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Proposal for a

**COUNCIL DECISION**

**on the conclusion and provisional application of the Cooperation Agreement on Satellite Navigation between the European Union and its Member States and the Kingdom of Norway**

## EXPLANATORY MEMORANDUM

Norway is our closest non-EU cooperation partner in the European GNSS systems Galileo and EGNOS. Norway has contributed politically, technically and financially to all phases of Galileo through its membership in the European Space Agency and its informal participation in the Galileo-specific EC governance structures over the years.

This Agreement formalises together with the Joint EEA-EU Committee Decision 94/2009, which incorporates Regulations 683/2008 and 1321/2004 (as amended) into the EEA Agreement, the cooperation between Norway and the European Union in the field of satellite navigation.

The Agreement establishes the general cooperation principles and the rights and obligations of Norway in those areas – particularly in security - that are not covered by the existing Galileo acquis, i.e. the above mentioned decision 94/2009.

The Agreement is necessary because Norway will host two important ground installations that will contribute to the proper functioning of the system. In this context Norway gives a political commitment to subscribe to future Union policy regarding the protection of European GNSS Systems.

The Agreement has been negotiated on the basis of negotiation directives adopted by the Council on 8 July 2005. The Agreement was signed on 22 September 2010.

This Agreement complements the Joint EEA-EU Committee Decision 94/2009 by amending Protocols 31 and 37 to the EEA Agreement by which Norway subscribes to Council Regulation (EC) No 1321/2004 of 12 July 2004 on the establishment of structures for the management of the European satellite radio-navigation programmes, Regulation (EC) No 1942/2006 of 12 December 2006 amending Regulation (EC) No 1321/2004 and Regulation (EC) No 683/2008 of the European Parliament and of the Council of 9 July 2008 on the further implementation of the European satellite navigation programmes (EGNOS and Galileo). Duplication between the two instruments has been avoided.

In view of the signature of the agreement an inter service consultation took place (CISNet - deadline 29/06/2009 - consultation TREN-54986) and comments from the services were incorporated.

It led to the Commission Proposal for Council Decision for signature COM/2009/453.

The agreement was signed on 22 September 2010.

It must now be concluded.

### **Proposal**

The Commission proposes to the Council, on the basis of Articles 171 and 172, in conjunction with Article 218(8) of the Treaty on the Functioning of the European Union, to authorise the conclusion and the provisional application of the Cooperation Agreement on Satellite Navigation between the European Union and its Member States and the Kingdom of Norway.

The Commission is invited to adopt this proposal and to transmit it to the Council.

Proposal for a

## **COUNCIL DECISION**

### **on the conclusion and provisional application of the Cooperation Agreement on Satellite Navigation between the European Union and its Member States and the Kingdom of Norway**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172, in conjunction with Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Commission has negotiated the Cooperation Agreement on Satellite Navigation with the Kingdom of Norway (hereinafter referred to as "the Agreement") which was signed on 22 September 2010.
- (2) The Agreement is subject to ratification also by the Member States.
- (3) In accordance with Article 12(4) thereof, the Agreement should be applied on a provisional basis by the European Union, as regards elements falling within its competence, and by the Kingdom of Norway, pending its entry into force.
- (4) The Agreement has been signed on behalf of the European Union and should be applied on a provisional basis as set out in this decision,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The Cooperation Agreement on Satellite Navigation between the European Union and its Member States and the Kingdom of Norway is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

#### *Article 2*

In accordance with Article 12(4) of the Agreement, as regards elements falling within the competence of the Union, the Agreement shall be applied on a provisional basis, pending its entry into force. The Commission shall publish a notice in the *Official Journal of the*

*European Union* providing information on the date of provisional application of the Agreement.

*Article 3*

This decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council*  
*The President*

ANNEX

COOPERATION AGREEMENT  
ON SATELLITE NAVIGATION BETWEEN THE EUROPEAN UNION  
AND ITS MEMBER STATES AND THE KINGDOM OF NORWAY

THE EUROPEAN UNION, hereinafter also referred to as the "Union",

and

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

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,

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,

MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

the Contracting parties to the Treaty on the Functioning of the European Union, hereinafter referred to as "Member States",

of the one part, and

THE KINGDOM OF NORWAY, hereinafter referred to as "Norway",

of the other part,

the European Union, the Member States and Norway hereinafter jointly referred to as "the Parties",

RECOGNISING Norway's close participation in the Galileo and EGNOS programmes since the definition phases of those programmes,

CONSCIOUS of the evolution in the governance, ownership and financing of the European GNSS programs by virtue of Council Regulation (EC) No 1321/2004 of 12 July 2004 on the establishment of structures for the management of the European satellite radio-navigation programmes<sup>1</sup>, its amendments and Regulation (EC) No 683/2008 of the European Parliament and of the Council of 9 July 2008 on the further implementation of the European satellite navigation programmes (EGNOS and Galileo)<sup>2</sup>,

CONSIDERING the benefits of an equivalent level of protection of European GNSS and their services in the territories of the Parties,

RECOGNISING Norway's intention to timely adopt and enforce within its jurisdiction measures providing an equivalent degree of security and safety as those applicable in the European Union,

RECOGNISING the obligations of the Parties under international law,

RECOGNISING Norway's interest in all Galileo services, including the public regulated service (PRS),

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<sup>1</sup> OJ L 246, 20.7.2004, p. 1.

<sup>2</sup> OJ L 196, 24.7.2008, p. 1.



RECOGNISING the Agreement between Norway and the European Union on security procedures for the exchange of classified information,

DESIRING to formally establish close collaboration in all aspects of European GNSS Programmes,

CONSIDERING the Agreement on the European Economic Area (hereinafter referred to as "the EEA Agreement") as an appropriate legal and institutional basis to develop cooperation between the European Union and Norway in satellite navigation,

DESIRING to complement the provisions of the EEA Agreement through a bilateral agreement on satellite navigation in matters of specific relevance to Norway, the Union and its Member States,

HAVE AGREED AS FOLLOWS:

### *Article 1*

#### Objective of the Agreement

The main objective of this Agreement is to further strengthen the cooperation between the Parties by complementing the provisions of the EEA Agreement applicable to satellite navigation.

### *Article 2*

#### Definitions

For the purposes of this Agreement:

- (a) "European Global navigation satellite systems (GNSS)" include the Galileo system and the European Geostationary Navigation Overlay System (EGNOS);
- (b) "Augmentation" means regional mechanisms such as EGNOS. Those mechanisms enable users of GNSS to obtain enhanced performance, such as increased accuracy, availability, integrity and reliability;
- (c) "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 Union and its Member States. 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 PRS with restricted access to meet the needs of authorised public sector users;
- (d) "Regulatory measure" means any law, regulation, policy, rule, procedure, decision or similar administrative action by a Party;
- (e) "Classified information" means information, in any form, that requires protection against unauthorised 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 by the Parties in accordance with applicable laws and regulations and must be protected against any loss of confidentiality, integrity and availability.

### *Article 3*

#### Principles of the cooperation

1. The Parties agree to apply the following principles to cooperation activities covered by this Agreement:
  - (a) the EEA Agreement shall be the basis for cooperation in satellite navigation between the Parties;
  - (b) freedom to provide satellite navigation services in the territories of the Parties;
  - (c) freedom to use all the Galileo and EGNOS services, including PRS, subject to fulfilling the conditions governing their use;
  - (d) close cooperation in GNSS security matters through the adoption and enforcement of equivalent GNSS security measures both in the Union and Norway;
  - (e) due respect of the international obligations of the Parties in respect of ground facilities of European GNSS.
2. This Agreement shall not affect the institutional structure established by European Union law for the purpose of the operations of the Galileo programme. Nor does this Agreement affect the applicable regulatory measures implementing non-proliferation commitments and export control, controls of intangible transfers of technology, or national security measures.

### *Article 4*

#### Radio spectrum

1. The Parties agree to cooperate on radio-spectrum issues concerning European satellite navigation systems in the International Telecommunication Union (ITU), taking account of the Memorandum of Understanding on the Management of ITU filings of the Galileo radio-navigation satellite service system signed on 5 November 2004.
2. In this context the Parties shall protect adequate frequency allocations for European satellite navigation systems in order to ensure the availability of the services of these systems for the benefit of users.
3. Moreover, the Parties recognise the importance of protecting radio navigation spectrum from disruption and interference. To this end they shall identify sources of interference and seek mutually acceptable solutions to combat such interference.

4. Nothing in this Agreement shall be construed so as to derogate from the applicable provisions of the ITU, including the ITU Radio Regulations.

#### *Article 5*

##### Ground facilities of European GNSS

1. Norway shall take all practicable measures to facilitate the deployment, maintenance and replacement of ground facilities of European GNSS ("ground facilities") in the territories under its jurisdiction.
2. Norway shall take all practicable measures to ensure the protection and the continuous and undisturbed operation of ground facilities in its territories, including, where appropriate, by mobilising its law enforcement authorities. Norway shall take all means practicable to maintain the facilities free from local radio interference, hacking and eavesdropping attempts.
3. The contractual relationships regarding the ground facilities will be agreed upon between the European Commission and the holder of the property rights. The Norwegian authorities will fully respect the special status of the ground facilities and seek prior agreement with the European Commission, whenever possible, before any action concerning ground facilities is taken.
4. Norway shall allow continuous and unhindered access to the ground facilities to all persons designated or otherwise authorized by the European Union. For this purpose, Norway shall establish a contact point that shall receive information on persons travelling to the ground facilities and otherwise facilitate the movements and operations of such persons in practice.
5. The archives and equipment of the ground facilities and documents in transit, whatever their form, under official seal or marking shall not be subject to inspections by customs or police.
6. In the case of a threat or compromise against the security of ground facilities or their operation, Norway and the European Commission shall, without delay, inform each other of the event and steps to remedy the situation. The European Commission may designate another trusted entity to act as the contact point with Norway for such information.
7. The Parties will establish more detailed procedures concerning the issues in paragraphs 1 to 6 in a separate arrangement. Such procedures should cover, inter alia, clarifications concerning inspections, duties of the contact points, requirements for couriers and on measures against local radio frequency interference and hostile attempts.

#### *Article 6*

##### Security

1. The Parties are convinced of the need to protect Global Navigation Satellite Systems against threats such as misuse, interference, disruption and hostile acts. Consequently, the Parties shall take all practicable steps including, where appropriate, separate agreements, to ensure the continuity, safety and security of the satellite navigation services and the related infrastructure and critical assets in their territories.  
The European Commission intends to develop measures to protect, control and manage sensitive assets, information and technologies of the European GNSS Programmes against such threats and undesired proliferation.
2. In this context Norway confirms its intention to timely adopt and enforce, within its jurisdiction, measures providing an equivalent degree of security and safety as those applicable in the European Union. In recognition of this, the Parties will address GNSS security issues including accreditation in the relevant committees of the governance structure of European GNSS. The practical arrangements and procedures are to be defined in the rules of procedures of the relevant committees taking also into account the framework of the EEA Agreement.
3. Should an event occur where such an equivalent degree of security and safety cannot be achieved the Parties shall hold consultations with a view to remedy the situation. Where appropriate, the scope of cooperation in this sector could be adjusted accordingly.

#### *Article 7*

##### Exchanges of classified information

1. Exchange and protection of Union's classified information shall be in accordance with the Agreement between the Kingdom of Norway and the European Union on security procedures for the exchange of classified information<sup>3</sup> signed on 22 November 2004, as well as the Implementing arrangements of that Agreement.
2. Norway may exchange classified information with national classification marking on Galileo with those Member States with which it has concluded bilateral agreements to that effect.
3. The Parties shall seek to establish a comprehensive and coherent legal framework allowing exchanges between them of classified information concerning the Galileo programme.

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<sup>3</sup> OJ L 362, 9.12.2004, p. 29.

## *Article 8*

### Export control

1. In order to ensure the application of a uniform policy of export controls and non-proliferation concerning Galileo between the Parties, Norway confirms its intention to timely adopt and enforce, within its jurisdiction, measures providing an equivalent degree of export control and a non-proliferation of Galileo technologies, data and items as those applicable in the Union and its Member States.
2. Should an event occur where such an equivalent degree of export control and a non-proliferation cannot be achieved, the Parties shall hold consultations with a view to remedy the situation. Where appropriate, the scope of cooperation in this sector could be adjusted accordingly.

## *Article 9*

### Public regulated service

Norway has expressed its interest in the Galileo PRS, considering it an important element of its participation in the European GNSS Programs. The Parties agree to address this issue once the policies and operational arrangements governing access to the PRS have been defined.

## *Article 10*

### International cooperation

1. The Parties recognise the value of coordinating 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 worldwide, emphasising interoperability with other GNSS.
2. Consequently, in order to promote and implement the objectives of this Agreement, the Parties shall, as appropriate, cooperate on all GNSS matters that arise, notably in the International Civil Aviation Organisation, the International Maritime Organisation and the ITU.

## *Article 11*

### Consultation and dispute resolution

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 through consultation between the Parties.

## *Article 12*

### Entry into force and termination

1. This Agreement shall enter into force the first day of the month following that in which the Parties have notified each other of the completion of the procedures necessary for this purpose. Notifications shall be sent to the General Secretariat of the Council which shall be the depository of this Agreement.
2. The expiration or 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 of receiving the last diplomatic note informing the other Party that their respective internal procedures necessary for its entry into force have been completed.
4. Notwithstanding paragraph 1, Norway and the European Union, as regards elements falling within its competence, agree to apply provisionally this Agreement from the first day of the month following the date on which they have notified each other of the completion of the procedures necessary for this purpose.
5. Either Party may, by giving six months notice to the other in writing, terminate this Agreement.

This Agreement is drawn up in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovakian, Slovenian, Spanish, Swedish and Norwegian languages, all texts being equally authentic.