



Brussels, 1.6.2017
COM(2017) 258 final

ANNEX 1

ANNEX

to the

Proposal for a Council Decision

**on the conclusion of a Cooperation Agreement between the European Union
and the Agency for Aerial Navigation Safety in Africa and Madagascar (ASECNA)
on the development of satellite navigation and the provision of associated services in
ASECNA's area of competence for the benefit of civil aviation**

COOPERATION AGREEMENT
BETWEEN THE EUROPEAN UNION
AND THE AGENCY FOR AERIAL NAVIGATION SAFETY
IN AFRICA AND MADAGASCAR (ASECNA)
ON THE DEVELOPMENT OF SATELLITE NAVIGATION
AND THE PROVISION OF ASSOCIATED SERVICES
IN ASECNA'S AREA OF COMPETENCE
FOR THE BENEFIT OF CIVIL AVIATION

The EUROPEAN UNION,

hereafter referred to as the “Union”,

of the one hand,

and

the AGENCY FOR AERIAL NAVIGATION SAFETY IN AFRICA AND MADAGASCAR,

hereafter referred to as “ASECNA”,

of the other hand,

hereafter jointly referred to as “the parties”,

WHEREAS there is increasing development in applications of global satellite navigation systems in the Union, in Africa and other regions of the world, particularly in the civil aviation sector,

WHEREAS ASECNA is mainly tasked with the provision of aerial navigation services in the airspaces coming within its remit, organisation of these spaces, publication of aeronautic information, and forecasting and transmission of information in the field of aeronautic meteorology,

RECOGNISING the importance of the Union's satellite navigation programmes, Galileo and European Geostationary Navigation Overlay Service (EGNOS), which are specifically designed for civil uses, the benefits accruing from implementing them and the interest that ASECNA has in satellite navigation services,

RECOGNISING that the EGNOS system, the regional infrastructure centred on Europe which controls and corrects the open signals emitted by world satellite navigation systems, offering greater precision and an integrity function, provides services which are particularly suitable for the needs of civil aviation,

WHEREAS services based on the EGNOS system technology may be technically extended to the entire African continent in so far as there would be synergies between the ground infrastructure under the responsibility of the parties and the EGNOS system transponders are installed on satellites in geostationary orbit over Africa,

WHEREAS the resolution of the "Space" Council of the Union, entitled "Global challenges: taking full benefit of European space systems", adopted on 25 November 2010, invites the European Commission to work with the African Union Commission to build capacity in this area and determine how a similar infrastructure to EGNOS could be implemented in Africa,

WHEREAS the Communication of the European Commission of 26 April 2007 on European space policy attaches particular importance to cooperation between Europe and Africa in space and the Communication from the Commission of 4 April 2011 entitled "Towards a space strategy for the European Union that benefits its citizens" underlines the Union's will to place its expertise and its infrastructures at the service of Africa and to strengthen cooperation with that continent,

WHEREAS Resolution No 2005 CM 44-11 of 7 July 2005 of the Committee of Ministers of ASECNA on the implementation of satellite navigation systems (GNSS) at ASECNA requests support from European bodies so that it can benefit from the deployment of Galileo or EGNOS for the Agency's operational needs,

WHEREAS Resolution No 2011 CA 120-18 of 7 July 2011 of the Council of Administration of ASECNA on effective participation of the Agency in deploying EGNOS/Galileo in the African and Indian Ocean region authorises the Director-General to make representations to the appropriate European bodies to this end,

WHEREAS in the course of implementing that resolution, ASECNA developed an SBAS-ASECNA programme to provide the Agency with SBAS services based on the EGNOS system technology within the Agency's area of competence,

WHEREAS long-term cooperation between the Union and ASECNA on satellite navigation forms part of the general strategic partnership between the Union and Africa, since the roadmap adopted at the fourth EU-Africa summit in Brussels on 2-3 April 2014 in order to define the cooperation between the two continents for the period 2014-2017 provides for allocation of sustainable and sufficient human and financial resources to deploy satellite navigation infrastructures based on EGNOS and to put in place governance and financing systems to cover the outlay on investment and operational expenditure for EGNOS in Africa for the countries involved,

WHEREAS, in the course of implementing this strategic partnership between the Union and Africa, ASECNA and the Union are already cooperating under the programme supporting the air transport and satellite services sector in Africa financed by the tenth European Development Fund and the pan-African programme for support of EGNOS in Africa funded by the Development Cooperation Instrument, namely by setting up an EGNOS-Africa Joint Programme Office (JPO).

WHEREAS there is a joint interest in long-term cooperation between the Union and ASECNA on developing satellite navigation for the benefit of civil aviation and they wish to establish such cooperation formally,

WHEREAS a very high level of protection needs to be ensured for satellite navigation services on the territory covered by the parties,

WHEREAS the Union has set up its own agencies to assist in certain specific domains, particularly the European GNSS Agency for European satellite navigation programmes and the European Aviation Safety Agency, and there was a delegation agreement between the Union and the European GNSS Agency for the deployment of the EGNOS system for the period 2014-2021,

RECOGNISING that Regulation (EU) No 1285/2013 of the European Parliament and of the Council of 11 December 2013 on the implementation and exploitation of European satellite navigation systems¹ provides that the Union is the owner of all tangible and intangible assets created or developed under the Galileo and EGNOS programmes, that the Union may enter into agreements with third countries and international organisations under these programmes and that the cost of any extension of the coverage of the EGNOS system outside Europe would not be covered by budgetary resources allocated under this Regulation,

¹ OJ L 347, 20.12.2013, p. 1.

WHEREAS Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 establishes the European GNSS Agency¹,

RECOGNISING the interest in coordinating approaches to standardisation and certification, and to all satellite navigation system and service issues within international standardisation and certification bodies, particularly in order to promote extended and novel use of the Galileo, EGNOS and SBAS-ASECNA services as a world standard for navigation and synchronisation in the civil aviation sector,

HAVE AGREED AS FOLLOWS:

PART I

GENERAL PROVISIONS

ARTICLE 1

Aims

1. The aims of this Agreement are to develop satellite navigation and to provide associated services in ASECNA's area of competence for the benefit of civil aviation by enabling it to benefit from European satellite navigation programmes.

¹ OJ L 276, 20.10.2010, p. 1.

This Agreement forms part of the arrangements for promoting services based on European satellite navigation programmes on the African continent.

2. The form and the conditions of the cooperation between the parties to achieve the aims set out in paragraph 1 are laid down by this Agreement.

ARTICLE 2

Definitions

For the purposes of this Agreement:

- (1) “GNSS” or “global navigation satellite system” means an infrastructure made up of a constellation of satellites and a network of centres and stations on the ground which use the radio signals emitted to provide a very precise time measurement and positioning service over the entire surface of the world for users with a suitable receiver;
- (2) “European satellite navigation systems” means the global satellite navigation system produced by the Galileo programme and the EGNOS system which are the property of the Union;
- (3) “ASECNA’s area of competence” is the geographical area in which ASECNA provides aerial navigation services, whether this is its members’ airspace or not;

- (4) “European Geostationary Navigation Overlay Service” or “EGNOS” means a regional satellite navigation system infrastructure which controls and corrects open signals emitted by global satellite navigation systems, mainly GPS and Galileo, enabling users of these world systems to obtain best performance in terms of precision and integrity. EGNOS comprises ground stations and several transponders installed on geostationary satellites. The ground stations are made up of an engineering centre, mission control centres, RIMS stations, NLES stations, a service centre and an EDAS server. The regional coverage of EGNOS is mainly the territory of the Member States of the European Union located geographically in Europe;
- (5) “SBAS-ASECNA” means the ASECNA satellite navigation system which controls and corrects open signals emitted by the world satellite navigation systems, mainly GPS and Galileo, enabling users of the world systems to obtain best performance in terms of precision and integrity. SBAS-ASECNA is the property of ASECNA. It comprises a ground infrastructure and several transponders installed on geostationary satellites. The ground infrastructure is made up mainly of RIMS stations, one or two mission control centres and NLES stations. The coverage of SBAS-ASECNA is mainly ASECNA’s area of competence. The SBAS-ASECNA system covers both the initial version of the system and all the subsequent developments, including the double-frequency and multi-constellation developments. Putting this system in place mainly comprises the phases of definition and design, development and deployment and approval and certification. This is followed by the exploitation phase;

- (6) “EGNOS coverage area” or “SBAS-ASECNA coverage area” means the area in which it is possible to receive the signals emitted by the system in question (for example the geostationary satellites’ footprint);
- (7) “SBAS-ASECNA service area” means the area within the SBAS-ASECNA coverage area in which the SBAS-ASECNA system provides a service which complies with the requirements defined by ASECNA and laid down by the ICAO Standards and Recommended Practices (SARPs) and is responsible for the corresponding approved operations;
- (8) “EGNOS SoL service area” means the area within the EGNOS coverage area in which the EGNOS system provides a service which complies with the ICAO Standards and Recommended Practices (SARPs) and is responsible for the corresponding approved operations;
- (9) “RIMS stations” means the stations belonging to the EGNOS or SBAS-ASECNA systems which are intended to collect in real time the positioning data from the signals emitted by world satellite navigation systems;
- (10) “NLES stations” means the stations belonging to the EGNOS or SBAS-ASECNA systems which send to the transponders installed on the geostationary satellites the corrected data enabling recipients of the GNSS signals in the coverage area of one or other of the two systems to make suitable corrections to their positioning;

- (11) “Galileo” means an independent European civil satellite navigation and synchronisation system with world coverage under civilian control and designed to provide GNSS services designed and developed by the Union, the European Space Agency and the respective Member States. Exploitation of Galileo may be entrusted to a private entity. Galileo is intended to offer an open service, a commercial service, a regulated public service and a search and rescue service and to contribute to services of integrity control for users of safety of life applications;
- (12) “interoperability” means the capability of two or more satellite navigation systems and the services that they provide to be used together to offer users better capacities than those which would be obtained using only one system;
- (13) “intellectual property” means the concept defined in point (viii) of Article 2 of the Convention establishing the World Intellectual Property Organisation, signed in Stockholm on 14 July 1967;
- (14) “classified information” means information, in whatever form, which requires protection against unauthorised disclosure which might harm, to varying degrees, essential interests, including national security, of the parties or of a Member State. The classification is indicated by a classification marking. Such information is classified by the parties in accordance with the applicable laws and regulations and must be protected against any loss of confidentiality, integrity and availability.

ARTICLE 3

Cooperation principles

The parties shall conduct the cooperation activities governed by this Agreement in compliance with the following principles:

1. mutual advantage based on an overall balance between rights and obligations, including contributions and access to all services;
2. reciprocal opportunities to take part in cooperation activities in the Union's and ASECNA's satellite navigation programmes;
3. timely exchange of all relevant information for implementing this Agreement;
4. appropriate and effective protection of intellectual property rights.

ARTICLE 4

Union agencies

The Union may entrust the European GNSS Agency or the European Aviation Safety Agency with execution of all or some of the tasks provided for in this Agreement. In that case it remains responsible vis-à-vis ASECNA for correct and complete discharge of its obligations under this Agreement.

ARTICLE 5

Relations with third parties

The Union shall facilitate and support any initiative for cooperation or partnership between ASECNA and other entities involved in the European satellite navigation programmes, EGNOS and Galileo, particularly the European Space Agency, on the condition that these initiatives are likely to promote the development of and provision by ASECNA of satellite navigation services based on these two programmes.

PART II

PROVISIONS ON COOPERATION

ARTICLE 6

Cooperation activities

1. The cooperation activities provided for in this Agreement mainly involve those geared to setting up and operating the SBAS-ASECNA system, based on the EGNOS system technology. They also cover the use in Africa of the system produced by the Galileo programme, the radio spectrum, standards, certification and international organisations, safety, research and development, human resources, communication and awareness-raising, exchanges of personnel and promotion on the African continent of satellite navigation services.

The parties have the option of amending this list of activities in accordance with Article 34 of this Agreement.

2. This Agreement is without prejudice to the Union's institutional independence with regard to regulating European satellite navigation programmes or the structure established by the Union for implementing these programmes. The Agreement is also without prejudice to regulatory measures that implement non-proliferation obligations, control of exports and control of intangible transfers of technology. It is also without prejudice to measures affecting national security.

3. This Agreement is also without prejudice to ASECNA's institutional independence.

4. Subject to their respective rules, the parties shall promote as far as possible the cooperation activities conducted under this Agreement.

SUB-PART I

ARTICLE 7

Setting up and operation of the SBAS-ASECNA system

1. The Union shall assist ASECNA in setting up and implementing the SBAS-ASECNA system. In addition to the specific provisions in Articles 8 to 16, it undertakes in general to facilitate the setting up and implementation of the SBAS-ASECNA system, particularly by making any relevant information available to ASECNA free of charge, advising ASECNA on managing the programme and on the technical and organisational plans, and contributing to evaluating and monitoring the SBAS-ASECNA programme.
2. Where interconnections are established between the EGNOS and SBAS-ASECNA systems, each party is responsible for modifying its own system and shall bear the associated investment and implementation costs. Each party shall forward to the other the information required and shall cooperate in modifying the system belonging to the other party. A process of commitment to and monitoring of performance which establishes respective obligations shall be put in place.

ARTICLE 8

Definition and design of the SBAS-ASECNA system

The Union shall assist ASECNA in defining and designing the SBAS-ASECNA system, particularly as regards the system architecture, the ground infrastructure location sites and the operating design. The studies undertaken to that effect will specify the interconnections between the SBAS-ASECNA and EGNOS systems.

ARTICLE 9

Development and deployment of the RIMS stations

The Union shall assist ASECNA in developing and deploying the SBAS-ASECNA system RIMS stations, particularly with regard to equipment, operating procedures, operator qualification and validation of the ground infrastructure location sites by, amongst other things, setting up and verifying safety requirements.

In order to optimise the performance and the service areas of the EGNOS and SBAS-ASECNA systems, the parties shall coordinate installation of their respective RIMS stations, especially those situated in adjoining areas covered by both systems, so that the stations are distributed evenly and can operate in synergy on the basis of the exchange of data generated by these RIMS stations, whilst complying with the safety and security requirements stipulated by the rules applicable to each party.

ARTICLE 10

Development and deployment of control centres

The Union shall assist ASECNA in developing and deploying the SBAS-ASECNA system control centres, particularly with regard to equipment, operating procedures, operator qualification and validation of the ground infrastructure location sites by, amongst other things, setting up and verifying safety requirements.

ARTICLE 11

Development and deployment of the NLES stations and transponders

The Union shall assist ASECNA in the development and deployment of the data dissemination services based on the transponders of the SBAS-ASECNA system installed on the geostationary satellites and associated terrestrial data transmission stations. It will also assist ASECNA in the procedures and activities necessary to obtain the PRN codes which are indispensable for operating the SBAS-ASECNA system.

ARTICLE 12

Approval and certification of the SBAS-ASECNA system

The Union shall assist ASECNA, at its request, in:

- certification of the SBAS-ASECNA system;
- approval of the safety of the SBAS-ASECNA system, including the ground infrastructure location sites;
- certification of the services provided by the SBAS-ASECNA system.

The Union may also assist ASECNA, at its request, in developing the methodology and processes geared to:

- approval, before it is issued as an Aeronautical Information Publication, of the SBAS-ASECNA system-linked procedures for take-off, flight and landing of the aircraft;
- certification of equipment on board aircraft and intended for the reception and treatment of satellite navigation signals and approval of aircraft operators and teams.

ARTICLE 13

Operation of the SBAS-ASECNA system

1. The Union shall assist ASECNA in operating the SBAS-ASECNA system.

With regard to the preparations for launching operations, it shall assist ASECNA mainly in:

- putting in place the governance scheme for provision of services,
- adaptation to the SBAS-ASECNA system of the operational procedures and training documentation for the EGNOS system,
- implementing an integrated management system for the provision of services, mainly covering security, safety and environmental issues,
- analysis and implementation of subcontracting schemes,
- training of operators,
- declaration of services.

The Union shall also assist ASECNA in resolving operating problems encountered subsequent to the declaration of services, especially by making available procedures and instruments for analysing performance, support for training, and on-site presence of personnel during an initial period.

The Union shall also provide support to ASECNA for taking developments of the system into service during operation.

2. The parties shall provide mutual assistance to encourage users to adopt the services provided by the EGNOS and SBAS-ASECNA systems and to promote corresponding development of the markets.

ARTICLE 14

Service areas

The parties shall consult each other on the definitions of the EGNOS SoL service area and the SBAS-ASECNA service area to avoid any problems in operation, especially with regard to interoperability and responsibility. The parties shall strive to identify joint solutions in that regard.

In the event of the EGNOS SoL service area covering part of the area under ASECNA's responsibility and in the event of the SBAS-ASECNA service area covering part of the territory of the Member States of the European Union, a process for commitment to and monitoring of performance, establishing respective obligations, shall be put in place.

In the event of the EGNOS SoL service area and the SBAS-ASECNA service area covering a territory located outside the territory of the Member States of the European Union and the ASECNA's area of responsibility – or overlapping with a system other than EGNOS and SBAS-ASECNA – the parties shall inform each other and shall coordinate their representations to the authorities of the territory or territories in question to ensure that joint solutions can be found to the problems posed, particularly with regard to interoperability and responsibility.

ARTICLE 15

Public procurement

1. The Union shall assist ASECNA, at its request, in preparing the documents for calls for tender and in analysing bids in the course of awarding contracts for the setting up and operation of the SBAS-ASECNA system.
2. Without prejudice to Article XXIII of the Agreement on Government Procurement concluded under the auspices of the World Trade Organisation (Article III of the revised Agreement), public bodies and enterprises in Member States of the European Union are entitled to participate in tenders on the setting up and operation of the SBAS-ASECNA system, unless a conflict of interest exists.
3. Acquisitions for the setting up and operation of the EGNOS and SBAS-ASECNA systems may be covered by joint Union and ASECNA public procurement depending on the interests of each of the parties, particularly with regard to ground stations and transponders.

ARTICLE 16

Intellectual property rights

1. Each party shall make available to the other party free of charge all intellectual property rights on the work or inventions of which it is the owner and which are of use in setting up and operating the EGNOS and SBAS-ASECNA systems. This Agreement is equivalent to a licence to use those rights.

If one of the parties creates or generates new intellectual property rights based on the intellectual property rights made available by the other party, the latter shall become the holder of the new intellectual property rights thus created or generated and shall provide free of charge a licence to use these new rights to the party which created or generated them. However, the party that is the holder of these new rights may not grant a licence to a third party without the explicit agreement of the other party.

The conditions for using the licence in the first and second subparagraphs are laid down in paragraphs 2 and 3.

2. The licence for use mentioned in the first subparagraph of paragraph 1 is personal, non-exclusive and non-transmissible, without prejudice to the provisions of the second subparagraph of the paragraph 1. Depending on the case, it comprises the right to use, have used, modify, reproduce and manufacture, for the sole purpose of setting up and operating the EGNOS and SBAS-ASECNA systems.

One party may not make available to a third party nor market in any manner the intellectual property rights made available to it by the other party in compliance with the first subparagraph of paragraph 1 without the express consent of that other party unless it does so as part of a public procurement procedure or contracts awarded by one or other of the parties for the setting up and operation of the EGNOS system, the system produced by the Galileo programme and the SBAS-ASECNA system.

3. Each party shall keep up to date a register of intellectual property rights that it makes available to the other party pursuant to the first subparagraph of paragraph 1. It shall provide the other party with a copy. For every intellectual property right made available, the register shall specify:

- the subject of the right, such as an invention, software, database, etc.;
- the nature of the right, such as copyright, patent, etc.;
- the right of use granted, such as the right to reproduce, adapt, manufacture etc.;
- the territory for which the right is made available;
- the duration for which it is made available.

4. Each party which grants the other party a licence for use pursuant to the first subparagraph of paragraph 1 may terminate that licence if it finds that the conditions for exercising it provided for in paragraphs 2 and 3 have not been complied with.

5. The parties shall provide and ensure adequate and effective protection for intellectual property rights in the domains and sectors related to the setting up and operation of the EGNOS and SBAS-ASECNA systems in compliance with the highest ranking international standards laid down by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organisation, also by providing for effective means to ensure that these standards are complied with.

SUB-PART II

OTHER ACTIVITIES

ARTICLE 17

Galileo

1. The parties shall cooperate in order to promote and utilise the system produced by the Galileo programme on the African continent, in particular by developing applications and usage of the services based on this system in the fields of timing, navigation, surveillance, and search and rescue, and by highlighting the benefits of the applications and the services based on this system.
2. ASECNA shall abstain from any action or initiative which is likely to be prejudicial to the Union's interests with regard to intellectual property rights linked with the Galileo programme.

ARTICLE 18

Radio spectrum

1. The parties shall cooperate with and assist each other in respect of radio frequency spectrum management by the International Telecommunication Union (hereinafter “ITU”), especially for the protection of frequency bands linked to satellite navigation services and aviation communications.
2. The parties shall exchange information and assist each other with regard to the sharing and allocation of frequencies by the ITU. They shall encourage and protect allocations of frequencies for the EGNOS and SBAS-ASECNA systems, and for the system established under the Galileo programme, in order to assure the accessibility of services offered by these systems in the Union and in Africa.
3. In order to protect the navigation radio spectrum against disruptions such as jamming, whether intentional or not, and “masking”, the parties shall strive to identify sources of disruption and seek mutually acceptable solutions.
4. Nothing in this Agreement may be interpreted as a derogation from the relevant provisions of the ITU, particularly those governing radio communications.

ARTICLE 19

Standards, certification and international organisations

1. The parties shall seek to adopt a joint approach to standardisation and to all the issues concerning satellite navigation systems handled by international organisations and associations, especially the International Civil Aviation Organisation, the Radio Technical Commission for Aeronautics and the European Organisation for Civil Aviation Equipment (EUROCAE), and associations or groups active in the field of standardisation.
2. The parties shall jointly support the development of satellite navigation standards in international organisations, especially the ICAO standards and recommended practices (SARPs) and the RTCA and EUROCAE minimum operational performance specifications (MOPS). They shall assist each other in seeking recognition of Galileo, EGNOS and SBAS-ASECNA standards by these international organisations and strive to promote their application throughout the world, emphasising their interoperability with other satellite navigation systems.

ARTICLE 20

Security

In order to protect European satellite navigation systems and the SBAS-ASECNA system against threats or malicious action, such as intentional jamming and “masking”, the parties shall take all possible measures, particularly with regard to control and non-proliferation of the technologies, to ensure the continuity, security and safety of satellite navigation services and their infrastructure and essential associated assets without prejudice to Article 6(2).

ARTICLE 21

Research and development

The parties shall seek to conduct joint research and development activities on satellite navigation, especially with a view to developing and planning future technological advances in satellite navigation systems.

Each party shall encourage the other to participate in its research and development programmes.

The Union shall facilitate access by ASECNA to the funds available under its framework research and development programmes.

ARTICLE 22

Human resources

On the basis of its own experience, the Union shall provide ASECNA with all the information which is relevant for managing the human resources required for implementing the SBAS-ASECNA programme.

The Union shall assist ASECNA in developing the jobs and skills necessary for setting up and operating the SBAS-ASECNA system.

The Union shall support any cooperation and partnership initiative between ASECNA and the entities involved in reinforcing capacity in the fields relating to European satellite navigation programmes. It shall also facilitate access by ASECNA to funds available under European training programmes.

Joint training activities may be conducted to meet the needs for setting up and operating the EGNOS, SBAS-ASECNA and Galileo system and for preparing their technological development.

ARTICLE 23

Communication and awareness-raising

The parties shall seek to conduct joint communication and promotion activities for their respective satellite navigation programmes.

The Union shall assist ASECNA in defining and implementing communication strategies targeting both the entities affected by the setting up and operation of the SBAS-ASECNA system and the public at large.

ARTICLE 24

Exchanges of personnel

The parties shall exchange personnel in the course of the cooperation activities provided for by this Agreement.

ARTICLE 25

Promotion of satellite navigation on the African continent

The parties shall assist each other in promoting satellite navigation on the African continent and shall consult with each other whenever there is a need to agree on joint action to be taken on that front. In particular, they shall support initiatives likely to promote the adoption of satellite navigation by users and development of the markets associated with this technology.

PART III

FINANCIAL PROVISIONS

ARTICLE 26

Funding

1. ASECNA shall finance the setting up and operation of the SBAS-ASECNA system from its own resources, aid or subsidies, especially those covered by paragraph 3, loans contracted with financial institutions or any other means of financing subject to the provisions of paragraph 2.
2. Setting up and operation of the SBAS-ASECNA system may not under any circumstances be financed by budgetary contributions earmarked for European satellite navigation and covered by Chapter II of Regulation (EU) No 1285/2013 of the European Parliament and of the Council of 11 December 2013.
3. For the setting up and operation of the SBAS-ASECNA system, the Union shall facilitate access by ASECNA to EU cooperation and development funds for which ASECNA is eligible, both for current and future programmes. The current programmes are the pan-African programme covered by Article 9 and Annex III to Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for developing cooperation for the period 2014-2020, and those under the EU-Africa Trust Fund for Infrastructure provided for in the Communication from the Commission to the Council and the European Parliament of 13 July 2006 – Interconnecting Africa: the EU-Africa Partnership on Infrastructure COM(2006) 376 final.

PART IV

FINAL PROVISIONS

ARTICLE 27

Legal responsibility

1. As ASECNA is not the owner of the European satellite navigation systems, it will not incur any liability linked to ownership of the systems.

As the Union is not the owner of the SBAS-ASECNA system, it will not incur any liability linked with ownership of that system.

2. Neither of the parties may be held liable for damage resulting from the use by the other party of technologies covered by this Agreement, nor do they guarantee the sound functioning thereof.

ARTICLE 28

Exchange of classified information

The parties shall exchange classified information only if they have entered into an agreement to that effect. They shall seek to put in place a comprehensive and coherent legal framework enabling such an agreement to be concluded.

ARTICLE 29

Joint committee

1. A joint committee, called the “GNSS EU/ASECNA Committee” shall be set up. It shall be made up of representatives of the parties and is responsible for management and correct implementation of this Agreement. To that end, it shall take decisions in the cases covered by this Agreement, which shall be implemented by the parties in accordance with their own rules. The joint committee’s decisions are taken by mutual agreement. The joint committee shall also draft recommendations on issues for which it has no authority to decide.

The joint committee shall define the conditions and arrangements that are not specified in this Agreement.

2. The joint committee shall establish its rules of procedure, including, amongst other provisions, the arrangements for convening meetings, designating the chairperson, defining the latter’s mandate and contacts between the parties.

3. The joint committee shall meet as required. The Union or ASECNA may request that a meeting be convened. The joint committee shall meet within fifteen days of a request.

4. The joint committee may decide to form any working group or group of experts which it deems suitable to assist it in accomplishing its tasks.

5. The joint committee may decide to amend Annex I.

ARTICLE 30

Consultations

1. For the purposes of correct performance of this Agreement, the parties shall regularly exchange information and, at the request of either one of them, shall meet in the joint committee.
2. The parties shall consult each other rapidly, at the request of one of them, on any issue concerning the interpretation or implementation of this Agreement.
3. The parties shall provide each other regularly with information and shall mutually raise awareness of the management and development of their own satellite navigation programmes. If one party envisages taking a decision which may affect the other party's satellite navigation system(s), the latter shall be consulted first in order for it to draft a non-binding opinion. If the requirements of confidentiality provided for by the rules applicable to the parties do not preclude it, each party shall allow a representative of the other party to participate, as an observer, in its working parties and management bodies and committees.

ARTICLE 31

Safeguard measures

1. Either party may, after consultation in the joint committee, take any safeguard measures which are required, including suspension of one or more cooperation activities, if it considers that an equivalent level of control of exports or of safety is no longer ensured between the parties. If any delay runs the risk of compromising the sound functioning of the European satellite navigation systems or the SBAS-ASECNA system, provisional precautionary measures may be decreed without prior consultation, as long as consultations are undertaken immediately after the measures have been adopted.

2. The scope and duration of the measures referred to in paragraph 1 shall be confined to what is necessary to control a situation and ensure that there is a fair balance between the rights and obligations under this Agreement. The other party may request the joint committee to initiate consultations on the proportionality of these measures. If it is impossible to settle this dispute in six months, it may be submitted to a binding arbitration body by one of the parties, in keeping with the procedure provided for in Annex I. No question of interpretation of the provisions of this Agreement which are identical to corresponding provisions of Union law may be settled in this context.

ARTICLE 32

Settlement of disputes

Without prejudice to Article 31, disputes concerning interpretation or implementation of this Agreement shall be settled by joint committee consultations.

If a dispute is not settled within three months following the date of referral to the joint committee, the arbitration procedure provided for in Annex I is used.

ARTICLE 33

Annexes

The annexes to this Agreement are an integral part of it.

ARTICLE 34

Amendments

This Agreement may be amended and extended at any moment by a signed amendment between the parties following the respective internal procedures.

ARTICLE 35

Termination

1. The Union or ASECNA may terminate this Agreement by notifying its decision to the other party. The Agreement shall cease to be applicable six months after receipt of that notification.
2. Termination of this Agreement is without prejudice to the validity or duration of any substantive provisions agreed in the course of its performance. Nor is it prejudicial to specific rights and obligations established with regard to intellectual property in the Agreement, and a party which has granted the other party a licence for use shall retain, after termination of the Agreement, the right to terminate it if it finds that the conditions for exercising the licence are not complied with.
3. If this Agreement is terminated, the joint committee shall make a proposal for the parties to settle any question in abeyance which has financial consequences, taking account, where necessary, of the principle of *pro rata temporis*.

ARTICLE 36

Entry into force

1. This Agreement is approved by the parties in accordance with their internal procedures. It shall enter into force on the first day of the first month following the date of signature by the party which was the last to complete this formality.
2. This Agreement, drawn up in duplicate in the French language only, is concluded for an indefinite period.

For the European Union

For ASECNA

ARBITRATION PROCEDURE

If a dispute is referred to arbitration, three arbitrators shall be designated unless the parties decide otherwise.

Each party shall designate an arbitrator within thirty days of a disagreement being noted in the joint committee.

The two arbitrators so appointed shall, by common agreement, nominate an umpire who shall not be a national of the parties. If they cannot agree within two months of their appointment, the umpire shall be chosen by them from seven persons on a list established by the joint committee. The joint committee shall draw up and update this list in accordance with its rules of procedure.

Unless the parties decide otherwise, the arbitration tribunal shall adopt its rules of procedure. It shall take its decisions by majority vote.
