operation of the Galileo and EGNOS systems, provided, in particular, through the commercial service (CS) of Galileo, must be collected by the European Community in order to ensure that its earlier investments are recovered. However, a revenue-sharing mechanism could be stipulated in any contract concluded with the private sector.
- (17) [...]

(18) [...]

(19) The European Community should conclude a multi-annual delegation agreement with ESA covering the technical and programmatic aspects of the programmes. In order for the Commission, as representative of the European Community, to exercise its power of audit fully, the delegation agreement should include the general conditions for managing the funds entrusted to ESA.

(19a) As the programmes will be financed by the European Community, public procurement under the programmes should comply with Community's rules on public contracts and should aim, first and foremost, to attain value for money, control costs, mitigate risks and improve efficiency and decrease dependencies on single sourcing. Open access and fair competition throughout the industrial supply chain, offering a balanced chance to participation of industry at all levels, including in particular SME, should be pursued across the Member States. Possible abuse of dominance or long-term dependency on single suppliers should be avoided. In order to mitigate programme risks, to avoid single source dependencies and to ensure better overall control of programme, cost and schedule, dual sourcing should be pursued, wherever appropriate. European industries should have the possibility to rely on non-European sources for certain components and services in case of demonstrated substantial advantages in terms of quality and costs, taking account of the strategic nature of the European GNSS programmes and of the EU security and export control requirements. Advantage should be taken of investments and industrial experiences and competences, including that acquired during the definition and development phases of the European GNSS programmes, while ensuring that competitive tendering shall not be prejudiced.

- (19b) All work packages in the framework of the activities of the deployment phase of Galileo should be open to the maximum possible competition, in line with EU procurement principles, and to ensure procurement in space programmes, should be more widely open to new entrants and SMEs, while ensuring technology excellence and cost effectiveness.
- (20) The Commission should be assisted in implementing this Regulation by a committee named the "European GNSS Programmes Committee". As sound public governance requires uniform management of the programmes, faster decision-making and equal access to information, representatives of the GSA and ESA may be involved in the work of the European GNSS Programmes Committee.
- (20a) Matters falling exclusively within Title V and/or Title VI of the Treaty on European Union will not be within the remit of the European GNSS Programmes Committee.
- (20b) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred to the Commission ⁹.
- (21) In particular power should be conferred on the Commission to adopt any necessary measures to ensure compatibility and interoperability of the systems. Since those measures are of general scope and are designed to supplement this Regulation by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

⁹ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (21a) The European Community should be the owner of all tangible and intangible assets created or developed under the programmes. However, in order to fully respect any fundamental rights relating to ownership, necessary agreements with existing owners should be concluded.
- (21b) Careful attention should be paid to the certification of EGNOS for all modes of transport, in particular for aviation, in order to declare the system in operation and allow its use as soon as possible.
- (22) This Regulation lays down, for the continuation of the programmes, a financial allocation constituting the prime reference, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006¹⁰, between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management, for the budgetary authority during the annual budgetary procedure.
- (23) It is necessary to ensure that the European Parliament and the Council are kept regularly informed about the implementation of the programmes,

HAVE ADOPTED THIS REGULATION:

¹⁰ As amended by Decision 2008/29/EC of the European Parliament and of the Council of 18 December 2007.

CHAPTER I
SUBJECT MATTER AND GENERAL PRINCIPLES

Article 1

European GNSS systems and programmes

1. The EGNOS and Galileo programmes (hereinafter "the programmes") shall cover all the activities needed to define, develop, validate, construct, operate, renew and improve the two European global satellite navigation systems (GNSS), namely the EGNOS system and the system established under the Galileo programme (hereinafter "the systems").
2. The EGNOS system is an infrastructure monitoring and correcting signals emitted by existing global satellite navigation systems. It comprises earth stations and several transponders installed on geostationary satellites.
3. The system established under the Galileo programme is an autonomous GNSS infrastructure consisting of a constellation of satellites and a global network of earth stations.
4. The specific objectives of the programmes are set out in the Annex.

Article 2

Subject

This Regulation lays down the rules for the implementation of the programmes, including those on governance and the financial contribution of the European Community.

Article 3

The phases of the Galileo programme

The Galileo programme consists of the following phases:

- a definition phase during which the structure of the system was designed and its elements determined, which ended in 2001;
- a development and validation phase, comprising the construction and launch of the first satellites, the establishment of the first ground-based infrastructures and all the work and operations making it possible to validate the system in orbit. The aim is that this phase shall end in 2010;
- a deployment phase consisting of the establishment of all the space and ground-based infrastructures as well as related operations. The aim is that this phase shall run from 2008 to 2013. It shall include preparations for the exploitation phase;
- a exploitation phase comprising infrastructure management, the maintenance, constant improvement and renewal of the system, certification and standardisation operations relating to the programme, the marketing of the system and all other activities needed to develop the system and ensure the programme runs smoothly. The exploitation phase is set to begin at the latest upon conclusion of the deployment phase.

Article 4

Financing the Galileo programme

1. The development and validation phase shall be funded by the European Community and the European Space Agency (hereinafter "ESA").
2. The deployment phase shall be financed by the European Community without prejudice to paragraphs 4 and 5.
3. The Commission is invited, in 2010, together with its mid-term review, to submit to the European Parliament and the Council the appropriate proposal for the financing programming period starting in 2014 on the public funds and commitments, including any obligation needed for the exploitation phase, deriving from its responsibility relating to the public ownership of the system, and objectives for a pricing policy ensuring that customer receive high quality services at fair prices and the revenue-sharing mechanism needed for the exploitation phase. It shall, in particular, include a reasoned feasibility study of the advantages and disadvantages of the use of service concession contracts or public service contracts with the private sector.

Where applicable, the Commission shall also propose, together with its mid-term review, any appropriate measures that facilitate the development of satellite navigation applications and services.

4. Member States may provide additional funding to the programme to cover the investment of the evolution to the agreed system architecture in particular cases. The revenue arising from these contributions shall constitute assigned revenue in accordance with Article 18(2) of the Financial Regulation applicable to the general budget of the European Communities ¹¹.

In accordance with the principle of transparent management, the Commission shall communicate any impact from the application of the previous subparagraph on the programme to the Committee set up under Article 14.

5. Third countries or international organisations may also provide additional funding to the programme. Agreements concluded by the European Community with such third countries or international organisations, pursuant to Article 300 of the EC Treaty, shall lay down the conditions and detailed rules of their involvement.

Article 5

Operation of the EGNOS system

The operation of the EGNOS system consists mainly of infrastructure management, maintenance, constant improvement and renewal of the system, certification and standardisation operations relating to the programme, and marketing.

¹¹ Regulation (EC, Euratom) No 1605/2002, OJ L 248, 19.09.2002, p.1.

Article 6

Financing the operation of the EGNOS system

1. The European Community shall finance the operation of EGNOS, without prejudice to any contribution from any other sources, including those referred to in paragraphs 3 and 4.
2. The operation of EGNOS shall initially be the subject of one or more public service contracts.
3. Member States may provide additional funding to the EGNOS programme in accordance with Article 18(2) of the Financial Regulation applicable to the general budget of the European Communities.
4. Third countries or international organisations may also provide additional funding to the programme. Agreements concluded by the European Community with such third countries or international organisations, pursuant to Article 300 of the EC Treaty, shall lay down the conditions and detailed rules of their involvement.

Article 6a

Compatibility and interoperability of the systems

1. The Commission shall make every effort to ensure the compatibility and interoperability of the systems, networks and services of EGNOS and Galileo and shall pursue the benefits of compatibility and interoperability of EGNOS and Galileo with other navigation systems and where possible with conventional navigation means.
2. Any necessary measures designed to amend non-essential elements of this Regulation by supplementing it relating to paragraph 1 shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(3).

Article 6b

Ownership

The European Community shall be the owner of all tangible and intangible assets created or developed under the programmes, to which effect agreements shall be concluded with third parties, wherever appropriate, with regard to existing ownership rights.

CHAPTER II
BUDGETARY CONTRIBUTION AND MECHANISMS

Article 7

Activities concerned

1. The Community budgetary appropriations allocated to the programmes under this Regulation shall be granted to finance:
 - (a) activities relating to the completion of the development and validation phase of the Galileo programme,
 - (b) activities relating to the deployment phase of the Galileo programme, including actions to manage and monitor this phase,
 - (c) activities relating to the operation of EGNOS as well as actions preceding or in preparation for the exploitation phase of the programmes.

2. In order to allow a clear identification of the costs of the programmes and of the different phases of the programmes, the Commission, in accordance with the principle of the transparent management, shall inform annually the Committee set up under Article 14 on the allocation of the Community funds to the activities specified in the paragraph 1.

Article 8

Budgetary resources

1. The amount allocated to implement the activities specified in Article 7 is EUR 3 405 million at current prices for the period from 1 January 2007 to 31 December 2013, including the sum of EUR 400 million made available from the Seventh Research and Development Framework Programme.¹²
2. Appropriations shall be authorised annually by the budgetary authority within the limits laid down in the multi-annual financial framework. They shall be implemented in accordance with the provisions of the Financial Regulation applicable to the general budget of the European Communities.
3. Budgetary commitments for the programmes shall be appropriated in annual instalments.
4. [...]

Article 9

Operating income

1. Income from the operation of the systems shall be collected by the European Community and shall be paid into the Community budget and be allocated to the programmes. If the income allocated proves to be more than required for the programmes, the principle of allocation shall be approved by the budgetary authority on the basis of a proposal by the Commission.
2. A revenue-sharing mechanism may be provided for in any contract(s) concluded with the private sector.

¹² OJ L [...], [...], p. [...].

CHAPTER III
PUBLIC GOVERNANCE OF THE PROGRAMMES

Article 10

General framework for governance of the programmes

1. Public governance of the programmes shall be based on the principle of a strict division of responsibilities between the European Community, represented by the Commission, the European GNSS Supervisory Authority (hereinafter "GSA") and ESA.
2. The Commission, assisted by the Committee set up under Article 14, shall be responsible for the management of the programmes, which it shall conduct in a transparent manner. It shall avoid duplication of structures and functions, through a clear division of tasks with the GSA and ESA. It may be assisted by experts from the Member States and it shall carry out financial and technical audits.
3. The Commission shall establish the appropriate instruments, including the implementation of an integrated Galileo programme risk management at all levels of the programme as well as structural measures to identify, control, mitigate and monitor risks, and ensure it possesses the resources needed to accomplish this task. For this purpose, the Commission shall, in accordance with the advisory procedure referred to in Article 14 (1a), establish key decision points for reviews of the implementation of the programmes.

Article 10a

Governance of security matters

1. The Commission shall manage all questions relating to the security of the systems, duly taking into account the oversight and integration of security requirements in the overall programme.
2. The Commission shall, in accordance with the regulatory procedure referred to in Article 14 (2a), adopt implementing measures laying down the main technical requirements for controlling the access to, and handling of, technologies that provide security to the systems.
3. The Commission shall ensure that the necessary steps are taken to comply with the above measures and that any further requirements related to the security of the systems are met, taking full account of expert advice.
4. Whenever the security of the European Union or its Member States may be affected by the operation of the systems as foreseen by the Joint Action 2004/552/CFSP, the procedures of the Joint Action shall apply.
5. Matters falling exclusively within Title V and/or Title VI of the Treaty on European Union will not be within the remit of the European GNSS Programmes Committee set up under Article 14.

Article 10b

Application of security regulations

1. Member States shall apply to any natural person resident or legal entity established on their territory, which are dealing with EU classified information regarding the programmes, security regulations ensuring a degree of protection at least equivalent to that guaranteed by the rules on security of the Commission stipulated in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001¹³ and by the security regulations of the Council of the European Union stipulated in the Annex to the Council Decision 2001/264/EC of 19 March 2001¹⁴.
2. Member States shall immediately inform the Commission of the adoption of the national security regulations referred to in paragraph 1.
3. In order for natural persons resident in third countries and legal entities established in third countries to be allowed to deal with EU classified information regarding the programmes, they must be subject in those countries to security regulations ensuring a degree of protection at least equivalent to that guaranteed by the rules on security of the Commission stipulated in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 and by the security regulations of the Council of the European Union stipulated in the Annex to the Council Decision 2001/264/EC of 19 March 2001. To this effect, the security regulations of ESA shall be considered as equivalent. The equivalency of security regulations applied in a third country may be recognised in an agreement with that country.

¹³ OJ L 317 of 3 December 2001, page 1.

¹⁴ OJ L 101 of 11 April 2001, p. 1.

Article 11
Programming

1. The European Commission shall manage the funds allocated to the programmes under this Regulation.
2. The Commission shall adopt measures to define a strategic framework, including inter alia the main actions, the estimated budget and the related time table, needed to meet the objectives laid down in the Annex, for the establishment of a work programme in accordance with the requirements of this Regulation.

These measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(3).

3. The Commission shall adopt the work programme, the programme implementation plan and associated financing, reviewed on an annual basis, and any amendments thereto in accordance with the management procedure referred to in Article 14(2).
4. [...]
5. The measures financed under this Regulation shall be implemented in accordance with Financial Regulation applicable to the general budget of the European Communities as amended by Regulation (EC, Euratom) No 1995/2006.

Article 12

The role of the European GNSS Supervisory Authority (GSA)

Subject to the provisions of Article 10 and the respect of the Commission's role as programmes manager, the GSA shall accomplish the following tasks within the programmes in accordance with guidelines issued by the Commission:

- a. on programmes' security, and without prejudice to the provisions of Articles 10a and 10b, it shall ensure:
 - security accreditation; to that effect it shall initiate and monitor the implementation of security procedures and perform system security audits;
 - operation of the Galileo security centre, implemented in accordance with both the decisions taken in accordance with Article 10a and the instructions provided under Joint Action 2004/552/CFSP;
- b. it shall contribute to the preparation of the commercialisation of the systems, including the necessary market analysis;
- c. it can also accomplish other tasks entrusted to it by the Commission in accordance with Article 54(2)(b) of the Financial Regulation applicable to the general budget of the European Communities for specific issues linked to the programmes such as:
 - promotion of applications and services in the satellite navigation market;
 - ensuring that the components of the systems are certified by the appropriate, duly authorised, certification bodies.

Article 12a

Procurement principles related to the deployment phase of Galileo

1. The Community's public procurement rules, in particular open access and fair competition throughout the industrial supply chain, tendering on the basis of the provision of transparent and timely information, clear communication of the applicable procurement rules, selection criteria and any other relevant information allowing a level-playing field for all potential bidders shall apply to the deployment phase of Galileo without prejudice to measures required to protect the essential interests of the security of the European Community or public security or to comply with EU export control requirements.
2. During the procurement, the following objectives shall be pursued:
 - (a) promoting a balanced participation of industry at all levels, including in particular SME, across the Member States;
 - (b) avoiding possible abuse of dominance or long-term dependency on single suppliers;
 - (c) taking advantage of prior public sector investments and lessons learned as well as industrial experience and competences, including that acquired in the definition and development phases of the European GNSS programmes, while ensuring that competitive tendering shall not be prejudiced.

3. To that end, the following principles for the procurement of the activities of the deployment phase of Galileo shall apply:
- a) split of the procurement of the infrastructure into a set of six main work packages (system engineering support, ground mission infrastructure completion, ground control infrastructure completion, satellites, launchers and operations) as well as a number of additional work packages, through a comprehensive overall procurement break-down; this does not rule out the prospect of multiple simultaneous procurement strands for individual work packages, including of satellites;
 - b) competitive tendering of all packages and, for the six main work packages, the use of a single procedure whereby any one independent legal entity, or a group represented for this purpose by a legal entity part of a group, may bid for the role of prime contractor for a maximum of two of the six main work packages;
 - c) at least 40% of the aggregated value of the activities to be subcontracted by competitive tendering at various levels to companies other than those belonging to the groups of which entities will be prime contractors of any of the main work packages; the Commission shall, on a regular basis, report to the Committee set up under Article 14 on the fulfilment of this principle. In case projections show the possibility that 40 % cannot be attained, the Commission shall, in accordance with the management procedure referred to in Article 14(2), take appropriate measures;
 - d) dual sourcing wherever appropriate in order to ensure better overall control of programme, cost and schedule.

Article 13

The role of the European Space Agency (ESA)

1. On the basis of the principles defined in Article 12a, the European Community, represented by the Commission, shall conclude a multi-annual delegation agreement with ESA, on the basis of a delegation decision adopted by the Commission in accordance with Article 54(2) of Financial Regulation applicable to the general budget of the European Communities which shall cover the delegated tasks and budget implementation relating to the implementation of the Galileo programme, in particular the deployment phase.
2. The delegation agreement shall, insofar as necessary for the tasks and budget implementation delegated under paragraph 1, lay down the general conditions for the management of the funds entrusted to the ESA, and in particular the actions to be implemented, the relevant financing, management procedures and monitoring and inspection measures, measures applicable in the event of inadequate performance of contracts and rules regarding the ownership of all tangible and intangible property.
3. The Committee set up under Article 14 shall be consulted, in accordance with the advisory procedure referred to in Article 14(1a), on the delegation decision. The Committee shall be informed on the multi-annual delegation agreement to be concluded between the European Community, represented by the Commission, and ESA.
4. The Committee set up under Article 14 shall be informed by the Commission of the intermediate and end results of the evaluation of the procurement tenders and the contracts with the private sector to be established by ESA.

Article 14

Comitology

1. The Commission shall be assisted by a committee known as the "European GNSS Programmes Committee".
 - 1a. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
 2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

- 2a. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at one month.

3. Where reference is made to this paragraph, Article 5a (1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
4. Representatives of the GSA and ESA may be involved as observers in the work of the European GNSS Programmes Committee under the conditions laid down in its rules of procedure.
5. Agreements concluded by the European Community referred to in Article 4(5) may provide for the participation of third countries or international organisations in the work of the European GNSS Programmes Committee under the conditions laid down in its rules of procedure.

Article 14a

The Commission shall ensure that protection of personal data and privacy is guaranteed and integrated into the technical structures of the systems.

CHAPTER IV
FINAL PROVISIONS

Article 15

Protection of the Community's financial interests

1. The Commission shall ensure that, when actions financed under this Regulation are implemented, the financial interests of the Community are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and by the recovery of amounts unduly paid and, if irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Council Regulations (EC, Euratom) No 2988/95¹⁵ and (Euratom, EC) No 2185/96¹⁶ and with Regulation (EC) No 1073/1999 of the European Parliament and of the Council¹⁷.
2. For the Community actions financed under this Regulation, the notion of irregularity referred to in Article 1(2) of Regulation (EC, Euratom) No 2988/95 shall mean any infringement of a provision of Community law or any breach of a contractual obligation resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, by an unjustified item of expenditure.
3. Agreements resulting from this Regulation, including agreements concluded with participating third countries, shall provide for supervision and financial control by the Commission, or any representative authorised by it, and audits by the Court of Auditors, if necessary on-the-spot.

¹⁵ OJ L 312, 23.12.1995, p. 1.

¹⁶ OJ L 292, 15.11.1996, p. 2.

¹⁷ OJ L 136, 31.5.1999, p. 1.

Article 16

Information to the European Parliament and to the Council

The Commission shall ensure the implementation of this Regulation. Each year, when it presents the preliminary draft budget, it shall present a report to the European Parliament and to the Council on the implementation of the programmes. A mid-term review shall be carried out in 2010, which should include a review of costs, risks and likely revenues from the services offered by Galileo, including in the light of technological and market developments, to inform the European Parliament and the Council of the progress made on the programmes.

Article 16a

Repeal

Article 7 of Regulation (EC) No 876/2002 of the Council ¹⁸ shall be repealed [...] ¹⁹.

Article 17

Entry into force

This Regulation shall enter into force the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

For the Parliament
The President

For the Council
The President

¹⁸ OJ L 138, 28.5.2002, p. 1.

¹⁹ One year after the entry into force of this Regulation.

Annex

Specific objectives of the European GNSS programmes

The specific objectives of the Galileo programme are to ensure that the signals emitted by the system can be used to fulfil the following five functions:

- To offer an open service (OS), which is free to the user and provides positioning and synchronisation information intended for high-volume satellite radionavigation applications.
- To offer a safety of life service (SoL) aimed at users for whom safety is essential. This service also fulfils the requirements of certain sectors for continuity, availability and accuracy and includes an integrity message alerting the user to any failure in the system.
- To offer a commercial service (CS) for the development of applications for professional or commercial use due to improved performance and data with greater added value than those obtained through the open service.
- To offer a public regulated service (PRS) restricted to government-authorised users, for sensitive applications which require a high level of service continuity. The public regulated service uses strong, encrypted signals.
- To participate in the search and rescue support service (SAR) of the COSPAS-SARSAT system by detecting emergency signals given off by beacons and relaying messages to them.

The specific objectives of the EGNOS programme are to ensure that the EGNOS system fulfils the following three functions:

- To offer an open service, which is free to the user and provides positioning and synchronisation information intended for high-volume satellite radionavigation applications in the area covered by the system.
- To offer a service for the dissemination of commercial data to assist the development of applications for professional or commercial use due to improved performance and data with greater added value than those obtained through the open service.
- To offer a safety of life service (SoL) aimed at users for whom safety is essential. In particular, this service fulfils the requirements of certain sectors for continuity, availability and accuracy and includes an integrity message alerting the user to any failure in the system over the coverage area.

DECLARATION

**by the European Parliament, the Council and the European Commission
on the**

"GALILEO INTERINSTITUTIONAL PANEL (GIP)"

1. In view of the importance, uniqueness and complexity of the European GNSS programmes, the Community ownership of systems resulting from the programmes, the full financing of the Community budget of the programmes for the period 2008-2013, the European Parliament, the Council, and the European Commission recognise the need for close co-operation of the three institutions.

2. A Galileo Inter-institutional Panel (GIP) will meet with the objective to facilitate each Community institution exercising its respective responsibility. To this end, the GIP will be set up in order to follow closely:
 - a. the progress on the implementation of the European GNSS programmes, in particular with regard to the implementation of the procurement and the contract agreements, in particular with regard to the ESA;

 - b. the International Agreements with third countries without prejudice to the provisions of Article 300 of the Treaty;

- c. the preparation of satellite navigation markets;
 - d. the effectiveness of the governance arrangements; and
 - e. the annual review of the work programme.
3. In accordance with existing rules, the GIP will respect the need for discretion in particular in view of the commercial-in-confidence and sensitive nature of certain data.
 4. The Commission will take account of the views expressed by the GIP.
 5. The GIP will be composed of seven representatives, of which:
 - 3 from the Council
 - 3 from the EP
 - 1 from the Commission,and will meet on a regular basis (in principle 4 times per year).
 6. The GIP does not affect the established responsibilities or inter-institutional relationships.

Draft Statement by the European Commission
regarding the involvement of the GIP in international agreements

On international agreements, the Commission will inform the GIP so that it can follow closely international agreements with third countries in line with the Framework Agreement on relations between the Commission and the European Parliament of 26 May 2005 and future related Agreements and without prejudice to the provisions of Article 300 of the Treaty.

Draft Statement by the European Commission
with regard to the launch of studies on the exploitation of the Galileo system

In view of the invitation from the Council to provide, in 2010, the proposal foreseen in Article 4 paragraph 3 of the Regulation on the exploitation phase of the programmes, in particular regarding the financing, the pricing policy and the revenue-sharing mechanism, the Commission will launch the necessary preliminary studies as from 2008 and during 2009, in accordance with the conclusions of the Transport Council of 29 and 30 November 2007.

These studies will carry out, in particular, an analysis of the possibilities for the involvement of the private sector in the management of the exploitation phase of the programmes beyond 2013, as well as the modalities for this potential involvement, notably those of a Public-Private Partnership.

Draft Statement by the European Commission
regarding the creation of a security expert group ("GNSS Security Board")

In order to implement the provisions of Article 10a paragraph 1 of the Regulation and in order to examine matters related to the security of the systems, the Commission intends to create an expert group composed of representatives from the Member States.

The Commission will ensure that this expert group shall:

- be composed of one representative of each Member State and one representative from the Commission;
- be chaired by the representative of the Commission;
- adopt its rules of procedures that foresee, inter alia, the adoption of opinions by consensus and a provision for the experts to raise any relevant issue related to the security of the systems;

In exercising its responsibilities, the Commission will take full account of the opinions of the expert group and commits to consult it, inter alia, before defining the main requirements for the security of the systems as set out in Article 10a of the Regulation.

In addition, the Commission considers that:

- the representatives of the European GNSS Supervisory Authority, the European Space Agency as well as the SG/HR should be involved as observers in the work of the expert group under the conditions laid down in its rules of procedure;
- agreements concluded by the European Community may provide for the participation of representatives of third countries in the work of the expert group under conditions laid down in its rules of procedure.

Draft Statement by the European Commission
with regard to the calling upon of an independent expert team

In order to apply properly the provisions of Article 10 paragraph 3 of the Regulation, the Commission intends to:

- call upon an independent project management expert team;
- have, as part of its tasks, this team review the implementation of the programmes with the aim of making appropriate recommendations in particular with regard to risk management;
- communicate these recommendations on a regular basis to the Committee set up in the Regulation.

Draft Statement by the European Commission
regarding the interpretation of Article 12a paragraph 3c

Article 12a paragraph 3c establishes the principle that at least 40% of the aggregated value of the activities is to be subcontracted by competitive tendering at various levels to companies other than those belonging to groups of which entities will be prime contractors of any of the main work package.

The Commission, throughout the entire tendering process, will keep this under close scrutiny and review, and will inform the GIP and the GNSS Committee of the fulfilment of this requirement and its overall impact on the programme.

If, in this process, the projections show that the 40 % threshold cannot be attained, the Commission will take appropriate measures in accordance with the procedure referred to in Article 12a paragraph 3c.
