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REPORT

on the proposal for a Council regulation on the establishment of the GALILEO
Joint Undertaking
(COM(2001) 336 – C5-0329/2001 – 2001/0136(CNS))

Committee on Industry, External Trade, Research and Energy

Rapporteur: Norbert Glante

Draftsman (*)

Brigitte Langenhagen, Committee on Regional Policy, Transport and Tourism

(*) Enhanced Hughes Procedure

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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(*) *Enhanced Hughes Procedure*

PROCEDURAL PAGE

By letter of 6 July 2001 the Council consulted Parliament, pursuant to Article 171 of the EC Treaty, on the proposal for a Council regulation on the establishment of the GALILEO Joint Undertaking (COM(2001) 336 – 2001/0136(CNS)).

At the sitting of 6 September 2001 the President of Parliament announced that she had referred this proposal to the Committee on Industry, External Trade, Research and Energy as the committee responsible and the Committee on Budgets and the Committee on Regional Policy, Transport and Tourism for their opinions (C5-0329/2001).

At the sitting of 25 October 2001 the President of Parliament announced that the Committee on Regional Policy, Transport and Tourism, which had been asked for its opinion, would be involved in drawing up the report under the Enhanced Hughes procedure.

The Committee on Industry, External Trade, Research and Energy had appointed Norbert Glante rapporteur at its meeting of 18 September 2001.

It considered the Commission proposal and the draft report at its meetings of 5 November 2001, 3 December 2001 and 8 January 2002.

At the last meeting it adopted the draft legislative resolution by 43 votes to 5, with 0 abstentions.

Before the beginning of the vote Christian Foldberg Røvsing announced that he had interests in this field and consequently would not take part in it.

The following were present for the vote: Carlos Westendorp y Cabeza, chairman; Norbert Glante, rapporteur; Konstantinos Alyssandrakis, Guido Bodrato, Felipe Camisón Asensio (for Concepció Ferrer), Gérard Caudron, Giles Bryan Chichester, Nicholas Clegg, Dorette Corbey (for Glyn Ford), Willy C.E.H. De Clercq, Harlem Désir, Den Dover (for Anders Wijkman), Colette Flesch, Jacqueline Foster (for Christos Folias), Alfred Gomolka (for Angelika Niebler), Michel Hansenne, Malcolm Harbour (for Jaime Valdivielso de Cué), Roger Helmer, Hans Karlsson, Wolfgang Kreissl-Dörfler (for Erika Mann), Werner Langen, Brigitte Langenhagen (pursuant to Rule 162), Rolf Linkohr, Caroline Lucas, Eryl Margaret McNally, Hans-Peter Martin (for Massimo Carraro), Marjo Matikainen-Kallström, Elizabeth Montfort, Reino Paasilinna, Samuli Pohjamo (for Elly Plooi-j-van Gorsel), John Purvis, Godelieve Quisthoudt-Rowohl, Bernhard Rapkay (for Elena Valenciano Martínez-Orozco), Daniela Raschhofer, Imelda Mary Read, Mechthild Rothe, Paul Rübig, Jacques Santer (for W.G. van Velzen), Gilles Savary (for François Zimeray), Ilka Schröder, Konrad K. Schwaiger, Esko Olavi Seppänen, Astrid Thors, Claude Turmes (for Nelly Maes), Alejo Vidal-Quadras Roca, Dominique Vlasto, Myrsini Zorba and Olga Zrihen Zaari.

The opinions of the Committee on Budgets and the Committee on Regional Policy, Transport and Tourism are attached.

The report was tabled on 10 January 2002.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

LEGISLATIVE PROPOSAL

Proposal for a Council regulation on the establishment of the GALILEO Joint Undertaking (COM(2001) 336 – C5-0329/2001 – 2001/0136(CNS))

The proposal is amended as follows:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1 Recital (6a) (new)

(6a) On 3 October 2001 the European Parliament adopted its resolution² on the Commission communication on GALILEO.

Justification

The European Parliament has now adopted a resolution on the Commission communication on GALILEO.

Amendment 2 Recital 7 a (new)

(7a) The PricewaterhouseCoopers inception study to support the development of a business plan for the GALILEO Programme commissioned by the European Community has to be taken into account.

Justification

It is necessary to take into account this study as it was commissioned after the Commission put forward its proposal.

Amendment 3

¹ OJ C not yet published.

² Adopted Texts, item 10

Recital 11

(11) Taking into account the number of players who will need to be involved in this process, and the financial resources and technical expertise needed, it is vital to set up a legal entity capable of ensuring the coordinated management of the funds assigned to the GALILEO programme during its development phase.

(11) Taking into account the number of players who will need to be involved in this process, and the financial resources and technical expertise needed, it is vital to set up a legal entity capable of ensuring the coordinated management of the funds assigned to the GALILEO programme, ***coordinated project management and stringent financial management*** during its development phase. ***This legal entity will ensure transparency in the financial management and awarding of contracts while avoiding conflicts of interest.***

Justification

More precise definition of the tasks of the Joint Undertaking.

Amendment 4
Recital (13)

(13) *That it why* it is necessary to set up a Joint Undertaking under Article 171 of the Treaty establishing the European Community, since the GALILEO involves a major research and development component which justifies and will continue to justify the use of funds assigned to the research and development framework programmes. In addition, this programme will make it possible to make considerable progress in the development of satellite navigation technologies.

(13) *In order to create a simple (unbureaucratic), single management structure*, it is necessary to set up a Joint Undertaking under Article 171 of the Treaty establishing the European Community, since the GALILEO involves a major research and development component which justifies and will continue to justify the use of funds assigned to the research and development framework programmes. In addition, this programme will make it possible to make considerable progress in the development of satellite navigation technologies.

Justification

A single structure is necessary for the development phase. For this structure, the form of undertaking has been selected to ensure unbureaucratic management.

Amendment 5
Recital (14)

(14) The Joint Undertaking's main task will be to successfully complete the development of the GALILEO programme during its development phase by combining *public and private sector* funding; in addition, it will make it possible to ensure the management of major demonstration projects.

(14) The Joint Undertaking's main task will be to *speedely and* successfully complete the development of the GALILEO programme during its development phase by combining *the expertise, information and funding of the EU, ESA and industry, ensuring the involvement of the public and private sectors and recognising the importance of the private sector's input into this stage*; in addition, it will make it possible to ensure the management of major demonstration projects. *A key task of the Joint Undertaking is also to prepare and implement the invitation to tender which is necessary for carrying out the deployment and operational phases.*

Justification

A number of words are deleted in line with the amendments on the setting up of a development company.

The deployment phase of the GALILEO system (2006-2007) will largely be financed by the private sector. It is intended that the operational phase should be able to run without any public funding. In order to ensure the feasibility and completion of the GALILEO system, a clear description of the tasks of the GALILEO system, its security, its cost planning and the responsibilities of the public and private sector players is necessary. Issuing an invitation to tender in accordance with European rules of competition will provide the clarity and security required by the public and private sector alike.

Amendment 6 Recital 14a (new)

(14a) In view of the importance of a dynamic and innovative satellite navigation and transport telematics applications industry and for the whole refinancing of the system, even at the development phase the Galileo Joint Undertaking must have the task of drawing up the basic (open) concepts for this area and acting as an interface with the relevant industries.

Justification

As the Joint Undertaking cannot just be a joint Fund established by the ESA and the EU and the whole potential of the programme is based on the economic, environmental, transport and social added value of Galileo applications, this point must be included in the preamble to the Regulation. This addition serves not only as a clarification but should also give a clear signal. Experts consider that over 50% of the targeted economic impact of Galileo will come from its applications. Consequently this area should be referred to specifically in the recitals concerning the Joint Undertaking.

Amendment 7 Recital 14b (new)

(14b) To ensure that the future Joint Undertaking can fulfil its tasks effectively,

the Member States should adopt consistent positions in the Council and ESA.

Justification

For the Joint Undertaking to work effectively, the Member States need to coordinate their positions in the Council and the ESA.

Amendment 8
Recital 14c (new)

(14c) Whereas over the past years, the budgetary authority has looked to improve transparency and control over the management of Community funding, in particular concerning financial control, power of discharge, contribution to the pension scheme and internal budgetary procedure (code of conduct).

Justification

Given that the Joint Undertaking will implement EU policies, employ staff and be dependent on a Community subsidy, the general budgetary procedures applied to the agencies should by analogy be applied also to the Joint Undertaking.

Amendment 9
Article 1, second paragraph

Its aim shall be to ensure a single management structure for the research, development and demonstration phase of the GALILEO programme, and to this end mobilise the funds assigned to this programme.

Its aim shall be to ensure a single management structure for the research, development and demonstration phase of the GALILEO programme, and to this end mobilise the funds assigned to this programme. ***A key task of the Joint Undertaking is also to prepare and implement the invitation to tender which is necessary for carrying out the deployment and operational phases.***

Justification

See justification for Amendment 5 to Recital (14).

Amendment 10
Article 1, paragraph 3

Its seat shall be located in Brussels.

The seat of the Joint undertaking shall be decided with reference to tax exemption in the potential country of location.

Justification

The seat of the Joint Undertaking would be subject to the national law of the Member State in which it was established, which in Brussels would involve a high rate of tax. Therefore locating the seat in Brussels should first involve a tax exemption for the Joint Undertaking.

Amendment 11
Article 2

2. The Joint Undertaking shall have legal personality. In all the Member States of the European Community, it shall enjoy the most extensive legal capacity accorded to legal persons under the laws of those States. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.

2. The Joint Undertaking shall have legal personality. In all the Member States of the European Community, it shall enjoy the most extensive legal capacity accorded to legal persons under the laws of those States. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.

2a. The Joint Undertaking, being largely financed from the general budget of the Union, shall respect in its internal procedures the principles applicable to the European Institutions.

2b. Candidate countries shall be entitled to participate to the activities of the Joint Undertaking through the appropriate instruments foreseen in the budget.

Justification

The principles of transparency and financial accountability should be applicable to the new management structure of GALILEO, especially as an important part of its funding will come from the general budget of the Union. Similarly, candidate countries should be eligible to participate to the activities of the Joint Undertaking as pointed out in the Parliament's resolution on GALILEO on 3 October 2001.

Amendment 12 Article 2 a (new)

The founding members of the Joint Undertaking are the European Community represented by the European Commission and the European Space Agency. The European Investment Bank may become a further member of the Joint Undertaking. In order to integrate the private sector in the Joint Undertaking a development company shall be set up. The purpose of this development company shall be to guarantee regular and institutionalised exchanges between the private sector and the Joint Undertaking, to generate publicity for the GALILEO programme among users and the general public and, possibly, to carry out tasks specified by the Joint Undertaking. The general relationship between the development company and the Joint Undertaking shall be set out in the Statutes. The implementation and details of this relationship shall be governed by an agreement concluded by both parties by mutual consent. The agreement is intended both to bind the two bodies together and to ensure that they enjoy organisational and personal independence.

Justification

It is desirable and indeed, intended that the private sector should be financially involved in the development phase of the GALILEO programme. However, a conflict of interests would arise if the private sector were directly involved in the Joint Undertaking, since the latter is responsible for preparing and implementing the invitation to tender which is necessary for the next phases of the programme. The establishment of a development company alongside the Joint Undertaking would solve this problem: it would allow the participation of the private

sector in the development phase and avoid the above-mentioned conflict of interests.

Amendment 13
Article 2b (new)

Article 2b

A monitoring committee shall be set up in which each Member State is represented. Relations between the monitoring committee and the Joint Undertaking shall be governed by the Statutes.

Justification

It is right that the Member States participating in the Joint Undertaking should exercise controls on the content and funding. The monitoring committee should also ensure that due account is taken of the GALILEO programme applications relevant to public undertakings, sustainability and the common good. The monitoring committee should also prepare the future security of the GALILEO system.

Amendment 14
Article 2c (new)

Article 2c

The Commission shall submit to the Council and the European Parliament every year a progress report on the GALILEO programme together with a programme development plan and shall keep them regularly informed of any new members that join the Joint Undertaking.

Justification

Technically, financially and from the point of view of content, the GALILEO programme is currently one of the European Union's most important strategic projects. The European Parliament must thus have the opportunity to monitor this programme.

Amendment 15
Article 3

The Statutes of the GALILEO Joint Undertaking, annexed to this Regulation, are hereby adopted.

The Statutes of the GALILEO Joint Undertaking, annexed to this Regulation, are hereby adopted.

The Commission shall inform the budgetary authority on a regular basis on the implementation of the development phase of GALILEO, as well as on the prospects to attract new investments for the consecutive phases. The annual report of the Joint Undertaking shall be made available to all parties concerned.

Justification

The proposal makes no reference to the budgetary authority even though part of its activities will be financed from the general budget. In order to ensure a proper follow-up, the rapporteur considers that the Commission should provide regular information on the implementation of the activities of the Joint Undertaking as well as on the follow-up concerning private investments due for the successive phases of GALILEO.

Amendment 16
ANNEX, Article 1, (2)

2. Its seat shall be located in Brussels.

2. The seat of the Joint undertaking shall be decided with reference to tax exemption in the potential country of location.

Justification

The seat of the Joint Undertaking would be subject to the national law of the Member State in which it was established, which in Brussels would involve a high rate of tax. Therefore locating the seat in Brussels should first involve a tax exemption for the Joint Undertaking.

Amendment 17
ANNEX, Statutes of the GALILEO Joint Undertaking
Article 1, paragraph 3, letter b

b. The ***following*** may become ***members*** of

b. The ***European Investment Bank*** may

the Joint Undertaking

- the European Investment Bank;

- any undertaking which subscribes a minimum of € 20 million to the Joint Undertaking. That amount shall be reduced to € 1 million for undertakings subscribing individually or collectively which may be regarded as small and medium-sized enterprises within the meaning of the Commission Recommendation of 3 April 1996 concerning the definition of small and medium-sized enterprises.

become **a member** of the Joint Undertaking.

Justification

A conflict of interests would arise if the private sector were directly involved in the Joint Undertaking.

Amendment 18

ANNEX, Statutes of the GALILEO Joint Undertaking
Article 1, paragraph 4, third subparagraph

Immediately after they have subscribed their shares, the founding members shall invite the other **members** mentioned in paragraph 3.b to subscribe **their** shares within a period of 30 days. **Private undertakings need subscribe only €5 million and €250 000 respectively if the balance is subscribed before 31 December 2002.**

Immediately after they have subscribed their shares, the founding members shall invite the other **member** mentioned in paragraph 3.b to subscribe **its** shares within a period of 30 days.

Justification

This follows on from the above amendments to Article 1 of the Statutes.

Amendment 19

Article 1, paragraph 4 a, letter a (new)

4a. The GALILEO development company shall be established at the same time and for the same duration as the Joint Undertaking.

a. Members and contributions

The following shall be members of the development company: all undertakings which have subscribed a contribution, whose form has yet to be determined, to its capital. Small and medium-sized undertakings must be given a fair chance of membership. They shall be the subject of an evaluation of their material value and their utility in carrying out the activities of the Joint Undertaking.

Justification

The public and private sectors both want a Public Private Partnership (PPP) from which they may both benefit. This partnership should not take place within the Joint Undertaking, so as to avoid conflicts of interest. The establishment of a GALILEO development company will allow the private sector to be involved financially in the development phase and prevent problems which might otherwise have arisen.

Amendment 20

ANNEX, Statutes of the GALILEO Joint Undertaking
Article 1, paragraph 4a, letter b (new)

b. Role and tasks:

- preparing and implementing the Public Private Partnership desired by both the public and private sectors;***
- advising the Joint Undertaking on substantive, commercial and technical issues;***
- possibly taking over contracts issued by the Administrative Board;***
- actively contributing to the information, communication and promotion campaign for the GALILEO system directed at future users and the general public alike until the operational phase;***

Justification

The public and private sectors both want a Public Private Partnership (PPP) from which they may both benefit. This partnership should not take place within the Joint Undertaking, so as to avoid conflicts of interest. The establishment of a GALILEO development company will allow the private sector to be involved financially in the development phase and solve the problems which could otherwise have arisen.

Amendment 21

ANNEX, Statutes of the GALILEO Joint Undertaking
Article 1, paragraph 4a, letter c (new)

c. Provisions:

- the development company must determine its own procedure;***
- the European Commission shall submit a progress report every year on the programme together with a programme development plan.***

Justification

See justification to amendment 10.

Amendment 22

ANNEX, Statutes of the GALILEO Joint Undertaking
Article 1, paragraph 4b, letter a (new)

4b. A monitoring committee shall be established at the same time and for the same duration as the Joint Undertaking.

a. Members

The members of this monitoring committee shall be: the representatives of each Member State and a representative of the European Commission from the Administrative Board of the Joint Undertaking. The monitoring committee shall be chaired by the representative of

***the Member State which holds the
Presidency of the Council.***

Justification

See the justification for Amendment 13, Article 2b (new). In this process of monitoring by the Member States, care must be taken to ensure that controls by the Member States on the Joint Undertaking do not paralyse the latter. Measures must therefore be taken to ensure that decisions of the monitoring committee focus on essential matters and can be implemented at short notice.

Amendment 23

ANNEX, Statutes of the GALILEO Joint Undertaking
Article 1, paragraph 4b, letter b (new)

b. Role and tasks:

- monitoring the implementation of the development phase;***
- transmitting important guidelines concerning content to the Administrative Board of the Joint Undertaking to prepare for the invitation to tender which is necessary for the deployment and operational phases;***
- preparing the future security of the GALILEO system: protection of privacy and the security and protection of citizens.***

Justification

See justification to amendment 13.

Amendment 24

ANNEX, Statutes of the GALILEO Joint Undertaking
Article 1, paragraph 4b, letter c (new)

c. Provisions:

- the Administrative Board shall forward to the monitoring committee all documents concerning substantive***

matters featuring on the agenda of the next meeting of the Administrative Board;

- the monitoring committee shall be convened in good time before the meeting of the Administrative Board and take decisions on all substantive matters on the agenda. These decisions must be forwarded to the Administrative Board in good time so that they can be taken into account;

- the monitoring committee must determine its own procedure;

- the European Commission shall submit a progress report every year to the monitoring committee concerning the programme together with a programme development plan.

Justification

See justification to amendment 13.

Amendment 25
ANNEX, Article 2, (1 a) (new)

1a. It will qualify the uses and provision of services for the Galileo system.

Justification

It is necessary for investment in the project to have a clear idea of the services the Galileo system could provide. This will encourage the involvement of different industrial sectors at an earlier stage.

Amendment 26
ANNEX, Statutes of the GALILEO Joint Undertaking
Article 2, paragraph 3, first subparagraph

3. It will mobilise the **public and private sector** funds needed and set up the management structures for the various successive phases of the programme:

3. It will mobilise the funds needed and set up the management structures for the various successive phases of the programme:

Justification

This is in line with the amendments on the establishment of a development company.

Amendment 27

ANNEX Statutes of the GALILEO Joint Undertaking
Article 2, paragraph 3, first indent

- It will draw up a business plan covering all the phases of the programme on the basis of data to be supplied by the European Commission concerning the services that can be offered by GALILEO, the revenue that they may generate and the necessary accompanying measures; ***it shall ensure that private undertakings which have participated in the Joint Undertaking enjoy preferential treatment in becoming members of the entity which will be responsible for the deployment and operation of the navigation system.***

- It will draw up a business plan covering all the phases of the programme on the basis of data to be supplied by the European Commission ***and the European Space Agency*** concerning the services that can be offered by GALILEO, the revenue that they may generate and the necessary accompanying measures; ***it will put forward proposals for auctioneering the services during the development stage.***

Justification

Care must be taken to ensure that no distortions of competition can take place. Furthermore, due account is taken of the private sector owing to its advisory role within the development company.

Amendment 28

ANNEX Statutes of the GALILEO Joint Undertaking
Article 2, paragraph 3, second indent

- On that basis, it will contact the private sector, in the way that it considers to be the most appropriate, in order to draw up before the end of 2002 an overall plan for the financing of the programme including in particular the arrangements for financial participation by the private sector during the deployment phase.

- On that basis, it will contact the private sector, in the way that it considers to be the most appropriate, in order to draw up before the end of 2002 an overall plan for the financing of the programme including in particular the arrangements for financial participation by the private sector during the deployment phase. ***The Joint Undertaking shall then publish and***

organise an invitation to tender in 2002-2003 for the next phases of the GALILEO programme.

Justification

The tasks of the Undertaking include preparing and implementing the invitation to tender necessary for the deployment and operational phases together with intensive cooperation with the development company.

Amendment 29

ANNEX Statutes of the GALILEO Joint Undertaking
Article 2, paragraph 3, indent 2a (new)

- The Undertaking should exchange information with the development company on technical, substantive and commercial issues. It may commission the development company to carry out specific studies and analyses on the technical and commercial feasibility of the GALILEO programme.

Justification

This is in line with the amendments on the establishment and description of the development company.

Amendment 30

ANNEX, Article 4, paragraph 1

Without prejudice to Article 3, the Joint Undertaking may, following an invitation to tender, conclude a contract for the provision of services with private undertakings or a consortium of private undertakings, ***in particular to carry out the activities provided for in Article 2(3).***

Without prejudice to Article 3 ***(a) members of*** the Joint Undertaking may, following an invitation to tender, conclude a contract for the provision of services with private undertakings or a consortium of private undertakings, ***the Joint Undertaking must allow for military use of the Galileo system for peacekeeping operations.***

Justification

It would be unfair to allow the Joint Undertaking as a whole, including representatives of industry, to be involved in the tendering procedure as it would put these industries at a competitive advantage. The Galileo system could be a crucial element of EU Member States' security systems, it must not be prevented from being used for this purpose, particularly in the wake of recent terrorist attacks in the USA of the 11th September 2001.

Amendment 31

ANNEX Statutes of the GALILEO Joint Undertaking
Article 7, paragraph 2

The Administrative Board may seek the advice of an Advisory Committee.

The Administrative Board may seek the advice of an Advisory Committee ***and of the monitoring committee.***

Justification

See the role and tasks of the monitoring committee.

Amendment 32
ANNEX Statutes of the GALILEO Joint Undertaking
Article 8, paragraph 1b

Unless otherwise provided in these Statutes, decisions of the Administrative Board shall be adopted by a simple majority of a the votes cast. The Commission and the European Space Agency shall each have **30** votes. ***The other Members*** of the Joint Undertaking shall have a number of votes in proportion to the share of the capital subscribed by ***them***.

Unless otherwise provided in these Statutes, decisions of the Administrative Board shall be adopted by a simple majority of a the votes cast. The Commission and the European Space Agency shall each have ***the same number of votes and in any case at least 30% of the total number of*** votes. ***Another Member*** of the Joint Undertaking shall have a number of votes in proportion to the share of the capital subscribed by ***it***.

Justification

The amendment explains the distribution of votes in the Administrative Board and follows on from the amendments proposed in respect of Article 1 of the Statutes.

Amendment 33
ANNEX Statutes of the GALILEO Joint Undertaking
Article 8, paragraph 2 -a (new)

- a. The Administrative Board must take into account the remarks of the monitoring committee, providing they have been submitted in good time, before taking decisions and adopting resolutions in respect of the substantive and financial implementation of the GALILEO programme.

Justification

See the role of the monitoring committee.

Amendment 34
ANNEX, Article 8, (2), b), indent 6

- approve, by a majority of 75% of the votes, any proposal involving a significant change in the implementation of the GALILEO programme;

- undertake to inform Parliament and the Council if a proposal involves significant changes in the implementation of the GALILEO programme; **after Parliament and Council have been informed such a decision may be approved, by a majority of 75% of the votes;**

Justification

The Galileo project is largely a Community project, utilising a significant amount of Community funds, as such relevant Community institutions should be kept well informed of its progress particularly in the event of important developments.

Amendment 35
ANNEX Statutes of the GALILEO Joint Undertaking
Article 8, paragraph 2.b, indent 9a (new)

- brief the monitoring committee on a regular basis on progress in implementing the programme of the Joint Undertaking and the entire GALILEO programme.

Justification

See role of the monitoring committee.

Amendment 36
ANNEX Statutes of the GALILEO Joint Undertaking
Article 8, paragraph 2b, eleventh indent 9b (new)

- brief the development company on a regular basis concerning progress in implementing the programme of the Joint Undertaking and the entire GALILEO programme, in so far as the information does not concern preparations for and the

implementation of the invitation to tender necessary for the deployment and development phases.

Justification

See role of the development company.

Amendment 37
ANNEX Statutes of the GALILEO Joint Undertaking
Article 12

All the revenue of the Joint Undertaking shall be applied to promoting the objective defined in Article 2. Subject to Article 20(2), no payment by way of division of any excess revenue over expenditure shall be paid to the members of the Joint Undertaking.

All the revenue of the Joint Undertaking shall be applied to promoting the objective defined in Article 2. Subject to Article 20(2), no payment by way of division of any excess revenue over expenditure shall be paid to the members of the Joint Undertaking ***but shall continue to be made available to the Undertaking.***

Justification

This amendment makes the article clearer.

Amendment 38
ANNEX Statutes of the GALILEO Joint Undertaking
Article 13, paragraph 2

2. Before 31 March of each year, the Director shall transmit to the members the programme cost estimates as approved by the Administrative Board. The programme cost estimates shall include a forecast of annual expenditure for the following two years. Within this forecast, the estimates of revenue and expenditure for the first of those two financial years (preliminary draft budget) shall be drawn up in such detail as

2. Before 31 March of each year, the Director shall transmit to the members ***and the monitoring committee*** the programme cost estimates as approved by the Administrative Board. The programme cost estimates shall include a forecast of annual expenditure for the following two years. Within this forecast, the estimates of revenue and expenditure for the first of those two financial years (preliminary draft

is necessary for the internal budgetary procedure of each member regarding its financial contributions to the Joint Undertaking. The Director shall supply the members with all supplementary information needed for this purpose.

budget) shall be drawn up in such detail as is necessary for the internal budgetary procedure of each member regarding its financial contributions to the Joint Undertaking. The Director shall supply the members with all supplementary information needed for this purpose.

Justification

See role of the monitoring committee.

Amendment 39
ANNEX Statutes of the GALILEO Joint Undertaking
Article 13, paragraph 3

3. The members shall forthwith communicate to the Director their comments on the programme cost estimates, and in particular on the estimates of revenue and expenditure for the following year.

3. The members ***and the monitoring committee*** shall forthwith communicate to the Director their comments on the programme cost estimates, and in particular on the estimates of revenue and expenditure for the following year.

Justification

See the role of the monitoring committee.

Amendment 40
ANNEX Statutes of the GALILEO Joint Undertaking
Article 13, paragraph 4

4. Based on the approved programme cost estimates, and taking into account the comments received from members, the Director shall prepare the draft budget for the following year and shall submit it to the Administrative Board for adoption, by a majority of 75 % of the votes, before 30 September.

4. Based on the approved programme cost estimates, and taking into account the comments received from members ***and the comments transmitted in good time by the monitoring committee***, the Director shall prepare the draft budget for the following year and shall submit it to the Administrative Board for adoption, by a majority of 75 % of the votes, before 30

September.

Justification

See role of the monitoring committee. In this monitoring process by the Member States care must be taken to ensure that controls exercised by the Member States on the Joint Undertaking does not paralyse the latter.

Amendment 41
ANNEX Statutes of the GALILEO Joint Undertaking
Article 15

Within two months of the end of each financial year, the Director shall submit the annual accounts and balance-sheets for the preceding year to the Court of Auditors of the European Communities. The audit executed by the Court of Auditors shall be based on records and performed on the spot. The Director shall present the annual accounts and balance-sheet, together with the report of the Court of Auditors, to the Administrative Board for approval by a majority of 75% of the votes. The Director is entitled and, if requested by the Administrative Board, obliged to comment on the report. The Court of Auditors shall send *its* report to the members of the Joint Undertaking.

Within two months of the end of each financial year, the Director shall submit the annual accounts and balance-sheets for the preceding year to the Court of Auditors of the European Communities, ***to the European Parliament and to the Council.*** The audit executed by the Court of Auditors shall be based on records and performed on the spot. The Director shall present the annual accounts and balance-sheet, together with the report of the Court of Auditors, ***of the European Parliament and of the Council,*** to the Administrative Board for approval by a majority of 75% of the votes. The Director is entitled and, if requested by the Administrative Board, obliged to comment on the report. The Court of Auditors, ***the European Parliament and the Council*** shall send ***their*** report to the members of the Joint Undertaking ***and the monitoring committee. The monitoring committee may forward its remarks on the report to the Administrative Board. They shall be taken into account when the report is adopted by the Administrative Board.***

Justification

See role of the monitoring committee. As the European Parliament has the right of veto over the Community budget, it should have the right to oversee this audit and comment on the Court of Auditors findings. The Council must also monitor the financial progress of the project as accountable representatives of governments.

Amendment 42
ANNEX Statutes of the GALILEO Joint Undertaking
Article 17a (new)

Article 17a

The Joint Undertaking shall ensure the protection of sensitive information, whose unauthorised divulgation might prejudice the interests of the contracting parties. The Joint Undertaking shall introduce security principles and minimal standards in this connection.

Justification

The security of the GALILEO programme must be guaranteed at all phases of project development since GALILEO will be a strategic instrument on the market and in the security field.

Amendment 43
ANNEX Statutes of the GALILEO Joint Undertaking
Article 18, paragraph 2

2. Any request for accession shall be addressed to the Director, who shall transmit it to the Administrative Board. The Administrative Board shall decide whether the Joint Undertaking shall start negotiations with the applicant on the conditions of accession. In the case of a positive decision, the Joint Undertaking

2. Any request for accession shall be addressed to the Director, who shall transmit it to the Administrative Board. The Administrative Board shall decide, ***after consulting the monitoring committee***, whether the Joint Undertaking shall start negotiations with the applicant on the conditions of accession. In the case

shall negotiate the conditions of accession and submit them to the Administrative Board which shall act by a majority of 75% of the votes expressed.

of a positive decision, the Joint Undertaking shall negotiate the conditions of accession and submit them to the Administrative Board which shall act by a majority of 75% of the votes expressed.

Justification

See role of the monitoring committee.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Council regulation on the establishment of the GALILEO Joint Undertaking (COM(2001) 336 – C5-0329/2001 – 2001/0136(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2001) 336¹),
 - having been consulted by the Council pursuant to Article 171 of the EC Treaty (C5-0329/2001),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, External Trade, Research and Energy and the opinions of the Committee on Budgets and the Committee on Regional Policy, Transport and Tourism (A5-0005/2002),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 4. Calls for the conciliation procedure to be initiated should the Council intend to depart from the text approved by Parliament;
 5. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
 6. Instructs its President to forward its position to the Council and Commission.

¹ OJ C not yet published.

EXPLANATORY STATEMENT

Introduction

The GALILEO Programme consists of four phases: a definition phase which was completed at the end of 2000, a development phase (2001-2005), a deployment phase (2006-2007) and an operational phase (from 2008).

Your rapporteur would like to stress once again that in order to ensure the relevance of the GALILEO programme it is important to adhere to this timetable. In 2010 the next generation of GPS (GPS II) is due to be completed. If GALILEO only becomes operational at that stage, there is a risk that the European system will be redundant. This would put an end to any hopes of a non-military satellite system.

This report focuses on the organisation of the development phase of the GALILEO programme. Your rapporteur welcomes the fact that the Joint Undertaking proposed by the Commission provides a single management structure for the development phase of the project. He also endorses the choice of Statutes for this structure, as it is intended to provide simple, unbureaucratic and management-oriented working procedures.

As it stands, the Commission proposal on the establishment of the GALILEO Joint Undertaking fails to provide answers to two fundamental questions the Council, COREPER, ESA, the Commission and private industry have focused on in their discussions. These concern the nature of the involvement of the private sector in the development phase of the GALILEO programme and Member States' controls on the Joint Undertaking.

Your rapporteur has therefore decided to concentrate on these two problems. Taking into account the Commission proposal, the position of the Council of Transport Ministers of 16 October 2001, the opinion of the Economic and Social Committee of 6 November 2001 and all the discussions held with each of the parties concerned, your rapporteur would like to use this report to suggest solutions to these two problems.

Involvement of the private sector in the development phase of the GALILEO programme

In its resolution of 3 October 2001 on the Commission's communication on GALILEO (COM(2000) 750, C5-0110/2001-2001/2059 (COS)), the European Parliament urged the Commission to ensure sufficient participation of private industry during each phase of the project. The Commission's proposal on the establishment of the GALILEO Joint Undertaking provides for the financial involvement of the private sector in the development phase of the programme. The Council supports it in principle.

However, membership of private companies in the Joint Undertaking would generate conflicts of interests:

In general:

The public and private sectors basically have different interests. While the private sector for the most part has a commercial interest in the programme, the public sector has to promote other applications of the programme which are in the public interest, namely concerning the environment, data protection, security and the protection of citizens.

Particularly as regards the invitation to tender:

An important task of the Joint Undertaking will be to prepare and carry out the invitation to tender necessary for the deployment and operational phases of the GALILEO programme. The main advantage of this invitation to tender is that it will make things clearer: the public sector will have to describe clearly how GALILEO will be implemented, while industry will apply for contracts by making well-defined bids. At the end of the invitation to tender a contract will be concluded between the public and private partners setting out all the substantive, technical and financial details of programme implementation. The aerospace industry has already agreed in the memorandum of understanding to co-fund the development phase of the programme. If this industry is directly involved in the Joint Undertaking it will also be involved in preparing for the invitation to tender. In the interests of fair competition, it would then have to be excluded from the application procedure for the public invitation to tender which is specifically directed at the aerospace industry! Under these circumstances the aerospace industry would have no interest in being involved in the development phase of the GALILEO programme.

A solution had to be found to allow the private sector to be involved in the development phase - in accordance with the wishes of both the public and private sectors - while avoiding these conflicts of interest. Your rapporteur therefore proposes that a development company be set up alongside the Joint Undertaking. Those industries already interested in this phase of the programme will be represented in the development company. The role and tasks of the development company are as follows: to advise the Joint Undertaking, to publicise the GALILEO programme and to carry out specific tasks (feasibility studies, technical studies, etc.). Your rapporteur does not wish to commit himself as regards the arrangements governing the financial involvement of the private sector in the development company: as far as he is concerned, assets in kind and a distribution of the contribution over the period of the development phase are conceivable. In addition to solving the problem of conflicts of interest, a development company would have further advantages:

1. It would institutionalise exchanges between the private and public sectors. It would therefore be the first step towards a public private partnership (PPP).
2. It would permit an official publicity campaign directed at future users (telecom, public transport, agriculture, insurance, etc.) and the public at large in the GALILEO programme. This publicity campaign would be conducted by the private sector which is more conversant with the market situation and commercial feasibility.

Controls by the Member States on the Joint Undertaking

In the Commission's proposal on the establishment of the GALILEO Joint Undertaking, the

public sector is represented on the Administrative Board of the Joint Undertaking by the Commission and indirectly by the ESA (research ministers). The establishment of a monitoring committee in which each of the Member States is represented is intended to guarantee that programme implementation includes applications which are in the public interest. The monitoring committee has the task of ensuring that due attention is paid to public companies, the environment, the public interest, etc. in determining the contents of the programme and technical implementation. A second task of the monitoring committee is financial control. The committee will ensure that the funding of the programme proceeds as agreed. It also has the task of making sure that the future GALILEO system ensures protection of privacy and security for citizens.

Because timing is crucial for the success of the entire GALILEO programme, care must be taken to ensure that the advisory and controlling function of the monitoring committee under no circumstances paralyses the work of the Joint Undertaking. Steps must therefore be taken to ensure that decisions by the monitoring committee focus on essential issues and can be taken at short notice.

Concluding remarks

Following the events of 11 September 2001, the security precautions of the GALILEO system deserve more attention. The changes in the structures proposed by this report are now even more relevant:

- The direct involvement of the private sector in the Joint Undertaking is incompatible with the decision on security structures. In order to avoid this problem, your rapporteur advocates the establishment of the development company described in this report.
- The establishment of a monitoring committee in which each Member State is represented, will institutionalise preparations for security aspects of the GALILEO system.

22 November 2001

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Industry, External Trade, Research and Energy

on the proposal for a Council regulation on the establishment of the GALILEO Joint Undertaking
(COM(2001) 336 – C5-0329/2001 – 2001/0136(CNS))

Draftsman: Francesco Turchi

PROCEDURE

The Committee on Budgets appointed Francesco Turchi draftsman at its meeting of 11 July 2001.

It considered the draft opinion at its meeting of 21 November 2001.

At the last meeting it adopted the following amendments by 18 votes in favour and 2 votes against.

The following were present for the vote: Terence Wynn, chairman; Francesco Turchi, draftsman; Ioannis Averoff, Jean-Louis Bourlanges, Paulo Casaca, Joan Colom i Naval, Carlos Costa Neves, Den Dover, Göran Färm, Markus Ferber, Salvador Garriga Polledo, Catherine Guy-Quint, Wilfried Kuckelkorn, John Joseph McCartin, Juan Andrés Naranjo Escobar, Bartho Pronk (for Reimer Böge), Heide Rühle, Kyösti Tapio Virrankoski, Ralf Walter and Brigitte Wenzel-Perillo.

SHORT JUSTIFICATION

1. Background

The Commission has presented a proposal for the setting-up of a Joint Undertaking to complete the development phase (2001-2005) of GALILEO, the European satellite radionavigation programme. According to the proposal, the Joint Undertaking would provide a single management structure, which would be flexible, with legal personality, and capable of concluding the contracts needed to set up GALILEO.

The Joint Undertaking would be responsible for:

- ensuring the smooth development of the programme and the continuation of the research and technological development efforts;
- bringing together public and private sector funding; and
- preparing for the management of the subsequent phases of the programme (deployment, operation and application), including its transformation into another legal structure which could take the form of a European company.

The development phase is estimated to cost €1.1 billion. This would be split equally between the budgets of the Community and the European Space Agency, with an extra €200 million coming from the private sector.

The Community's financial contribution would come from two budget lines: in addition to €550 million earmarked under the Trans-European Transport Networks (B5-700), a token entry would be introduced in chapter B6-6, pending a decision on the 6th Framework Programme for Research and Technological Development (2002-2006).

In € million (current prices)

Breakdown	2001	2002	2003	2004	2005	Total
TENs (B5-700)	100	170	80	70	130	550
Research (B6-6)		-	<i>pm</i>	<i>pm</i>	<i>pm</i>	<i>pm</i>

Out of the amount financed by the European Space Agency (€550 million), €50 million would be paid in cash and €500 million in kind, as stated in the Statutes of the Joint Undertaking in the annex of the proposal.

The private sector has pledged to supplement the EC and ESA budgets by an additional €200 million. In March 2001, representatives of the main industries concerned signed a Memorandum of Understanding, whereby they committed themselves to provide this amount for the development phase of GALILEO.

Consequently, the Commission is now proposing the establishment of a Joint Undertaking on the basis of Article 171 establishing the European Community.

According to the Commission, the Joint Undertaking would require a certain degree of legal and financial autonomy in order to carry out all the operations required to achieve its objectives.

The Joint Undertaking would be administered by three bodies, which would draw up the rules of procedure and the financial regulations and issue directives:

- a) The Administrative Board, which would take all the strategic decisions on programming, financial and budgetary matters. Furthermore, it would appoint the Director of the Joint Undertaking and approve its organisation chart;
- b) The Executive Committee, which would consist of three members: a representative of the European Commission, a representative of the European Space Agency, and a representative designated by the Administrative Board. The Executive Board could be delegated some additional tasks that are considered necessary in order to allow more flexible management of the Joint Undertaking;
- c) The Director, who would ensure the day-to-day management of the Joint Undertaking. The Director would draw up to the Administrative Board the various documents and reports provided for in the Statutes of the Joint Undertaking.

The financial management of the Joint Undertaking would include rules on the implementation of the annual budget and internal financial control, and on the presentation of annual balance-sheets.

2. Financial and legislative remarks

The rapporteur is in favour of the Commission's proposal but believes that some points need further clarification. For instance, it remains unclear whether candidate countries would be entitled to participate in the development phase of GALILEO, and whether the Commission foresees any arrangements to gear these countries to the telematic innovations of the Community. In accordance to the resolution adopted in October 2001,¹ the rapporteur considers that the Commission should establish clear criterias for the participation of private enterprises in the Joint Undertaking. This would reduce the risk of conflict of interests, improve transparency and ensure that GALILEO achieves a truly European dimension.

The rapporteur points out that the proposal contains no reference to the budgetary authority even though a major part of its activities are to be financed from the general budget. Given that the Joint Undertaking will implement EU policies, employ staff and be dependent on Community support, it would seem appropriate that it should comply with the general budgetary procedures. In addition, the rapporteur proposes to establish a separate budget line for the administrative costs of GALILEO so as to better monitor its activities and improve the follow-up of administrative expenditure.

The Commission should inform the budgetary authority on a regular basis on the implementation of the development phase. The annual report on the activities of the Joint Undertaking should be sent to the two arms of the budgetary authority and not only to the Court of Auditors as proposed by the Commission.

The rapporteur also reminds that the financial viability of the deployment phase of the GALILEO programme (2006-2007) remains unclear as long as investments from the private sector have not been confirmed. According to the Commission, the private sector should cover €1.5 billion out of the total €2.1 billion needed for this purpose. So far, however, European industry leaders have been reluctant to make the necessary pledges, whereby the long-term feasibility of the programme remains to be solved. Consequently, the rapporteur considers that

¹ Paragraphs 16 and 21 of resolution A5-288/2001 of 3 November 2001.

the Joint Undertaking should place a major emphasis on the preparation of the deployment phase so as to mobilise the required investments from the private sector for the successive phases of the programme.

AMENDMENTS

The Committee on Budgets calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1 Recital 15 (new)

Whereas over the past years, the budgetary authority has looked to improve transparency and control over the management of Community funding, in particular concerning financial control, power of discharge, contribution to the pension scheme and internal budgetary procedure (code of conduct).

Justification

Given that the Joint Undertaking will implement EU policies, employ staff and be dependent on a Community subsidy, the general budgetary procedures applied to the agencies should by analogy be applied also to the Joint Undertaking.

Amendment 2 Article 2

2. The Joint Undertaking shall have legal personality. In all the Member States of the European Community, it shall enjoy the most extensive legal capacity accorded to legal persons under the laws of those States. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.

2. The Joint Undertaking shall have legal personality. In all the Member States of the European Community, it shall enjoy the most extensive legal capacity accorded to legal persons under the laws of those States. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.

2a. The Joint Undertaking, being largely financed from the general budget of the Union, shall respect in its internal procedures the principles applicable to the European Institutions.

¹ OJ C 270 E, 25.9.2001, p. 119.

2b. Candidate countries shall be entitled to participate to the activities of the Joint Undertaking through the appropriate instruments foreseen in the budget.

Justification

The principles of transparency and financial accountability should be applicable to the new management structure of GALILEO, especially as an important part of its funding will come from the general budget of the Union. Similarly, candidate countries should be eligible to participate to the activities of the Joint Undertaking as pointed out in the Parliament's resolution on GALILEO on 3 October 2001.

Amendment 3
Article 3

The Statutes of the GALILEO Joint Undertaking, annexed to this Regulation, are hereby adopted.

The Statutes of the GALILEO Joint Undertaking, annexed to this Regulation, are hereby adopted.

The Commission shall inform the budgetary authority on a regular basis on the implementation of the development phase of GALILEO, as well as on the prospects to attract new investments for the consecutive phases. The annual report of the Joint Undertaking shall be made available to all parties concerned.

Justification

The proposal makes no reference to the budgetary authority even though part of its activities will be financed from the general budget. In order to ensure a proper follow-up, the rapporteur considers that the Commission should provide regular information on the implementation of the activities of the Joint Undertaking as well as on the follow-up concerning private investments due for the successive phases of GALILEO.

19 December 2001

OPINION OF THE COMMITTEE ON REGIONAL POLICY, TRANSPORT AND TOURISM

for the Committee on Industry, External Trade, Research and Energy

on the proposal for a Council regulation on the establishment of the GALILEO Joint Undertaking

(COM(2001) 336 – C5-0329/2001 – 2001/0136((CNS))

Draftsman (*): Brigitte Langenhagen

(*) Enhanced Hughes Procedure

PROCEDURE

The Committee on Regional Policy, Transport and Tourism appointed Brigitte Langenhagen draftsman at its meeting of 11 October 2001.

At the meeting of 25 October 2001 the President announced that the Committee on Regional Policy, Transport and Tourism, as the committee asked for its opinion, would participate in drafting the report under the enhanced Hughes procedure.

It considered the draft opinion at its meetings of 26 November and 19 December 2001.

At the latter meeting it adopted the following amendments by 36 votes to 9, with 2 abstentions.

The following were present for the vote: Konstantinos Hatzidakis, chairman; Emmanouil Mastorakis, Rijk van Dam and Helmuth Markov, vice-chairmen; Brigitte Langenhagen, draftsman; Pedro Aparicio Sánchez (for Carmen Cerdeira Morterero), Sir Robert Atkins, Emmanouil Bakopoulos, Rolf Berend, Theodorus J.J. Bouwman, Philip Charles Bradbourn, Felipe Camisón Asensio, Luigi Cocilovo (for Luigi Cesaro), Garrelt Duin, Giovanni Claudio Fava, Markus Ferber (for Francis Decourrière), Mathieu J.H. Grosch, Ewa Hedkvist Petersen, Mary Honeyball, Juan de Dios Izquierdo Collado, Georg Jarzembowski, Elisabeth Jeggle (for Jacqueline Foster), Dieter-Lebrecht Koch, Linda McAvan (for Carlos Lage), Erik Meijer, Francesco Musotto, Camilo Nogueira Román, Juan Ojeda Sanz, Josu Ortuondo Larrea, Wilhelm Ernst Piecyk, Giovanni Pittella (for Rosa Miguélez Ramos), Samuli Pohjamo, Alonso José Puerta, Marieke Sanders-ten Holte, Gilles Savary, Ingo Schmitt, Elisabeth Schroedter (for Reinhold Messner), Brian Simpson, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Margie Sudre, Helena Torres Marques (for Mark Francis Watts), Ari Vatanen,

Adriaan Vermeer (for Isidoro Sánchez García pursuant to Rule 153(2)), Demetrio Volcic and
Brigitte Wenzel-Perillo (for Dana Rosemary Scallon).

SHORT JUSTIFICATION

1. Background

The EU has decided to develop its own satellite radionavigation system Galileo including ground infrastructure. The definition phase began in June 1999 following a decision by the Transport Council and the results have been outlined in a Commission communication¹. The European Parliament has strongly supported developments so far.

2. Organisational structure

The Galileo programme is currently managed jointly by the European Commission, on the policy side, and the European Space Agency (ESA) on the technical side. This arrangement worked well during the definition phase that has now been completed, although it demanded considerable coordination and administrative resources. In view of the increasing complexity of the measures required for the further development of the project, this arrangement no longer appears adequate.

Consequently, with a view to the development phase (2001-2005)², a Joint Undertaking is to be created under Article 171 of the EC Treaty.

3. Problems raised by the Joint Undertaking

This proposal is to be welcomed in principle as it is an important and necessary step in developing Galileo into an operational system. A single organisation will make it possible to pool capabilities and provide valuable synergies. However, the rapporteur has reservations about the early financial involvement of industry, specifically called for by the Council, in the development and validation phase (2001-2005) that has just commenced.

At this stage, i.e. seven years before the system comes into operation, it is not essential to call for significant financial contributions from industry. Firms in the European space industry, which are organised on commercial lines, must be able to see a clear and measurable return on their investments in order to justify any financial participation to their shareholders. At the current time this is simply not possible. Consequently, the necessary investment for the development of Galileo should be made by the public sector. Granting participating firms a preferential position in the future operation of the system is also inadvisable on grounds of competition law.

A further controversial aspect of the proposal is that of security. The 11 September attacks in New York mean that it will not be possible to achieve the necessary compatibility between Galileo signals and GPS unless stringent security measures are taken in planning the structures. The United States might have reservations about any involvement of private firms in the organisational structure at this time, making negotiations on frequencies more difficult.

Another key issue is the location of the seat of the Joint Undertaking. As a private firm, the Joint Undertaking will be subject to national law and thus to the legislation on tax and other

¹ COM(2000) 750, Cf corresponding EP report (A5-0288/2001).

² This phase is to be financed with public funds of EUR 1.1 billion already allocated to the budgets of the European Communities and the European Space Agency in equal amounts.

fiscal charges of the country in which it is located. The plan to locate the seat in Brussels will make it subject to a very high tax rate (21%) and unless Belgium were to grant tax exemption this would be unacceptable to the committee. Furthermore it has to be seen whether the draft Statute is legally compatible with Belgian law and with the ESA Convention¹.

A further issue is scrutiny by the Member States. At the Council meeting of 15 October 2001 and at the Coreper meeting of 7 November 2001 it was proposed that a supervisory board composed of the Commission and representatives of the Member States should be set up and should establish the position to be taken by the Commission in the administrative board. This solution is acceptable provided that account is taken of the need for greater consistency in the positions adopted by the Member States in the governing bodies of the Joint Undertaking and the ESA.

4. Recommendations and conclusions

The Joint Undertaking is designed to implement the Council's call for early financial involvement of the industry. The objective of setting up a single management structure it is to be endorsed, although we have reservations with regard to the financial contributions from industry. The rapporteur therefore advocates the setting up of a single management structure (with industry participating in an advisory capacity) on the basis of the Commission proposal, to act as a partner, adviser and relay station between public and private interests and to prepare the future phases involving the private sector. Not until the end of the development and validation phase, i.e. 2005, should the proposed public-private partnership be implemented. The rapporteur urges the Council to take a decision in December to safeguard the credibility of the EU and its decision-making bodies and to avoid jeopardising the whole project.

AMENDMENTS

The Committee on Regional Policy, Transport and Tourism calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission ²	Amendments by Parliament
<p style="text-align: center;">Amendment 1 Recital 11</p>	
(11) Taking into account the number of players who will need to be involved in this process, and the financial resources	(11) Taking into account the number of players who will need to be involved in this process, and the financial resources

¹ Article II (Purpose) of the ESA Convention does not allow for ESA tasks or funds to be delegated or transferred to other bodies.

² OJ C not yet published.

and technical expertise needed, it is vital to set up a legal entity capable of ensuring the coordinated management of the funds assigned to the GALILEO programme during its development phase.

and technical expertise needed, it is vital to set up a legal entity capable of ensuring the coordinated management of the funds assigned to the GALILEO programme, ***coordinated project management and stringent financial management*** during its development phase. ***This legal entity will ensure transparency in the financial management and awarding of contracts while avoiding conflicts of interest.***

Justification

More precise definition of the tasks of the Joint Undertaking.

Amendment 2 Recital 14

(14) The Joint Undertaking's main task will be to successfully complete the development of the GALILEO programme during its development phase by combining ***public and private sector funding***; in addition, it will make it possible to ensure the management of major demonstration projects.

(14) The Joint Undertaking's main task will be to ***speedily and*** successfully complete the development of the GALILEO programme during its development phase by combining ***the expertise, information and funding of the EU, ESA and industry***; in addition, it will make it possible to ensure the management of major demonstration projects.

Justification

The future Joint Undertaking involves more than just combining public and private sector funding, this could be done in other ways. The Joint Undertaking is to be seen rather as the institutional vehicle for the public-private-partnership between the EU and ESA on the one hand and market-based players on the other. Firstly, the Joint Undertaking will ensure that the activities of the EU (policy) and the ESA (technology) are dovetailed, which was difficult to achieve even during the definition phase through the then separate channels. Secondly, it is also of crucial importance that industry (the market) should also be sitting at the table during the development phase so that it can give or receive feedback immediately without any time or information being lost at the various stages of the process (for instance invitations to tender, feasibility tests with the first satellites). The Joint Undertaking's most important task is therefore to avoid further delays in implementing Galileo to ensure that it does not lose any more ground to other competing technologies (GPS II, mobile telephony). Any reservations about particular representatives of industry should not appear among the considerations of

principle but should rather be dealt with by flexible solutions.

Amendment 3
Recital 14a (new)

(14a) In view of the importance of a dynamic and innovative satellite navigation and transport telematics applications industry and for the whole refinancing of the system, even at the development phase the Galileo Joint Undertaking must have the task of drawing up the basic (open) concepts for this area and acting as an interface with the relevant industries.

Justification

As the Joint Undertaking cannot just be a joint Fund established by the ESA and the EU and the whole potential of the programme is based on the economic, environmental, transport and social added value of Galileo applications, this point must be included in the preamble to the Regulation. This addition serves not only as a clarification but should also give a clear signal. Experts consider that over 50% of the targeted economic impact of Galileo will come from its applications. Consequently this area should be referred to specifically in the recitals concerning the Joint Undertaking.

Amendment 4
Recital 14b (new)

(14b) To ensure that the future Joint Undertaking can fulfil its tasks effectively, the Member States should adopt consistent positions in the Council and ESA.

Justification

For the Joint Undertaking to work effectively, the Member States need to coordinate their positions in the Council and the ESA.

Amendment 5
Recital 14c (new)

(14c) The seat of the Joint Undertaking is to be decided after examining the compatibility of the draft Statute with the laws of the relevant Member State, with reference to tax exemption in the potential country of location.

Justification

As a private undertaking, the Joint Undertaking is subject to national law, and hence the tax and other fiscal regulations, of the country where it is established. Locating the seat in Brussels, as planned, would involve a high rate of tax. Consequently, the decision on the seat should be conditional upon the granting of tax exemption by Belgium.

Amendment6 Article 1

For the implementation of the GALILEO satellite radionavigation programme, there shall be established a Joint Undertaking within the meaning of Article 171 of the Treaty establishing the European Community for a period of four years.

Its aim shall be to ensure a single management structure for the research, development and demonstration phase of the GALILEO programme, and to this end mobilise the funds assigned to this programme.

Its seat shall be located in Brussels.

For the implementation of the GALILEO satellite radionavigation programme, there shall be established a Joint Undertaking within the meaning of Article 171 of the Treaty establishing the European Community for a period of four years.

Its aim shall be to ensure a single management structure for the research, development and demonstration phase of the GALILEO programme, and to this end mobilise the funds assigned to this programme. ***A key task of the Joint Undertaking is also to prepare and implement the invitation to tender which is necessary for carrying out the deployment and operational phases.***

The seat of the Joint Undertaking is to be decided after examining the compatibility of the draft Statute with the laws of the relevant Member State, with reference to tax exemption in the potential country of location.

Justification

Issuing an invitation to tender in accordance with European rules of competition will provide the clarity and transparency required by the public and private sector alike. As a private undertaking, the Joint Undertaking is subject to national law, and hence the tax and other fiscal regulations, of the country where it is established. Locating the seat in Brussels, as planned, would involve a high rate of tax. Consequently, the decision on the seat should be conditional upon the granting of tax exemption by Belgium.

Amendment 7 Article 4a (new)

Article 4a

The Commission shall report to the Council and Parliament annually on progress in the programme and shall keep them regularly informed of any new members that join the Joint Undertaking.

Justification

The proposal does not require progress reports on the programme or information on new members; in view of the importance of the project, this is unacceptable.

Amendment 8 Annex, Article 1, paragraph 2

2. Its seat shall be located in Brussels.

2. The seat of the undertaking is to be decided by reference to the tax exemption proposed by the potential country of location.

Justification

As a private undertaking, the Joint Undertaking is subject to national law, and hence the tax

and other fiscal regulations, of the country where it is established. Locating the seat in Brussels, as planned, would involve a high rate of tax. Consequently, the decision on the seat should be conditional upon the granting of tax exemption by Belgium.

Amendment 9
Annex, Article 2, paragraph 3, first indent

- It will draw up a business plan covering all the phases of the programme on the basis of data to be supplied by the European Commission concerning the services that can be offered by GALILEO, the revenue that they may generate and the necessary accompanying measures; ***it shall ensure that private undertakings which have participated in the Joint Undertaking enjoy preferential treatment in becoming members of the entity which will be responsible for the deployment and operation of the navigation system.***

- It will draw up a business plan covering all the phases of the programme on the basis of data to be supplied by the European Commission concerning the services that can be offered by GALILEO, the revenue that they may generate and the necessary accompanying measures.

Justification

It is not feasible, particularly on grounds of competition law, for industrial firms involved in the Joint Undertaking to be able to acquire an advantageous position.