

**RESOLUTION
ON
AMENDMENTS TO THE CONVENTION**

Adopted at the 15th Council Meeting on 4-5 June 1991

The EUMETSAT Council

HAVING REGARD to the EUMETSAT Convention in force since 19 June 1986, and in particular to Article 17,

NOTING that during the implementation of the Convention a number of deficiencies were identified, in particular with regard to the establishment of new programmes,

CONSCIOUS of the need to evaluate future programmes within an adequate constitutional framework,

- I **RECOMMENDS** to the Member States to accept the amendments to the Convention for the Establishment of a European Organisation for the Exploitation of Meteorological Satellites as set out in the "Amending Protocol" attached to this resolution.
- II **RECALLS** that the final date of formal entry into force of the amendments is determined by the receipt of "written declarations of acceptance" of the Member States in accordance with Article 17.2 of the Convention.
- III **URGES** the Member States to accept the amendments to the Convention at the earliest possible date.

ORIGINAL



John Morgan

Director

EUMETSAT
European Organisation for the
Exploitation of Meteorological Satellites
AM ELFENGRUND 45
D - 6100 DARMSTADT-EBERSTADT

"AMENDING PROTOCOL"

**AMENDMENTS TO
THE CONVENTION FOR THE
ESTABLISHMENT OF A
EUROPEAN ORGANISATION FOR THE
EXPLOITATION OF METEOROLOGICAL
SATELLITES ("EUMETSAT"), of
24 May 1983**

The EUMETSAT Council in accordance with Article 17.1 of the EUMETSAT Convention recommends to accept the following amendments to the Convention for the Establishment of a European Organisation for the Exploitation of Meteorological Satellites ("EUMETSAT") of 24 May 1983, hereinafter referred to as "the Convention":

The **Considerata** of the Convention are amended as follows:

- A new paragraph is added under "Considering";
- All paragraphs under "Noting" are replaced by the following;
- The first paragraph under "Recognising" is replaced by the following;

"CONSIDERING that

- Meteorological satellites, by virtue of their data coverage and operational characteristics, provide long term global data sets of vital importance for the monitoring of the earth and its climate, especially important for the detection of global change;

NOTING that:

- the World Meteorological Organization has recommended its members to improve meteorological data bases and strongly supported plans to develop and exploit a global satellite observation system in order to contribute to its programmes;
- the METEOSAT satellites were successfully developed by the European Space Agency;
- the METEOSAT operational programme (MOP) conducted by EUMETSAT has demonstrated Europe's capacity to assume its share of responsibility in the operation of a global satellite observation system;

RECOGNISING that:

- no other national or international Organisation provides Europe with all the meteorological satellite data necessary to cover its zones of interest;"

Article 1

Article 1 of the Convention is amended as follows:

- The reference to Article 15.2 and 15.3 in paragraph 2 is replaced by a reference to Article 16.2 and 16.3.
- the word "Director" in paragraph 4 is replaced by "Director-General".
- Paragraph 5 is replaced by the following:

"The Headquarters of EUMETSAT shall be located in Darmstadt, Federal Republic of Germany, unless otherwise decided by Council in accordance with Article 5.2 (b) v."

Article 2

Article 2 of the Convention is amended as follows:

- The title and paragraphs 1 and 2 are replaced by the following;
- New paragraphs 4 - 9 are inserted;

"Article 2 - Objectives, Activities and Programmes

- 1 The primary objective of EUMETSAT is to establish, maintain and exploit European systems of operational meteorological satellites, taking into account as far as possible the recommendations of the World Meteorological Organization.

A further objective of EUMETSAT is to contribute to the operational monitoring of the climate and the detection of global climatic changes.

- 2 The definition of the initial system is contained in Annex I; further systems shall be established as defined in Article 3.
- 4 For the purpose of achieving its objectives EUMETSAT shall, as far as possible, and in conformity with meteorological tradition, cooperate with the Governments and national organisations of the Member States, as well as with Non-Member States and governmental and non-governmental international scientific and technical organisations whose activities are related to its objectives. EUMETSAT may conclude agreements to that end.
- 5 The General Budget comprises activities not linked to a specific programme. They shall represent the basic technical and administrative infrastructure of EUMETSAT including basic staff, buildings and equipment as well as preliminary activities authorised by the Council in preparation of future programmes not yet approved.

- 6 The programmes of EUMETSAT shall include mandatory programmes in which all Member States participate and optional programmes with participation by those Member States that agree so to do.
- 7 Mandatory programmes are:
- a) The METEOSAT Operational Programme (MOP) as defined in Annex 1 of the Convention;
 - b) The basic programmes required to continue the provision of observations from geostationary and polar orbits;
 - c) Other programmes as defined as such by the Council.
- 8 Optional programmes are programmes within the objectives of EUMETSAT agreed as such by the Council.
- 9 EUMETSAT may, outside the programmes referred to in paragraphs 6, 7 and 8 above but not in conflict with the objectives of EUMETSAT, carry out activities requested by third parties and approved by the Council in accordance with Article 5.2 (a). The cost of such activities shall be borne by the third party concerned."

Article 3

Article 3 of the Convention is deleted and replaced by the following:

"Article 3 - Adoption of Programmes and the General Budget

- 1 Mandatory programmes and the General Budget are established through the adoption of a Programme Resolution by the Council in accordance with Article 5.2 (a), to which a detailed Programme Definition, containing all necessary programmatic, technical, financial, contractual, legal and other elements is attached.
- 2 Optional programmes are established through the adoption of a Programme Declaration by the Member States interested in accordance with Article 5.3 (a) to which a detailed Programme Definition, containing all necessary programmatic, technical, financial, contractual, legal and other elements is attached. Any optional programme shall fall within the objectives of EUMETSAT and be in accordance with the general framework of the Convention and the rules agreed by the Council for its application. The Programme Declaration shall be approved by the Council in an Enabling Resolution in accordance with Article 5.2 (d) iii.

Any Member State shall have the opportunity to participate in the preparation of a draft Programme Declaration and may become a Participating State of the optional programme within the time frame set out in the Programme Declaration.

Optional programmes take effect once at least one third of all EUMETSAT Member States have declared their participation by signing the Declaration within the time frame set out and the subscriptions of these Participating States have reached 90% of the total financial envelope."

Article 4

Article 4 of the Convention is amended as follows:

- In paragraph 1 the words "delegate of his country's meteorological service" are replaced by "delegate of the country's national meteorological service".
- In paragraph 4 the words "objectives of EUMETSAT" are replaced by "objectives and programmes of EUMETSAT".

Article 5

Article 5 of the Convention is amended as follows:

- Paragraph 2 is replaced by the following;
- A new paragraph 3 is inserted;
- Paragraphs 3 and 4 become paragraphs 4 and 5 and are amended;

"2 The Council shall in particular be empowered,

a) by a unanimous vote of all the Member States:

- i. to decide on the accession of States referred to in Article 16, and on the terms and conditions governing such accession;
- ii. to decide on the adoption of mandatory programmes and General Budget as referred to in Article 3.1;
- iii. to decide on the ceiling of contributions for the General Budget for a period of five years one year before the end of the period or to revise such a ceiling;
- iv. to decide on any measures of financing programmes, e.g. through loans;
- v. to authorise any transfer from a budget of a mandatory programme to another mandatory programme;
- vi. to decide on any amendment of an approved Programme Resolution and Programme Definition as referred to in Article 3.1;

- vii. to approve the conclusion of Cooperation Agreements with Non-Member States;
 - viii. to decide to dissolve or not to dissolve EUMETSAT in conformity with Article 20;
 - ix. to amend the Annexes to this Convention;
 - x. to approve cost overruns of more than 10% thereby increasing the original financial envelope or ceiling of mandatory programmes (except for MOP);
 - xi. to decide on activities to be carried out on behalf of third parties.
- b) by a two-thirds majority vote of the Member States present and voting representing also at least two-thirds of the total amount of GNP contributions (respectively MOP contributions for i. below):
- i. to adopt the annual budget for the MOP, together with the level of staff complements and the expenditure and income forecast for the following three years attached thereto;
 - ii. to adopt the financial rules as well as all other financial provisions;
 - iii. to decide on the way EUMETSAT will be dissolved pursuant to the provisions of Article 20.3 and 4;
 - iv. to decide on the exclusion of a Member State pursuant to the provisions of Article 14, and on the conditions of such exclusion;
 - v. to decide on any transfer of the EUMETSAT Headquarters;
 - vi. to adopt the Staff Rules;
 - vii. to decide on the distribution policy for satellite data for mandatory programmes.
- c) by a vote representing at least two-thirds of the total amount of contributions and one half of the Member States present and voting:
- i. to adopt the annual General Budget and the annual budgets for mandatory programmes (except for MOP), together with their level of staff complements and the expenditure and income forecast for the following three years attached thereto;
 - ii. to approve cost overruns of up to 10% thereby increasing the original financial envelope or ceiling (except for MOP);

- iii. to approve annually the accounts of the previous year, together with the balance sheet of the assets and liabilities of EUMETSAT, after taking note of the auditor's report, and give discharge to the Director-General in respect of the implementation of the budget;
 - iv. to decide on all other measures relating to mandatory programmes that have a financial impact on the Organisation;
- d) by a two-thirds majority of the Member States present and voting:
- i. to appoint the Director-General for a specific period, and terminate or suspend his appointment; in the case of suspension the Council shall appoint an Acting Director-General;
 - ii. to define the operational specifications of mandatory satellite programmes as well as the products and services;
 - iii. to decide that an envisaged optional programme falls within the objectives of EUMETSAT and that the programme is in accordance with the general framework of the Convention and the rules agreed by Council for its application;
 - iv. to approve the conclusion of any Agreement with Member States, international governmental and non-governmental Organisations, or national Organisations of Member States;
 - v. to adopt recommendations to the Member States concerning amendments to this Convention;
 - vi. to adopt its own rules of procedure;
 - vii. to appoint the auditors and to decide the length of their appointments.
- e) by a majority of the Member States present and voting:
- i. to approve appointments and dismissals of senior staff;
 - ii. to decide on the setting-up of subsidiary bodies and working groups and define their terms of reference;
 - iii. to decide on any other measures not explicitly provided for in this Convention;
- 3 For optional programmes the following specific rules apply:
- a) The Programme Declaration shall be adopted by a two-thirds majority of Member States interested, present and voting.

- b) All measures for the implementation of an optional Programme shall be decided upon by a vote representing at least two-thirds of the contributions and one-third of the Participating States present and voting.

The coefficient of a Participating State is limited to 30%, even if the percentage of its financial contribution is higher.

- c) Any amendment of the Programme Declaration or any decision on accession requires unanimity of all Participating States.

- 4 Each Member State shall have one vote in the Council. However, a Member State shall have no vote in the Council if the amount of its arrears of contributions exceeds the assessed amount of its contributions for the current financial year. In such cases the Member State concerned may nevertheless be authorised to vote if a two-thirds majority of all the Member States entitled to vote considers that the non-payment is due to circumstances beyond its control. For the purpose of determining unanimity of the majorities provided for in the Convention, no account shall be taken of a Member State that is not entitled to vote. The above rules shall apply *mutatis mutandis* to optional programmes.

The expression "Member State present and voting" shall mean the Member States voting for or against. Member States that abstain shall be considered as not voting.

- 5 The presence of representatives of a majority of all the Member States entitled to vote shall be necessary to constitute a quorum. This rule shall be applied *mutatis mutandis* to optional programmes. Council decisions in respect of urgent matters may be secured by means of a written procedure in the interval between Council meetings."

Article 6

Article 6 of the Convention is amended as follows:

- The word "Director" is replaced by "Director-General" in the title of the Article and in paragraphs 1, 2 and 3.
- In paragraph 2, a new sub-paragraph d) is inserted. Consequently, sub-paragraphs d) to i) become e) to j). Sub-paragraph g) is amended to read "budgets" instead of budget.

"Article 6 - Director-General

- 1 The Director-General

2 The Director-General

- d) implement decisions of the Council regarding the financing of EUMETSAT;
- h) prepare and implement the budgets of EUMETSAT implementation of the budgets

3 The Director-General"

Article 7

Article 7 of the Convention is amended as follows:

- In paragraph 1, the word "clause" is replaced by the word "Article".
- In paragraph 4, the reference to Article 5.2 (b) is replaced by a reference to Article 5.2 (e); in addition, in paragraphs 4 and 5, the word "Director" is replaced by "Director-General".

Article 8

A new Article 8 is inserted. Consequently, all the following Articles are shifted accordingly.

"Article 8 - Ownership and Distribution of Satellite Data

- 1 EUMETSAT shall have worldwide exclusive ownership of all data generated by EUMETSAT's satellites or instruments.
- 2 EUMETSAT shall make available sets of data agreed by the Council to the national meteorological services of Member States of the World Meteorological Organization.
- 3 The distribution policy regarding satellite data shall be decided in accordance with the rules laid down in Article 5.2 (b) for mandatory programmes and 5.3 (b) for optional programmes. EUMETSAT, through the Secretariat, and the Member States shall be responsible for the implementation of this policy."

Article 9

Article 8 of the Convention becomes Article 9 and it is amended as follows:

- In paragraph 2, the reference to Annex I to this Convention is deleted. Consequently, paragraph 2 ends after "... the services provided".

Article 10

Article 9 of the Convention becomes Article 10 and it is amended as follows:

- Paragraphs 1, 3 and 4 are deleted;
 - Paragraph 2 becomes paragraph 1;
 - New paragraphs 2 to 7 are inserted;
 - Paragraphs 5 and 6 become paragraphs 8 and 9.
- "2 Each Member State shall pay to EUMETSAT an annual contribution to the General Budget and to the mandatory programmes (except for MOP) on the basis of the average Gross National Product (GNP) of each Member State for the three latest years for which statistics are available.

The update of the statistics shall be made every three years.

For MOP, each Member State shall pay to EUMETSAT an annual contribution on the basis of the scale contained in Annex II.

- 3 Member States are bound to pay their contributions to mandatory programmes (except MOP) up to a maximum of 110% if a decision is taken according to Art. 5.2 (c)(ii).
- 4 For optional programmes, each participating Member State shall pay to EUMETSAT an annual contribution on the basis of the scale agreed for the programme.
- 5 In the case an optional programme is not fully subscribed within one year after the date at which it has taken effect in accordance with Article 3.2 the existing participants are bound to accept a new scale of contributions whereby the deficit is distributed pro rata, unless they agree unanimously on a different solution.
- 6 All contributions shall be made in European Currency Units (ECU) as defined by the European Communities. For MOP contributions may also be made in any convertible currency.
- 7 The methods of payment of the contributions, and the methods of updating the statistics for GNP, shall be determined in the Financial Rules."

Article 11

Article 10 of the Convention becomes Article 11 and it is amended as follows:

- The title is replaced by "Budgets".

- Paragraph 1 is replaced by the following: "Budgets shall be established in terms of ECU".
- In paragraph 3, the words "annual budget" are replaced by "budgets".
- Paragraph 4 is replaced by the following:

"4 The Council shall, in conformity with Article 5.2 (b) and (c), adopt the budget for MOP, the General Budget and the budgets for mandatory programmes for each financial year, as well as any supplementary and amending budgets. Member States participating in optional programmes shall adopt the budgets for these programmes in accordance with Article 5.3 (b)."
- In paragraph 5, the reference to the Council is deleted and the word "budget" is replaced by "budgets". The beginning of the paragraph therefore reads: "the adoption of the budgets shall constitute....". In sub-paragraph a) "budget" is also replaced by "budgets"; in sub-paragraph b) "Director" is replaced by "Director-General".
- In paragraph 6, the reference to the Council is deleted, and "Director" is replaced by "Director-General". The beginning of paragraph 6 is therefore: "If a budget has not been adopted by the beginning of a financial year, the Director-General may make payments in each chapter of the corresponding budget...".
- Paragraph 7 is replaced by the following:

"7 Member States shall pay each month, on a provisional basis and in accordance with the scale of contributions, the amounts necessary for the application of paragraph 6 of this Article."

Article 12

Article 11 of the Convention becomes Article 12 and is amended as follows:

- In paragraph 1, "budget" is replaced by "budgets";
- In paragraph 2, "Director" is replaced by "Director-General".

Article 13

Article 12 of the Convention becomes Article 13.

Article 14

Article 13 of the Convention becomes Article 14 and reads as follows:

"Article 14 - Non-Fulfilment of Obligations

- 1 A Member State that fails to fulfil its obligations under this Convention shall cease to be a member of EUMETSAT, if the Council so decides in conformity with the provisions of Article 5.2 (b), the State concerned not taking part in the vote on this issue. The decision shall take effect at a date decided by the Council.
- 2 If a Member State is excluded from the Convention, the scales of contributions for the General Budget and for the mandatory programmes shall be adjusted in accordance with Article 10.2. The Participating States shall, in accordance with the rules laid down in the Programme Declaration, decide about any adjustment of scales of contributions following the exclusion from optional programmes."

Article 15

Article 14 of the Convention becomes Article 15.

Article 16

Article 15 of the Convention becomes Article 16 and it is amended as follows:

- In paragraph 3, "Director" is replaced by "Director-General".
- New paragraphs 5 and 6 are inserted:

"5 Accession to the EUMETSAT Convention means as a minimum participation in the General Budget and in all the mandatory programmes. Participation in optional programmes is subject to a decision of the Participating States in accordance with Article 5.3 (c). Any State that becomes a Party to the Convention shall make a special payment towards the investments already made taking into account the mandatory and optional programmes in which the State will participate. The amount of payment shall be determined in conformity with Article 5.2 (a) i. as regards mandatory programmes and in conformity with Article 5.3 (c) as regards the optional programmes.

6 If a State accedes to the Convention, the scale of contributions for the General Budget and for the mandatory programmes shall be adjusted by the Council. The Participating States shall decide about any adjustment of scales of contributions following the accession to any optional programme."

Article 17

Article 16 of the Convention becomes Article 17 and it is amended as follows:

- In paragraph 1, the reference to Article 15.2 is changed to a reference to Article 16.2.
- Paragraph 5 is deleted.

Article 18

Article 17 of the Convention becomes Article 18 and it is amended as follows:

- In paragraph 1, "Director" is replaced by "Director-General"; the reference to Article 5.2 (c) is replaced by a reference to Article 5.2 (d) v;
- In paragraph 3, the beginning is deleted. The paragraph begins with: "The Council may, by a decision taken in conformity with Article 5.2 (a)".

Article 19

Article 18 of the Convention becomes Article 19 and reads as follows:

"Article 19 - Denunciation

- 1 After this Convention has been in force for six years, any Member State may denounce it by notifying the depositary of the Convention, thereby leaving the General Budget, mandatory and optional programmes. The denunciation shall take effect for the General Budget at the end of the five year period for which the financial ceiling was decided, and for the mandatory or optional programmes at the time of the expiration of the programmes.
- 2 The State concerned shall retain the rights it has acquired up to the date the denunciation takes effect with regard to the various programmes in which it was involved.
- 3 If a Member State ceases to be a party to the Convention, the scale of contributions for the General Budget shall be adjusted in accordance with Article 10.2 for the five year period following the period in which the State concerned denounced the Convention."

Article 20

Article 19 of the Convention becomes Article 20 and it is amended as follows:

- Paragraph 2 is replaced by the following:
"2 Unless the Council decides otherwise, EUMETSAT shall be dissolved if, as a result of the denunciation of this Convention by one or more Member States under the provision of Article 19.1 or as a result of an exclusion following Article 14.1, the contribution rate of each other Member State to the General Budget and to the mandatory programmes is increased by more than one fifth.

The decision on the dissolution shall be taken by the Council in conformity with Article 5.2 (a), a Member State having denounced the Convention or having been excluded not taking part in the vote on this issue."

Article 21

Article 20 of the Convention becomes Article 21 and it is amended as follows:

- In paragraph (c), the reference to Article 16 is replaced by a reference to Article 17.

Article 22

Article 21 of the Convention becomes Article 22 and it is replaced by the following:

"Article 22 - Registration

Upon the entry into force of this Convention, and of any amendments to it, the depositary shall register them with the Secretary General of the United Nations in accordance with Article 102 of the Charter of the United Nations.

Article 23

- 1 The Convention and the present Protocol constitute one single unique instrument called "Convention for the Establishment of a European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT)".
- 2 The Annexes I and II to the Convention, including the System Description and the financial provisions relevant to the METEOSAT Operational Programme (MOP), shall remain valid until the expiration of the programme at the end of 1995.

Upon the expiration of MOP, the Annexes will be considered as abrogated without requirement of further decision by the Member States of EUMETSAT.

In future no further Annexes to the Convention will be established.

- 3 The amendment shall enter into force in accordance with Article 17.2 of the EUMETSAT Convention.