

Instrument amending the Convention for the Establishment of the European Radiocommunications Office (ERO)

The Contracting Parties of the Convention for the Establishment of the European Radiocommunications Office (ERO) (The Hague, 1993),

Considering

that the Council of the European Radiocommunications Office, at its 14th ordinary meeting, held at Copenhagen, 8-9 April 2002, has adopted amendments to the Convention for the Establishment of the European Radiocommunications Office (ERO) (The Hague, 1993), in accordance with the relevant provisions of Article 20 of the said Convention,

Have agreed as follows:

Article 1

The Convention for the Establishment of the European Radiocommunications Office (ERO) (The Hague, 1993), hereinafter referred to as „the Convention“, is amended and the consolidated version of the text of the Convention, as amended, is annexed to this Instrument.

Article 2

According to the provisions of Article 20 of the Convention, the Convention, as amended, will enter into force for all Contracting Parties on the first day of the third month after the Government of Denmark has notified the Contracting Parties of the receipt of notifications of ratification, acceptance or approval from all Contracting Parties.

IN WITNESS WHEREOF the undersigned representatives of the Contracting Parties, having been duly authorised thereto, have signed the present Instrument amending the Convention for the Establishment of the European Radiocommunications Office (ERO) (The Hague, 1993).

DONE at Copenhagen this 17th day of December 2002 in a single copy in the English, French and German languages, each text being equally authentic.

Annex:

Convention for the Establishment of the European Communications Office (ECO), The Hague on 23rd June 1993 as amended at Copenhagen on 9th April 2002

The States Parties to this Convention, hereinafter referred to as the „Contracting Parties“;

determined to establish a permanent non-profit-making institution to assist the European Conference of Postal and Telecommunications Administrations, hereinafter referred to as „CEPT“, with its tasks to strengthen relations between its Members, to promote their co-operation and to contribute to creating a dynamic market in the field of European postal and electronic communications;

noting that this Convention constitutes the amended text of the Convention for the establishment of the European Radiocommunications Office and that the Office established by this Convention shall assume the former responsibilities and tasks of the European Radiocommunications Office (ERO) and the European Telecommunications Office (ETO);

Have agreed as follows:

Article 1 Establishment of the European Communications Office

1. A European Communications Office, hereinafter referred to as the „ECO“, is hereby established.
2. The Headquarters of the ECO shall be in Copenhagen, Denmark.

Article 2 Purpose of the ECO

The ECO shall be a centre of expertise in postal and electronic communications to assist and advise the CEPT Presidency and the CEPT Committees.

Article 3 Functions of the ECO

1. The primary functions of the ECO shall be:
 - 1. to provide a centre of expertise which shall act as a focal point, identifying problem areas and new possibilities in the postal and electronic communications field and to advise the CEPT Presidency and the CEPT Committees accordingly;
 - 2. to draft long-term plans for future use of scarce resources utilised by electronic communications on a European level;
 - 3. to liaise with the national authorities, as appropriate;
 - 4. to study regulatory issues in the postal and electronic communications field;
 - 5. to conduct consultations on specific topics;
 - 6. to maintain a record of important CEPT Committee actions and of the implementation of relevant CEPT Decisions and Recommendations;
 - 7. to provide the CEPT Committees with status reports at regular intervals;
 - 8. to liaise with the European Union and with the European Free Trade Association;
 - 9. to support the CEPT Presidency, inter alia in maintaining the Rolling Policy Agenda;
 - 10. to provide support and studies for the CEPT Committees, inter alia for proposing a work programme for CEPT on the basis of the Rolling Policy Agenda;
 - 11. to support CEPT Working Groups and Project Teams, in particular in the arrangement of specific consultation meetings;

- 12. to be the custodian of the CEPT archives and to disseminate CEPT information as appropriate.

2. In carrying out the above functions related to consultation meetings, the ECO shall develop and maintain up-to-date procedures designed to enable organisations in Europe with a relevant interest in the use of postal and electronic communications – including government departments, public operators, manufacturers, users and private network operators, service providers, research establishments and standards-making bodies or organisations representing groups of such parties – to subscribe to relevant information on a regular basis and to participate in these consultation meetings in an equitable manner having regard to their particular interests.

3. In addition to the functions mentioned in paragraph 1 the ECO shall organise regular meetings open to organisations mentioned in paragraph 2 to provide an opportunity to discuss the activities and the future work programmes of the CEPT Committees and the ECO.

Article 4 Legal Status and Privileges

1. The ECO shall have legal personality. The ECO shall enjoy full capacity necessary for the exercise of its functions and the achievement of its purposes, and may in particular:

- 1. enter into contracts;
- 2. acquire, lease, hold and dispose of movable and immovable property;
- 3. be a party to legal proceedings; and
- 4. conclude agreements with States or international organisations.

2. The Director and the Staff of the ECO shall have privileges and immunities in Denmark as defined in an Agreement concerning the Headquarters of the ECO between the ECO and the Government of Denmark.

3. Other countries may grant similar privileges and immunities in support of the ECO's activities in such countries, in particular with regard to immunity from legal process in respect of words spoken and written and all acts performed by the Director and the Staff of the ECO in their official capacity.

Article 5 Organs of the ECO

The ECO shall consist of a Council and a Director, assisted by a Staff.

Article 6 The Council

1. The Council shall consist of representatives of the Contracting Parties.

2. The Council shall elect its Chairman and Vice-Chairman, who shall be a representative of a Contracting Party. The term of office shall be three years, renewable for one period. The Chairman shall have authority to act on behalf of the Council.

3. Representatives of the CEPT Presidency and the CEPT Committees, the European Commission and of the Secretariat of the European Free Trade Association may participate in the Council with the status of Observer.

Article 7 Functions of the Council

1. The Council shall be the supreme decision-making body of the ECO and shall in particular:
 - 1. determine the ECO's policy on technical and administrative matters;
 - 2. approve the work programme, the budget and the accounts;
 - 3. determine the number of staff and their terms of employment;
 - 4. appoint the Director and the Staff;
 - 5. enter into contracts and agreements on behalf of the ECO;
 - 6. adopt amendments to this Convention in accordance with Articles 15 and 20; and
 - 7. take all measures necessary for the fulfilment of the purposes of the ECO within the framework of this Convention.
2. The Council shall establish all necessary rules for the proper functioning of the ECO and its organs.

Article 8 Voting Rules

1. Decisions of the Council shall be reached by consensus as far as possible. If consensus cannot be reached a decision shall be taken by a two-thirds majority of the weighted votes cast.
2. The weighting of the individual votes of the Council shall be in accordance with Annex A.
3. Proposals to amend this Convention, including the Annexes, shall be considered only if they are supported by at least 25% of the total weighted votes of all Contracting Parties.
4. For all decisions of the Council, a quorum must exist at the time when the decision is made which:
 - 1. for decisions relating to amendments to this Convention and its Annexes, is equivalent to at least two thirds of the total weighted votes of all Contracting Parties;
 - 2. for all other decisions, is equivalent to at least one half of the total weighted votes of all Contracting Parties.
5. Observers to the Council may participate in the discussions but shall not have the right to vote.

Article 9 Director and Staff

1. The Director shall act as the legal representative of the ECO and shall have the authority, within limits agreed by the Council, to enter into contracts on behalf of the ECO. The Director may delegate this authority, in whole or in part, to the Deputy Director.
2. The Director shall be responsible for the proper execution of all internal and external activities of the ECO in accordance with this Convention, the Headquarters Agreement, the work programme, the budget, and directives and guidelines given by the Council.
3. A set of Staff Rules shall be established by the Council.

Article 10 Work Programme

A work programme for the ECO covering a three-year period shall each year be established by the Council on the basis of proposals from the CEPT Assembly and the CEPT Committees. The first year of this programme shall contain sufficient detail to enable the annual budget of the ECO to be established.

Article 11 Budgeting and Accounting

1. The financial year of the ECO shall run from the 1st of January to the 31st of December following.
2. The Director shall be responsible for preparing the annual budget and annual accounts for the ECO and submitting them for consideration and approval as appropriate by the Council.
3. The budget shall be prepared taking into account the requirements of the work programme established in accordance with Article 10. The timetable for submitting and approving the budget, in advance of the year to which it applies, shall be determined by the Council.
4. A set of detailed financial regulations shall be established by the Council. They shall, *inter alia*, contain provisions about the timetable for the submission and approval of the annual accounts of the ECO and provisions concerning the audit of the accounts.

Article 12 Financial Contributions

1. The capital expenditure and the current operating expenses of the ECO, excluding costs related to Council meetings, shall be borne by the Contracting Parties, who shall share the costs on the basis of the contributory units in accordance with the table in Annex A, which is an integral part of this Convention.
2. This shall not preclude the ECO, after decision by the Council, from carrying out work for third parties, including the CEPT Presidency, on a cost-recovery basis.
3. Costs related to Council meetings shall be borne by the inviting Contracting Party or, if there is no inviting Contracting Party, by the ECO. Travel and subsistence expenses shall be borne by the Contracting Parties represented.

Article 13 Contracting Parties

1. A State becomes a Contracting Party to this Convention either by the procedure of Article 14 or by the procedure of Article 15.
2. On a State becoming a Contracting Party to this Convention, the contributory unit referred to in Annex A, as amended in accordance with Article 15, shall apply.

Article 14 Signature

1. Any State whose Telecommunications Administration is a Member of CEPT may become a Contracting Party by:
 - 1. signature without reservation as to ratification, acceptance or approval, or
 - 2. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

2. This Convention shall be open for signature as of the 23rd of June 1993 until it enters into force, and shall thereafter remain open for accession.

Article 15 Accession

1. This Convention shall be open for accession by any State whose Administration is a Member of CEPT.

2. After consultation with the acceding State, the Council shall adopt the necessary amendments to Annex A. Notwithstanding paragraph 2 of Article 20, such amendment shall enter into force on the first day of the second month following the date on which the Government of Denmark has received the instrument of accession of that State.

3. The instrument of accession shall express the consent of the acceding State with the adopted amendments of Annex A.

Article 16 Entry into Force

1. This Convention shall enter into force on the first day of the second month following the date on which the Government of Denmark has received sufficient signatures and, if required, instruments of ratification, acceptance or approval from Contracting Parties, so as to ensure that at least 80% of the maximum possible number of contributory units referred to in Annex A have been committed.

2. After entry into force of this Convention each subsequent Contracting Party shall be bound by its provisions including amendments in force as from the first day of the second month following the date on which the Government of Denmark has received that party's instrument of ratification, acceptance, approval or accession.

Article 17 Denunciation

1. After this Convention has been in force for two years, any Contracting Party may denounce it by giving notice in writing to the Government of Denmark, who shall notify this denunciation to the Council, the Contracting Parties, the Director and the President of CEPT.

2. The denunciation shall take effect at the expiry of the next full financial year as specified in Article 11, paragraph 1, following the date of receipt of the notice of denunciation by the Government of Denmark.

Article 18 Rights and Obligations of the Contracting Parties

1. Nothing in this Convention shall interfere with the sovereign right of each Contracting Party to regulate its own postal and electronic communications.

2. Each Contracting Party which is a Member State of the European Union will apply this Convention in accordance with its obligations under the relevant Treaties.

3. No reservation may be made to this Convention.

Article 19 Settlement of Disputes

Any dispute concerning the interpretation or application of this Convention and its Annexes which is not settled by the good offices of the Council, shall be submitted by the parties

concerned to arbitration in accordance with Annex B, which is an integral part of this Convention.

Article 20 Amendments

- 1. The Council may adopt amendments to this Convention subject to confirmation in writing by all Contracting Parties.
- 2. The amendments shall enter into force for all Contracting Parties on the first day of the third month after the Government of Denmark has notified the Contracting Parties of the receipt of notifications of ratification, acceptance or approval from all Contracting Parties.

Article 21 Depositary

- 1. The original of this Convention, with subsequent amendments, and instruments of ratification, acceptance, approval or accession shall be deposited in the archives of the Government of Denmark.
- 2. The Government of Denmark shall provide a certified copy of this Convention and the text of any amendment as adopted by the Council, to all States that have signed or acceded to this Convention and to the President of CEPT. Copies shall further be sent for information to the Director of ECO the Secretary-General of the Universal Postal Union, to the Secretary-General of the International Telecommunication Union, to the President of the European Commission and to the Secretary-General of the European Free Trade Association.
- 3. The Government of Denmark shall notify all States that have signed or acceded to this Convention and the President of CEPT, of all signatures, ratifications, acceptances, approvals and denunciations, as well as of the entry into force of this Convention and of each amendment. The Government of Denmark shall further notify all States that have signed or acceded to this Convention and the President of CEPT of the entry into force of each accession.



Annex A

Contributory Units to be Used as a Basis for Financial Contribution and in Weighted Voting

25 Units:	France	Spain
	Germany	United Kingdom
	Italy	
15 Units:	Switzerland	Netherlands

10 Units: Austria Norway
[Belgium] Portugal
Denmark [Russian Federation]
Finland Sweden
Greece Turkey
Luxembourg

5 Units: Ireland

1 Unit: [Albania] [Latvia]
[Andorra] Liechtenstein
[Azerbaijan] [Lithuania]
[Bosnia and Herzegovina] [Malta]
Bulgaria [Moldova]
Croatia Monaco
Cyprus Poland
[Czech Republic] Romania
Estonia [San Marino]

[Former Yugoslav Republic	Slovak Republic
of Macedonia]	[Slovenia]
Hungary	[Ukraine]
Iceland	Vatican City

The CEPT Members who are not Contracting Parties to this Convention are in square brackets. They have been placed under the Contributory Unit corresponding to the Unit chosen under the CEPT Arrangement.

Annex B

Arbitration Procedure

1. For the purposes of adjudicating upon any dispute referred to in Article 19 of this Convention, an Arbitral Tribunal shall be established in accordance with the following paragraphs.
2. Any Party to this Convention may join either party to the dispute in the arbitration.
3. The Tribunal shall consist of three members. Each party to the dispute shall nominate one arbitrator within a period of two months from the date of receipt of the request by one party to refer the dispute to arbitration. The first two arbitrators shall, within a period of six months from the nomination of the second arbitrator, nominate the third arbitrator, who shall be the Chairman of the Tribunal. If one of the two arbitrators has not been nominated within the required period he shall, at the request of either party, be nominated by the Secretary General of the Permanent Court of Arbitration. The same procedure shall apply if the Chairman of the Tribunal has not been nominated within the required period.
4. The Tribunal shall determine its seat and establish its own rules of procedure.
5. The decision of the Tribunal shall be in accordance with international law and shall be based on this Convention and general principles of law.
6. Each party shall bear the costs relating to the arbitrator for whose nomination it is responsible, as well as the costs of being represented before the Tribunal. The expenditure relating to the Chairman of the Tribunal shall be shared equally by the parties to the dispute.
7. The award of the Tribunal shall be made by a majority of its members, who may not abstain from voting. This award shall be final and binding on all parties to the dispute and no appeal shall lie against it. The parties shall comply with the award without delay. In the event of a dispute as to its meaning or scope, the Tribunal shall interpret it at the request of any party to the dispute.