

Galileo Joint Undertaking: amendment of the Statutes in order to provide that the undertaking will cease to operate on 31 December 2006

2006/0115(CNS) - 29/06/2006 - Legislative proposal

PURPOSE: to amend the Statutes of the Galileo Joint Undertaking.

PROPOSED ACT: Council Regulation

CONTENT: the purpose of this proposal is to make three changes to the Statutes setting up the Galileo Joint Undertaking. Firstly to change the expiry date of the Joint Undertaking; secondly, to change the use of the word “capital” with “fund” or “contribution”; and thirdly to allow for the possibility of additional funding.

There are two related legislative acts, which need to be taken into account when considering the present proposal:

- Council Regulation 876/2002/EC to carry out the development phase and to prepare for the successive phases of the Galileo programme. (Refer to CNS/2001/0136); and
- Council Regulation 1321/2004/EC on the setting up of the “European Global Navigation Satellite System” (GNSS) Supervisory Authority. (Refer to CNS/2003/0177).

Four phases define the establishment and completion of the Galileo programme. They are:

- Phase 1, the “definition” phase: 1999 to 2001 – establishment of the system’s architecture and determination of services to be offered.
- Phase 2, the “development” phase: 2002 to 2005 – development of the system’s satellites and components and validation into orbit..
- Phase 3, the “deployment” phase: 2006 to 2007 – construction and launching of satellites; the full establishment of the earth segment infrastructure.
- Phase 4, the “operating” phase: start date 2008 – management of the Galileo project; regular maintenance and updating exercises.

The Galileo Joint Undertaking was set up in 2002 (Regulation 876/2002/EC) in order to implement the development phase (development of satellites; components and validation into orbit). The founding members of the Galileo Joint Undertaking are: the European Community and the European Space Agency. Members of the Joint Undertaking now also include a Chinese State-run company and an Israeli State-run company. The Joint Undertaking has been tasked firstly, to direct and co-ordinate research and development activities and secondly, to manage the procedure for selecting the system’s future concession holder. The concession holder will be responsible for managing the deployment and operating phases, providing the necessary private capital and ensuring the commercial success of the operation.

The European Global Navigation Satellite System (GNSS) Supervisory Authority was set up in 2004 (Regulation 1321/2004/EC). Throughout 2005 the Supervisory Authority has been gradually set up and

should be fully operational by 2006. The purpose of the Supervisory Authority is to manage the public interest of the European satellite radio navigation programmes (Egnos and Galileo) and to act as an awarding authority for the future concession holder. Egnos and Galileo will be owned by the Supervisory Authority. Their ownership will remain public: only the management of the deployment and operational phases will be awarded to the concession holder for a period of about 20 years.

The Statutes establishing the Galileo Joint Undertaking specify that it should be set up to implement the development phase (phase 2) and that it should cease to exist on 28 May 2006 upon completion of the development phase. Given that there is some delay in finalising this phase (the space segment and earth segment of the system are yet to be completed) the Commission is proposing to extend this deadline until the 31 December 2006. Note: that this date will not coincide with the completion of the revised development date which, rather than 2005 as originally foreseen, will now be finalised at the end of 2008. It is only on this date that the four satellites will be launched by the European Space Agency and the “validation into orbit” phase will become operational.

Although the completion of the development phase (2008) and the cessation of the Joint Undertaking (end 2006) no longer coincide, the Commission argues that this need not create too many problems given that the Supervisory Authority can take over many of the tasks assigned to the Joint Undertaking, as from 2007.

Proposed amendments:

Firstly, to modify Article 20 by stating that the Joint Undertaking will be established for a period starting on 28 May 2002 and ending on 31 December 2006.

Secondly, the Commission is seeking to change the use of the word “capital” in the Regulation and to replace it with the use of either “contribution” or “fund”. The term “capital” is incorrect in that assets brought in by members to the Joint Undertaking can not be removed or returned. Any assets remaining will be transferred free of charge to the Supervisory Authority given that these assets are in fact a financial contribution for to a research programme and all sums placed at its disposal are of a non-profit making nature.

Thirdly, the Commission is seeking to amend the Statutes of the Joint Undertaking allowing it to finance additional costs during the development phase. The actual cost of the development phase is expected to be EUR 400 million more than the initial estimated cost of EUR 1.1 billion. In order to enable the Joint Undertaking to finance some of these additional costs before it is wound up on 31 December 2006, the Commission is proposing that the Statutes now read: “the founding members may, as necessary, make additional contributions to finance the development phase”.

The Commission has presented this proposal following the approval (with a two-third majority) of the Joint Undertaking’s Administrative Board.