

Brussels, 28 November 2001

OPINION
of the
Economic and Social Committee
on the
Proposal for a Council Regulation on the establishment of the Galileo Joint Undertaking
COM(2001) 336 final - 2001/0136 (CNS)

On 5 July 2001, the Council decided to consult the Economic and Social Committee, under Article 172 of the Treaty establishing the European Community, on the

Proposal for a Council Regulation on the establishment of the Galileo Joint Undertaking

COM(2001) 336 final - 2001/0136 (CNS).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 November 2001. The rapporteur was **Mr Bernabei**.

At its 386th plenary session on 28-29 November 2001 (meeting of 28 November 2001), the Economic and Social Committee adopted the following opinion by 107 votes in favour, with four abstentions:

1. **Recommendations of the Economic and Social Committee**

The Economic and Social Committee

WHEREAS

- the civilian Galileo European satellite radionavigation system is important to the future global satellite navigation and positioning system, and to the provision of high-tech services to industry, business, citizens and European society in order to make the Community system globally competitive;
- there is a need for the early adoption of a joint strategy based on a "dual use" approach, with a precise mandate and a clearly-delineated development platform for a global approach embracing all the system's elements and services, as the Committee stressed in its opinion (CES 1116/2001), adopted unanimously on 12 September 2001;
- the same opinion stressed the urgent need to launch, by the end of 2001, a Joint Undertaking under Article 171 of the EC Treaty, and subsequent creation of a European Galileo Agency, in the most appropriate form; this action must be speeded up in view of the security problems which are now a top priority given the current world situation;
- there is a need to involve the private sector from the very outset in developing and operating the Galileo system, both from the technical and financial point of view, by setting up a Galileo Promotion Company to deliver on the commitments made in the March 2001 Memorandum of Understanding, and provide continuous back-up in the development and deployment phases and a continuous, systematic communication and information campaign to promote the Galileo system and its potential applications, starting with those already available through the EGNOS constellation;

calls on the European Parliament, the Council and the European Commission:

- to establish as a matter of urgency the Joint Undertaking under Article 171 of the EC Treaty, by the end of 2001 at the latest;
- to ensure that the Joint Undertaking is essentially public, flexible, simple and of limited duration, and change the funding structure so that only public funds are used in order to avoid any potential conflict of interest in awarding tenders which might result from the inclusion of private funding;
- ensure that the Joint Undertaking can absorb financial and other endowments such as hardware and software, in order to preserve the specific participation modes and frameworks of each of the Joint Undertaking's members, particularly the European Space Agency (ESA);
- to establish in parallel with the Joint Undertaking a public-private Galileo Promotion Company (GPC) to incorporate the private investment provided for in the Memorandum of Understanding, with the majority share being gradually ceded to private investors at the end of the development and validation phase;
- to create two joint bodies for the Joint Undertaking and the Galileo Promotion Company: an institutional steering forum and a security and privacy body;
- to provide forthwith for the Joint Undertaking to plan for its replacement at the end of the development and validation phase, in the shape of a European Agency or a company under European law;
- to launch, in tandem with the Joint Undertaking and the Galileo Promotion Company, a single strategic EU-ESA development plan to lay down a coherent policy framework for instruments, actions and resources to deliver the global navigation satellite system and related applications.

2. Background

2.1 The Commission proposes to introduce a Regulation to establish, in accordance with Article 171 of the EC Treaty, a Galileo Joint Undertaking for the purposes of research and development and with three main tasks:

- oversee the development phase and prepare the deployment in orbit phase of Galileo;
- launch the required research and technology development activities via the ESA and coordination of national activities;
- mobilise the required public and private funds.

2.1.1 The Statutes proposed by the Commission provide for direct involvement of the Commission, the ESA and the private sector in the Joint Undertaking, which will run the tender procedure for overseeing the development phase of the programme.

2.2 The Economic and Social Committee has given its full attention to the Galileo programme, and unanimously adopted an own-initiative opinion on the subject on 12 September 2001.

2.3 The Committee opinion¹ stressed the need for a single, joint strategy for satellite communications in order to develop a global approach embracing all the system's elements and services, reaching beyond satellite navigation positioning and embedding this strategy in a "dual use" approach embracing all the Community policy responsibilities of the European Union, the WEU and the Council's Common Foreign and Security Policy secretariat.

2.4 The Committee identified the following priorities for the strategy:

- the launch, by the end of 2001, of a Joint Undertaking under Article 171 of the Treaty establishing the European Community, and subsequent creation of a European Galileo Agency founded on four pillars: an institutional forum; a security and privacy body; a regulatory body; and an operating body;
- specification of standards under the Community's "new approach" to services, and identification of activities generated by the Galileo system;
- applying the appropriate measures to afford protection of private life and of the rights to privacy and security;
- establishing alongside the Joint Undertaking a "Galileo Promotion Company" and launch of a public information campaign to secure widespread acceptance and support of the economic and social players and the wider public for this cutting edge global technology which is on the same footing as existing GPS and GLONASS systems in terms of cooperation and competition;
- speeding up the timescales from development and validation to deployment in orbit and subsequent operation and use by incorporating EGNOS² in Galileo to provide for fast, ad hoc use of the precursor system, thus giving an immediate impression of "European product reliability" and familiarising the general public;
- ensuring cooperation and compatibility with GLONASS and GPS and their future developments, consolidating the Galileo frequencies at the 2003 World Radiocommunication Conference (WRC).

¹ CES 1116/2001 of 12 September 2001

² EGNOS: the European precursor of Galileo is a satellite radio navigation system that relies on the American GPS and Russian GLONASS systems and ensures their integrity, i.e. it warns the user over a very short timespan of any malfunction which might affect the quality of the signal retransmitted by geostationary satellites.

3. General comments

3.1 The Committee takes a positive view of the proposal for a Council Regulation on the establishment of the Galileo Joint Undertaking, which it believes is an essential step towards securing a structured, competitive impact for the European Galileo system, able to guarantee the independence and integrity of the civilian operated service.

3.2 The Committee is convinced that, once they form part of the necessary strategic vision outlined above, the Galileo programme and its related services can make a vital contribution at global level to the well-being of all citizens in terms of better quality of life and promotion of personal development, and also in terms of security and protection of individual privacy. They will also encourage the creation of new firms, new innovative services, new occupations and greater economic and social cohesion.

3.3 The Committee feels that a single strategic development plan should be launched at European level. The plan should contain definite structures and itineraries, and promotional and support actions to raise the profile of the Galileo system, in accordance with the EU's policy, security and market strategy needs. From this standpoint, the Committee feels that the Commission's proposals for the establishment of a Joint Undertaking are necessary but inadequate, as they appear to address contradictory needs and balances.

3.4 The Committee believes that unless the Joint Undertaking is simultaneously accompanied by other parallel actions, it will be unable to guarantee the success of the operation, given the stakes both in terms of the highly innovative competitive development of a new, wholly European satellite navigation and positioning system for civil purposes, and in terms of compatibility with other extremely competitive satellite navigation and positioning systems which have been widely tested and are available on global markets.

3.5 The Committee believes that the Joint Undertaking should immediately be followed up by:

- the parallel establishment of a public-private "Galileo Promotion Company", which should absorb the EUR 200 million provided for in the Memorandum of Understanding; the majority stake in the company should be gradually ceded to private investors by the end of the Galileo system development phase;
- the creation of two joint bodies for the Joint Undertaking and the Promotion Company: an institutional steering forum open to the public and private sectors, and a security and privacy body to ensure that the requirements of transparency, security and public protection are satisfied.

3.6 The Committee believes that planning should begin forthwith for a body such as a European Galileo Agency/Galileo Company under European law to replace the Joint Undertaking at the end of its mandate. Any uncertainty with regard to the entity responsible for deployment and operation of the system would damage the operational prospects of Galileo, and give a contradictory

impression of instability to a venture which needs to be planned and constantly underpinned by successful, positive messages.

3.7 The Galileo Promotion Company (GPC) is needed to enable private partners to be fully involved both technically and financially in building up the Galileo system and in its end-uses, whilst avoiding any potential conflicts of interest. Furthermore, the GPC must play a key role in the Galileo information campaign, promoting its technology and applications in the economic and social field, and its use in conjunction with mobile communications systems, GRID³ systems and other existing terrestrial and satellite networks within a multifunctional framework.

3.8 The Committee reiterates the fact that, in view of the timescales for the development and validation phase (2004) through the deployment phase (2007) to the operational phase (2008), there is a need to develop modular phases for partial applications using the EGNOS constellation, for air navigation systems in particular, and backed up by a robust information and communication campaign targeting operators and the general public.

4. Specific comments

4.1 The Committee endorses the Joint Undertaking's aim of ensuring that Galileo has a single management structure. It should, however, be funded solely through public funding, including by means other than financial, such as hardware and software endowments. The Committee also agrees that the Joint Undertaking must have legal personality to enable it to enter into contracts and undertake any actions needed to conclude successfully the development and validation phase, and pave the way for the European Agency/European Company.

4.1.1 The Committee believes that the Joint Undertaking must be flexible and simple, in keeping with its brief and with its limited duration. For the hardware and software it needs to complete the development and validation phase, it should look to outsourcing and direct non-financial investment, thus avoiding the red tape which has caused considerable problems for the Euratom Joint Undertaking in the past.

4.1.2 With regard to the tax regime applicable to the Joint Undertaking, the host country must guarantee VAT exemption on Galileo Joint Undertaking transactions.

4.2 The twelfth recital should be amended to read as follows: "The Stockholm European Council noted that the private sector is ready to supplement the public budgets for the development phase. The representatives of the main industries concerned (...) committed themselves to indicating their contribution to the total amount of EUR 200 million for the development phase of Galileo by subscribing to the capital of the Joint Undertaking or contributing in some other form, such as setting up Galileo promotion companies."

³ GRID : a single-view distributed computer/multimedia interconnection system, such as UMTS.

4.3 The fourteenth recital should read as follows: "The Joint Undertaking's main task by targeting existing and future public sector funding in the form of financial or other endowments; in addition, it will make it possible to ensure the management of major demonstration projects."

4.4 The Committee suggests adding the following two new recitals (15 and 16):

- (15) The Joint Undertaking must be flanked by a public-private Galileo Promotion Company, as set out in the Memorandum of Understanding. The Executive Committee will be tasked with setting and certifying expenses, preparing the framework for expansion, development, enhancement and maintenance of the system. The promotion company will carry out the continuous information campaign to raise the profile of the Galileo system with operators, potential users and the public.
- (16) The Joint Undertaking and the Galileo Promotion Company will subsequently establish, with a view to satisfying all appropriate coordination requirements, two joint consultative bodies chaired by the European Commission, *viz.* an institutional steering forum open to the public and private sectors; and a security and privacy body to ensure that the requirements of transparency, security and public protection are satisfied.

4.5 **Annex - Statutes of the Galileo Joint Undertaking, Article 1**

4.5.1 The second indent of 3(b) should be deleted, since the endowments in money or in kind brought in by companies should go to the Galileo Promotion Company rather than to the Joint Undertaking, which must remain wholly publicly funded.

4.5.2 Consequently, the third paragraph of point 4 should end with "within a period of 30 days." The last sentence "Private undertakings need ... 31 December 2002" should be deleted.

4.6 **Annex - Article 2**

4.6.1 The second part of the first indent of Article 2(3) should be amended to read as follows:

- "it shall ensure that private undertakings which have participated in the Galileo Promotion Company enjoy treatment which is commensurate with a minimum pro quota pre-emption right in becoming members of the entity which will be responsible for the deployment and operation of the navigation system."

4.6.2 A fourth indent should be added to Article 2(3), reading as follows:

- "It will prepare and develop a continuous, systematic information and communication campaign to ensure operators and the general public can access partial but significant applications on an ad hoc basis."

4.6.3 A new Article 2(4) should be added, to read as follows:

- "in performing the duties set out in 1, 2 and 3, the Joint Undertaking shall be assisted by two joint consultative bodies in association with the Galileo Promotion Company, *viz.* by an institutional steering forum and a security and privacy body, to ensure that the requirements of transparency, security and public protection are satisfied."

4.7 **Annex - Article 7**

4.7.1 Article 7 (2) should be amended to read as follows:

- "The Administrative Board may seek the advice of the institutional forum and of the security and privacy body."

4.8 **Annex - Article 8**

4.8.1 Add a new paragraph 3) to Article 8 (3), to read as follows:

- "the Administration Board shall be assisted by two joint consultative bodies, established in conjunction with the Galileo Promotion Company, *viz.* an institutional forum representing both bodies and chaired by the European Commission; and a security and privacy body, likewise representing both bodies and chaired by the European Commission. These bodies may express opinions on subjects referred to them by the Administration Board. They shall run for the same term as the Joint Undertaking and shall comprise 30 members, of which 15 shall be appointed by the Administration Board of the Joint Undertaking, and 15 by the Administration Board of the Galileo Promotion Company."

4.9 **Parallel establishment of a Galileo Promotion Company (GPC)**

4.9.1 The Committee recommends drafting a corporate plan for submission to the private undertakings which signed the Memorandum of Understanding in March 2001, with a view to creating a Galileo Promotion Company. The public authorities and private undertakings should be on board to launch systems for setting and certifying costs, and to frame the system for the expansion, development, reinforcement and maintenance of Galileo.

4.9.2 The company should gradually be ceded from public control to private investors who, by the end of the procedure, should become the major shareholders in the company, whilst technical and political control and responsibility would remain with the public sector.

4.9.3 The GPC should also sit on the two Joint Undertaking/GPC consultative bodies, i.e. the institutional forum and the security and privacy body, and receive their opinions on request, or at the request of the Joint Undertaking.

4.9.4 Finally, in addition to helping to specify the type of services to be provided and to plan the system, the remit of the GPC should also include active involvement in the information and communication campaign to back up the Galileo system until the operational phase in 2008.

Brussels, 28 November 2001.

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