

224/2003. (XII. 13.) Korm. rendelet

az Európai Együttműködő Államok Terve (PECS) programban való részvételről szóló Megállapodás kihirdetéséről¹

Hatályos: 2008. 05. 16. – 2015. 11. 03.

(A Megállapodás, annak 14. Cikke alapján 2003. november 5-én lépett hatályba.)

1. § A Kormány a Magyar Köztársaság Kormánya és az Európai Űrügynökség közötti, az Európai Együttműködő Államok Terve (PECS) programban való részvételről szóló, Budapesten, 2003. április 7. napján aláírt Megállapodást e rendelettel kihirdeti.

2. § A Megállapodás angol és magyar nyelvű szövege a következő:

„

European Cooperation State Agreement between the Government of the Republic of Hungary and the European Space Agency European Cooperation State Agreement between the Government of the Republic of Hungary and the European Space Agency

The Government of the Republic of Hungary,
and
the European Space Agency (hereinafter referred to as „the Agency”) established by the Convention opened for signature in Paris on 30 May 1975 (hereinafter referred to as „the Convention”),
(hereinafter referred to as the „Parties”),

convinced of the benefits of sustaining and enhancing the level of international cooperation in space activities for exclusively peaceful purposes,

having regard to the results of the cooperation achieved under the Agreement between the Agency and the Government of the Republic of Hungary signed on 10 April 1991 and entered into force on that date, and extended by exchange of letters until 10 April 2003 and the Agreement concerning the participation of the Government of the Republic of Hungary in the Agency's Scientific Experiment Development Programme (PRODEX) signed and entered into force on 23 January 1998,

having regard to the Resolution on the implementation of measures concerning the European Cooperating States adopted by the Agency Council on 21 March 2001 [ESA/C/CL/Res. 2 (Final)], by which the Agency introduced a new cooperative approach designed for European non-Member States with a view to their possible accession to the ESA Convention,

considering the wish expressed by the Government of the Republic of Hungary to pursue and strengthen its cooperation with the Agency within this new cooperative approach,

having regard to Articles II and XIV.1 of the Convention,
have agreed as follows:

Article 1

1.1. Through the present Agreement, the Agency and the Government of the Republic of Hungary agree to cooperate in space activities, in accordance with the terms herein. For the purpose of such cooperation, upon entry into force of this Agreement, the Government of the Republic of Hungary shall become a European Cooperating State (hereinafter referred to as „ECS”). The Government of the Republic of Hungary hereby acknowledges and accepts that the Agency establishes cooperation agreements with other non-Member States similar to the present Agreement, thus also qualifying such other States as ECSs.

1.2. The Government of the Republic of Hungary agrees that, at all levels of its cooperation with the Agency as an ECS, it will act in conformity with the purposes for which the Agency was created as defined in the Convention referred to in the preamble, in particular the exploration and utilisation of space for exclusively peaceful purposes.

Article 2

2.1. The Government of the Republic of Hungary shall be associated with implementation of the Agency's programmes and activities, with the exception of the Agency's basic technology research programme (TRP), through its financial contribution to the Plan for European Cooperating States (hereinafter referred to as „PECS”), the content of which shall be mutually agreed with the Agency, subject to the other provisions of the Agreement.

2.2. The Government of the Republic of Hungary shall also receive Announcements of Opportunity for Agency scientific missions allowing it to propose the procurement of instruments to be integrated in these Agency missions at Principal Investigator or Co-Investigator level.

Article 3

3.1. Subject to the terms of Article 7 and the prior requirements and obligations of the Agency, the Government of the Republic of Hungary shall have access on a cost-reimbursable basis to the Agency's facilities and services for its national space projects covered by the present Agreement. The methods used in calculating costs shall be those applied to the Agency's Member States when utilising Agency facilities and services for their own national space projects. In return, the Government of the Republic of Hungary shall make its facilities and services available to the Agency and its Member States on equitable terms.

3.2. In developing its national space potential and in planning national space missions, the Government of the Republic of Hungary shall grant preference to the use of European space transportation systems, and of facilities, products and services belonging to, or developed or operated under the auspices of, the Agency or its Member States. The Government of the Republic of Hungary shall, further, support the Agency's efforts to promote the use of European transportation systems, facilities, products and services by those international bodies to which it belongs that employ systems or services with a space-based component.

Article 4

4.1. For the purposes of this Agreement „Intellectual Property" has the meaning stated in Article 2 of the Convention establishing the World Intellectual Property Organisation, done in Stockholm, 14 July 1967.

4.2. The Parties shall ensure adequate and effective protection of Intellectual Property as may arise from the work done under this cooperation Agreement and of any pre-existing rights that may come into play in the course of such cooperation.

4.3. The specific provisions concerning the rights of access, dissemination and use of technical information and data as well as intellectual property developed under the present Agreement, shall follow the Agency's rules and procedures.

4.4. The Parties shall strive, within the framework of the legislation or regulations applicable to each of them, to facilitate exchanges of scientific and technical information, data and goods, of mutual interest concerning space science, technology and applications necessary for the implementation of the present Agreement.

Article 5

5.1. The Government of the Republic of Hungary and the Agency shall exchange information concerning:

- a) the content and planning of their current and future space programmes;
- b) matters of scientific and technical interest arising out of their space activities. In particular, the Government of the Republic of Hungary shall receive reports published and made available by the Agency, as well as information relating to the progress of Agency programmes.

5.2. Provision of any Agency information shall in all cases be subject to the Government of the Republic of Hungary observance of any proprietary rights in the information, while the Government of the Republic of Hungary further undertakes not to disseminate information that is classified or is not otherwise generally available beyond the territories of the Government of the Republic of Hungary and the Agency's Member States, whether directly or through intermediaries operating within or outside those territories.

5.3. The Government of the Republic of Hungary shall not be required to communicate any information obtained outside the Agency if it considers that such communication would be inconsistent with the interests of its own agreements with third parties, or the conditions under which such information was obtained.

5.4. The Government of the Republic of Hungary and the Agency shall, as appropriate, exchange experts concerned with work within the competence of the Agency, consistent with the laws and regulations relating to the entry into, stay in or departure from the Republic of Hungary.

5.5. The Government of the Republic of Hungary shall have access to the Agency's young graduate and fellowship programmes, subject to conditions to be mutually agreed.

5.6. The Government of the Republic of Hungary and the Agency shall also consult together when they are represented at international organisations, conferences and meetings relating to space activities, for the purpose of exchanging views on matters of mutual concern and shall seek to harmonise as appropriate their positions on matters which are likely to have a bearing on implementation of their common space programmes and activities.

Article 6

6.1. For matters relevant to implementation of this Agreement and the coordination with other ECSs, a dedicated committee referred to as the „PECS Committee" shall be established by the ECSs and shall be operated in accordance with the terms of the attached Appendices.

6.2. For matters relating to the PECS, the Government of the Republic of Hungary shall be entitled to attend meetings of the Agency's Council and/or its subsidiary bodies as an observer through one representative, who may be accompanied by advisers. The Government of the Republic of Hungary shall receive draft agendas and relevant documents available to Member States to enable it to participate in meetings of Council and/or its subsidiary bodies as an observer.

Article 7

The Government of the Republic of Hungary shall participate in and, in conformity with the Agency's financial regulations and instructions, contribute financially to the PECS, in particular through its subscription of the „PECS Charter", in accordance with the terms of the attached Appendices.

Article 8

8.1. With respect to the geographical distribution of contracts relating to the PECS in which the Government of the Republic of Hungary participates, the Agency shall implement the applicable industrial policy rules referred to in Appendix I.

8.2. Special yearly reviews shall be held between the Agency and the Government of the Republic of Hungary in order to discuss the convergence and complementarity of Hungarian industries with the space industries of the Agency's Member States.

Article 9

For the execution of the Agency's official activities undertaken within the frame of the present Agreement, the Government of the Republic of Hungary shall grant the following privileges and immunities:

9.1. The Agency shall have, in the territory of the Republic of Hungary, legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property, and to be a party to legal proceedings.

9.2. The Agency shall have immunity from jurisdiction and execution except:

- a) where the Agency shall have expressly waived such immunity in a particular case;
- b) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to, or operated on behalf of the Agency, or in respect of a motor traffic offence involving such a vehicle;
- c) in respect of an enforcement of an arbitration award made under Article 12 below.

9.3. Within the scope of its official activities, the Agency, its property and income shall be exempt from direct taxes in the Republic of Hungary. The Agency shall also be exempted from indirect taxes when purchases or services of substantial value, strictly necessary for the exercise of the official activities of the Agency within the frame of this Agreement, are made or used, by the Agency.

9.4. Goods imported or exported by the Agency and strictly necessary for the exercise of its official activities shall be exempt from all import and export duties and taxes and from all import or export prohibitions and restrictions. Any such imported or exported goods may not be sold, lent or transferred with or without payment in the territory of the Republic of Hungary except according to conditions defined by the Government of the Republic of Hungary. The Government of the Republic of Hungary and the Agency shall define the procedures to be applied for the export or import of assets used in connection with their cooperation. The Agency shall cooperate with the Hungarian authorities in order to ensure that the goods imported or exported by the Agency are being used for its official activities undertaken within the frame of the present Agreement.

9.5. The Agency may receive and hold in the Republic of Hungary any kind of funds, currency, cash or securities; it may dispose of them freely in the Republic of Hungary for any official purpose of the Agency and hold accounts in any currency.

9.6. Staff members of the Agency shall be exempt from taxes on their salaries, emoluments, benefits and pensions received in respect of current or previous service with the Agency; such exemption shall also extend to benefits paid to members of their families.

9.7. The circulation of publications and other information material sent by or to the Agency shall not be restricted in any way.

Article 10

The Government of the Republic of Hungary shall notify the Agency's Director General of the name of the authority appointed to represent it for the implementation of this Agreement, as well as the names of its representative and advisers attending any meetings in accordance with Article 6 above.

Article 11

The Parties shall each be solely liable for the conduct of their own activities in the execution of this Agreement. In particular, they shall each have a right of recourse against the other in respect of damage of any kind to persons or property caused by the other and shall hold each other harmless against any claims made by a third party in respect of damage caused by their own activity.

Article 12

12.1. Any dispute arising out of the application or interpretation of this Agreement which cannot be settled amicably between the parties shall, at the request of either party, be submitted to an arbitration tribunal.

12.2. The arbitration tribunal shall consist of three members, one arbitrator designated by the Agency, one designated by the Government of the Republic of Hungary and a third arbitrator, who shall be elected by the first two arbitrators and who shall be the Chairman. If, within a period of six months from the date of the request for arbitration, either party has not named its choice, the arbitrator shall, at the request of either party, be appointed by the President of the International Court of Justice. The same procedure shall apply if, within six months of the designation or appointment of the first two arbitrators, the third has not been elected.

12.3. The arbitration Tribunal shall establish its own procedure; its decision shall be final and binding.

Article 13

The appendices to this Agreement shall form an integral part of the present Agreement.

Article 14

14.1. The present Agreement, after signature by the Parties and its approval in accordance with the legal order of the Republic of Hungary, shall enter into force upon subscription by the Government of the Republic of Hungary of the PECS Charter referred to in Article 7 and detailed in Appendix I, except for the rules contained in Appendix II A and B which shall be applicable upon signature. This subscription of the PECS Charter shall be made at the latest one year after the signature of the present Agreement unless the Parties have agreed another time limit. In the event the said subscription has not occurred within the above time limit, the present Agreement shall be null and void.

14.2. Upon its entry into force, the present Agreement shall replace the cooperation agreement between the Agency and the Government of the Republic of Hungary referred to in the preamble, it being understood that its provisions shall nevertheless continue to apply to the extent necessary to secure the implementation of any contracts that have been concluded within the framework of that agreement and which are still effective on the date on which that agreement ceases to have effect.

14.3. The entry into force of the present Agreement will terminate the cooperation established between the Agency and the Government of the Republic of Hungary in the Prodex programme pursuant the terms of the corresponding Agreement referred to in the preamble. The Government of the Republic of Hungary thereby accepts to withdraw its participation in the Prodex programme upon the entry into force of the present Agreement, in accordance with the terms and conditions defined in the corresponding programme Declaration and implementing rules.

Article 15

15.1. Unless previously terminated in accordance with the provisions of paragraph 3 below, this Agreement shall terminate 5 (five) years after the date of its entry into force. One year before the expiry of this Agreement, the Parties shall review the results of its implementation on the basis of the outcome of the yearly reviews referred to in Article 8 and shall examine ways and means of continuing or further developing such cooperation. The Parties shall in particular examine the possibility of the Government of the Republic of Hungary being granted the status of Associate Member or Member State of the Agency.

15.2. In the event of the continuation of the present cooperation, the present Agreement may be extended and/or amended by mutual agreement in writing.

15.3. Either party may denounce the Agreement by giving written notice not less than one year before the intended date of termination which shall correspond to the end of the calendar year.

15.4. Termination of this Agreement shall not affect the validity of those rights and obligations of either Party which are meant to survive termination of the Agreement or its interpretation such as, but not limited to, arbitration, confidentiality, liability, intellectual property rights, nor of contracts entered into in pursuance of this Agreement. After the termination of the present Agreement, the Government of the Republic of Hungary shall in particular remain bound to finance its share of the payment appropriations corresponding to the contract authority approved under the budget for the current or previous financial years relating to the PECS.

15.5. The Government of the Republic of Hungary and the Agency may revise the provisions of this Agreement by mutual agreement. Amendments, except for those made exclusively to the appendices, shall take effect on the date of notification that both parties have met the necessary internal conditions for the amendments to enter into force. Amendments made exclusively to the Appendices shall be made in accordance with the terms of these appendices.

Done in Budapest on 7 April 2003 in two originals in the English and Hungarian languages. The signatories may also establish translations hereof in the French and German languages, which shall not, however, be considered as authoritative for the purposes of interpretation.

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For the Government
of the Republic of Hungary

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For the European
Space Agency

Appendix I

Plan for European Cooperating States (PECS)

Objectives, Rules and Procedures

I. Objectives

I.1. Overall objectives of the PECS

The overall objective of the PECS is to associate the Government of the Republic of Hungary with Agency programmes and activities and to prepare in the most efficient manner for possible future accession to the ESA Convention.

I.2. Specific objectives of the PECS

- Develop cooperation between scientific and applications user communities in the Republic of Hungary and Agency Member States.
- Create and strengthen the respective industrial expertise and capacity of the Republic of Hungary with a view to allowing a fair and equitable industrial participation in future Agency programmes after accession.
- Provide indirect access to ESA programmes and activities.
- Foster the Government of the Republic of Hungary's understanding of the Agency's organisation and functioning, including the use of the EURO, of European space products, standards and procedures.
- Ensure coherence between the space activities of Member States and the Government of the Republic of Hungary e.g. by avoiding unnecessary duplication.

I.3. Areas and categories of activities to be covered by the PECS

(i) The PECS will cover four main categories of activities, as defined in (ii) below, in the following five areas:

- Space science, in particular space astronomy and astrophysics, solar system exploration and solar-terrestrial physics;
- Earth observation research and applications, in particular environmental monitoring, meteorology, aeronomy and geodesy;