

## **1.1.** **Formation Agreement**

The Formation Agreement is the legal basis for the formation of the Economic Interest Grouping under Belgian law. This is the agreement which has been approved by the European Commission and which must be signed by every participating Member of ECOMET. It sets out the rights and obligations of the Members and the aims and powers of the organisation itself.

The agreement is set out in a legal format which starts with a preamble reciting the reasons requiring the setting up of an EIG and the philosophy behind it. It then goes on to set out the essential legal details in the form of individual Articles which are self-explanatory.

The practical effects of these Articles is explained through the Internal Rules of Administration, the Internal Rules of Operation, the Tariff Guidelines and the Financial Rules.

The Formation Agreement itself can only be changed as provided for in Article 11.7.

**AGREEMENT FOR THE FORMATION  
OF AN ECONOMIC INTEREST GROUPING (the "Formation Agreement")**

BETWEEN THE UNDERSIGNED,

[The following information should be inserted :

Name, social object, legal status, registered office and registered number, if any, of the National Meteorological Services that are party to the agreement.]

(the "Parties")

REPRESENTED BY THEIR PERMANENT REPRESENTATIVE WITH THE WORLD METEOROLOGICAL ORGANISATION OR THEIR DELEGATE WHO HAS THE REQUIRED AUTHORITY AND DECLARES POSSESSING THE NECESSARY POWERS FOR THE PURPOSE OF THIS AGREEMENT;

CONSIDERING that all Parties, within the framework of their institutional terms of reference, gather, classify and produce meteorological information both for the benefit of the general public and to satisfy the specific requirements of the government of the country in which they are established;

That to obtain the basic meteorological information needed to perform their tasks, all Parties participate in programmes of the World Meteorological Organisation ("WMO"), and the World Weather Watch ("WWW") in particular, in the framework of which they exchange without charge sets of selected information with partners that are considered as National Meteorological Services ("NMS");

RECOGNIZING that to achieve the objectives pursued by the NMS, a costly infrastructure is maintained which is in major part financed by the taxpayer;

That some Parties are legally obliged to derive substantial revenue from the sale of Type A data, Type A products or Type B and Type C value added services, as defined in the Formation Agreement; that this revenue is used to contribute towards the costs of the basic infrastructure of the Parties; that these costs are much greater than, and in general bear little relationship to, the revenue generated by such sales, all Parties being essentially non-profit-making organisations ;

That there is a growing tendency to use meteorological information to make value added services that are paid for by the customers;

That there is an increasing demand for the supply of meteorological information on a European scale;

REALIZING that both the quality and the value of the meteorological services ultimately depend on the free exchange of meteorological information between NMS, on the maintenance of the basic infrastructure and on the development of new techniques and methods to gather, classify and produce the meteorological information;

That only a specific proportion of that information is a potential source of revenue;

That it is necessary to regulate the economic activities of the Parties in Europe without constraining in any way their ability to assume their responsibilities under national and international agreements concerning the use of meteorological information for defence, civil aviation and the safety of life and property;

BEARING IN MIND that any agreement between the Parties should:

- respect the WMO-principle of free exchange of meteorological information between NMS;
- ensure the ability of the NMS to maintain their basic infrastructure in accordance with their institutional goals;
- create the basis for fair competition in the field of meteorological services;
- stimulate technological development and scientific research in order to improve both production and distribution of meteorological Type A data and Type A products;

EMPHASIZING that the Parties will make available Type A data and Type A products originated by the Parties and intended for commercial use to any interested third party on non-discriminatory terms regardless of the applicability of the rules set out below;

That the legal form of an Economic Interest Grouping (E.I.G.) is regarded to be the best method to regulate the economic activities of the NMS;

IS CONSTITUTED AN ECONOMIC INTEREST GROUPING UNDER THE FOLLOWING CONDITIONS :

**Article 1 : Form**

The Economic Interest Grouping constituted by the Parties and by all those who subsequently may become a Member under the conditions set forth by the Formation Agreement shall be governed by Belgian law. The Grouping shall acquire its legal status and be operative from the day of signature of the Formation Agreement.

**Article 2 : Definitions**

For the purpose of the Formation Agreement, the Internal Rules of Administration and the Internal Rules of Operation, the following terms are defined but can at all times be modified by the General Assembly in accordance with the procedure provided for in Article 11.7b :

1° **Data**: all meteorological, oceanographic, hydrological and environmental observations obtained by National Meteorological Services (NMS).

2° **Products**: all real-time meteorological information in the form of pictures, charts, text

or data files resulting from the transformation or processing of data

3° **Essential data and products** : data and products which are declared "essential" in the meaning of WMO Resolution 40 (Cg-XII) as agreed by the originating Member.

4° **Additional data and products** : data and products which are declared "additional" in the meaning of WMO Resolution 40 (Cg-XII) as agreed by the originating Member.

5° **Other data and products** : data and products created by Members of the Grouping other than those which are declared "essential" or "additional" in the meaning of WMO Resolution 40 (Cg-XII) which Members of the Grouping are prepared to offer to Third Parties under specific licence conditions.

6° **Value Added Services (VAS)** : all meteorological services which are:

- Derived from one or more Products; and
- Specifically conceived for the needs of users; and
- Made available under specific license conditions

7° **Retrievable Value Added Services (R-VAS)**: Any VAS from which the original Products can be retrieved or reverse engineered without significant technical effort and/or expense.

8° **Non-retrievable Value Added Services (NR-VAS)**: Any VAS from which the original Products cannot be retrieved or reverse engineered without significant technical effort and/or expense.

9° **ECOMET Catalogue** : The list of data and products available for Third Parties pursuant to a licensing agreement.

10° **ECOMET Territory** : the geographical area covered by the activities of the Members of the Grouping according to their legal status and composed of the national territories of the countries where the Members have their headquarters, and at least the geographical area covered by the European Economic Area.

11° **National Meteorological Service (NMS)** : service responsible at the national level, in conformity with its legal status, for the gathering, classification and production of meteorological information in the national interest, and responsible at the international level for participating in WMO programmes.

12° **Free Exchange** : the exchange, without charge, of data and products between NMS and also between certain intergovernmental organisations which participate in WMO programmes.

13° **Without charge** : At no more than the cost of reproduction and handling (including the cost of distribution media, documentation, delivery and direct labour cost), without charge for the data and products themselves.

*Note* : in all ECOMET documents 'delivery (costs)' mean only 'transmission (costs)', while by 'handling (costs)' is meant '(costs of) the whole procedure of reproduction and delivery' except of transmission (costs).

14° **Licence** : the conditions under which the Grouping authorizes the transfer of an item in the ECOMET Catalogue to Members for use both across and outside the ECOMET Territory within the framework of the Internal Rules of Operation.

15° **Sublicence** : the conditions under which a Member of the Grouping, in accordance with its status as a licensor, transfers an item of the ECOMET Catalogue to a Third Party for use both in and outside its National Territory within the framework of the Internal Rules of Operation.

16° **Standard Licence Agreement** : the standard terms adopted by the General Assembly of the Grouping pursuant to which items in the ECOMET Catalogue may either be licenced or sublicenced within the framework of the Internal Rules of Operation.

17 **Member** : A party to the ECOMET E.I.G.

18° **Originating Member** : the Member of the Grouping which creates the data or products for transfer within the framework of the Internal Rules of Operation.

19° **Delivering Member** : the Member of the Grouping which provides the service of delivering an item from the Catalogue to a Third Party within the framework of the Internal Rules of Operation.

20° **Initiating Member** : the Member of the Grouping which actually negotiates the contract and arranges contact between the parties to a sublicense.

21° **Third Party** : the recipient of data, products or value added services which is not a Member of the Grouping.

22° **Official Duty** : all activities which take place within the organization of an NMS, and external activities of the NMS resulting from legal, governmental and intergovernmental requirements relating to defence, civil aviation and the safety of life and property.

### **Article 3 : Object**

The Object of the Grouping shall be :

- a. To preserve the Free Exchange of data and products between Members of the Grouping within the framework of WMO regulations;
- b. To assist the Members of the Grouping to maintain and improve their infrastructure ;
- c. To expand the availability of meteorological information within the ECOMET Territory ;
- d. To increase the use and improve the distribution of data, products and services of the Members of the Grouping while maintaining and improving their quality;
- e. To create the conditions for Members of the Grouping to develop their economic activities.

Without jeopardizing the obligations of the Members of the Grouping under national and international law regarding the use of meteorological information for defence, civil aviation and the safety of life and property.

In order to achieve this Object, the Grouping shall :

- 3.1 ensure that its members propose for inclusion in the Catalogue all data and products which are intended for commercial use ;
- 3.2 administer the licensing of data and products by individual National Meteorological Services for use in the ECOMET territory according to the Internal Rules of Operation;
- 3.3 share between the Members of the Grouping part of the revenue generated by the licensing of data and products;
- 3.4 provide a forum for the exchange of information on the availability and development of other data and products and on relationships with Third Parties;
- 3.5 facilitate the exchange of information on new techniques developed by Members that may lead to new other products ;
- 3.6 undertake promotional activities concerning the availability of data and products from the ECOMET Catalogue;
- 3.7 act as a repository of information regarding the licensing of data, products and value added services and legal matters associated with such licensing;
- 3.8 facilitate arrangements by which the Members of the Grouping that are already most active in the sublicensing of data, products and value added services share their expertise with the other Members of the Grouping which wish to develop their own expertise in this domain;
- 3.9 define tariff guidelines, which will provide an agreed target contribution to the infrastructure cost, for all items in the Catalogue;
- 3.10 provide a forum for debates on and, if duly mandated by the General Assembly, handle relationships with National Meteorological Services that are not a Party to the Formation Agreement, as well as other third parties.

#### **Article 4 : Denomination**

- 4.1 The Economic Interest Grouping shall be called ECOMET. Its corporate form may be referred to by using the equivalent acronyms of the E.I.G. in the languages of the Members.
- 4.2 In all documents emanating from the Grouping, including but not limited to agreements, letters, invoices, advertisements and publications, this name and corporate form shall be clearly identified and shall be accompanied by the address of the registered office of the Grouping as well as its number of registration with the Court of Commerce.

#### **Article 5 : Headquarters**

The registered office of the Grouping shall be established in Brussels (Belgium). It can be transferred to any other place within Belgium by decision of the General Assembly according to Article 11.7c.

**Article 6 : Duration**

The Grouping shall start its operations at the date of signature of the present Agreement and continue indefinitely, subject to the provisions of Article 16.

**Article 7 : Capital and assets**

Every Member contributes in conformity with Articles 10 and 12 to the material functioning of the Grouping.

**Article 8 : Intellectual property**

Any intellectual property rights, within the meaning of Article 2(viii) of the Convention of 14 July 1976 establishing the World Intellectual Property Organisation, in the items contained in the ECOMET Catalogue shall be retained by the originating Members and these rights shall be put at the disposal of Members for licensing purposes.

**Article 9 : Administration and secretariat**

- 9.1 The Grouping is administered by a secretariat, headed by a Chief Executive, who has the power to recruit the staff under conditions approved by the General Assembly according to Article 11.7b. The Chief Executive is appointed by the General Assembly, initially for a single term of three years, according to Article 11.7c. This appointment is revocable by the General Assembly under conditions laid down in the Chief Executive's employment agreement, as approved by the General Assembly according to Article 11.7b. The Chief Executive shall serve no more than three terms.
- 9.2 All acts and documents committing the Grouping are validly signed in the name and on behalf of the Grouping by the Chief Executive, provided the Chief Executive acts within the scope of his authority. The General Assembly may also designate delegates of the Members to represent the Grouping in matters for which they have received an express mandate.
- 9.3 The Chief Executive will be bound by an obligation of secrecy contained in his or her employment agreement. The Chief Executive will make sure that information provided to him or her in confidence by a specific Member does not fall in the hands of any third party, including other Members.

**Article 10 : Scale of contributions**

- 10.1 Members shall contribute to the budget of the Grouping according to a scale of contributions.
- 10.2 For subsequent financial years, the scale of contributions shall be calculated in proportion to the Gross National Product, as published by the OECD and updated triennially from the date of signature of the Formation Agreement.
- 10.3 If after the entry into force of this Formation Agreement a Party becomes Member of the Grouping, the scale of contribution shall be modified by the General Assembly according to the basis for calculation laid down in paragraph 2. The new scale shall take effect when the Party concerned becomes a Member.

A Party which becomes a Member of this Grouping after the first year of operation of this Formation Agreement shall be required to pay, in addition to the contribution laid down in paragraph 2, a single additional contribution to the non-recurrent expenditure previously incurred by the Grouping. The amount of this additional contribution shall be determined by the General Assembly acting in accordance with the procedure laid down in Article 11.7.a.

**Article 11 : General Assembly of Members**

- 11.1 On the General Assembly of the Grouping, each Member shall be represented by its Permanent Representative with WMO or by the delegate of such Permanent Representative in accordance with the Internal Rules of Administration.
- 11.2 The General Assembly shall meet at least once a year and fix the date for the next ordinary General Assembly. It may meet on extraordinary occasions at the request of one Member of the Grouping.
- 11.3 The General Assembly shall elect from amongst its members a President and Vice-President for a term of three years. The term shall commence on 1<sup>st</sup> July after the election. Neither official shall serve for more than two terms in the same role. The Vice-President shall preside over the meeting if the President is unable to. In the event of resignation or death of the President, the Vice-President shall act as President for the remainder of the existing term, unless the General Assembly chooses to elect another President. In which case the term of the newly elected official will commence immediately.
- 11.4 Every Member has one vote for all matters decided upon under Article 11.7. For the matters decided upon under Article 11.7b which require a double counting round, each Member shall have a number of votes in the second counting round in accordance with the scale of contributions set out in Article 10.
- 11.5 In the event that the Grouping has more than five Members, the proportion of votes of a Member cannot exceed 20% of the total amount of votes allotted according to the scale of contributions as defined in Article 10. If this is the case, the remaining votes shall be allocated pro rata in accordance with the scale provided for in Article 10.
- 11.6 The rules governing the deliberations and voting procedures shall be established in the Internal Rules of Administration decided upon according to Articles 11.7a and 11.7b.
- 11.7 The General Assembly may take all decisions necessary to pursue the Object of the Grouping as defined in Article 3, and in particular:
- a) by a unanimous decision of all Members (At least two-thirds of the Members should be present):
    - to adopt Internal Rules of Administration and Internal Rules of Operation immediately following the signature of the Formation Agreement;
    - decide on the modification of the Object of the present Formation Agreement as defined in Article 3;
    - modify the method of allocation of votes as set out in Articles 11.3 to 11.5;
    - modify the duration of the Grouping as determined in Article 6;
    - decide on the modification of the legal form of the Grouping;
    - decide on the dissolution of the Grouping in accordance with Article 16.



b) in accordance with Article 11.4, by a double two-thirds majority of the Members present and voting (At least two-thirds of the Members should be present) :

- modify all provisions of the Formation Agreement other than those that are expressly indicated to require unanimity for their modification;
- modify the Internal Rules of Administration and the Internal Rules of Operation adopted according to Article 11.7a;
- adopt or modify the rules of the Grouping in financial matters and more specifically the tariff guidelines;
- adopt or modify the Standard License Agreements;
- decide on the revenue that will be distributed to Members from the sale of items in the ECOMET Catalogue;
- adopt or modify the employment agreements of the Chief Executive and the staff of the secretariat;
- adopt the yearly budget and approve the accounts of the preceding financial period;
- amend the financial threshold contained in Rule 6.4 of the Internal Rules of Operation;
- decide on the allocation of funds in the Reserve Fund, as specified in Article 13.1 [modified, GA40, May 2015]

c) by a two-thirds majority of Members present and voting (At least two-thirds of the Members should be present) :

- decide on the admission of a new Member following criteria specified in Article 17;
- decide on the exclusion of a Member on grounds specified in Article 19.1;
- decide on sanctions other than exclusion if a Member is proved not to fulfil its obligations arising from the Formation Agreement, the Internal Rules of Administration or the Internal Rules of Operation;
- elect the President and Vice-President of the General Assembly as specified in Article 11.3;
- nominate the Chief Executive as specified in Article 9;
- change the registered office as specified in Article 5;
- choose the auditors for the implementation of Article 14;
- adopt the strategy of the grouping;
- decide on the creation and the composition of sub-committees for dealing with any matter of interest to the Grouping;
- decide on the procedure of liquidation of assets and liabilities following dissolution according to Article 16.1;
- decide on all matters not explicitly dealt with under a) or b).

**Article 12 : Funding of the Grouping**

On joining the Grouping and thereafter each Member shall pay within one month of the date of the received invoice, and at first request, its contributions to the budgeted expenses for the current financial year in accordance with the scale of contributions as defined in Article 10.

**Article 13 : Distribution of the revenue of the Grouping**

- 13.1 If the annual accounts show a surplus, this surplus will be placed into a “Reserve Fund”. The General Assembly can decide how the amounts in the fund should be used. This could include retaining a certain amount as a contingency, and/or divide it among the Members of the Grouping pro rata of their funding or offset it against Member’s contributions. [\[modified GA39, November 2014\]](#)
- 13.2 In case of a loss, the secretariat shall call on the Members to contribute to the loss incurred according to the same pro rata of funding.

**Article 14 : Audit of accounts**

- 14.1 Every year, the secretariat establishes the annual accounts. Those annual accounts are established in accordance with the Belgian Law of 17 July 1975 on Accounting and the Annual Accounts of Companies.
- 14.2 The reference currency in all official documents of the Grouping shall be the EURO.
- 14.3 Each Member shall have access to all information related to the accounts.
- 14.4 The ordinary General Assembly of the Grouping shall appoint one or more statutory auditors, natural persons who have no institutional nor economic connection with the Members of the Grouping and who do not exert, in the Grouping or in a competitive grouping, any functions of administration or control. Their appointment may be revoked at will. The General Assembly determines the duration of their mandate and approves the amount of their fees, in accordance with the fees applicable in Belgium for similar entities.
- 14.5 The annual accounts shall be submitted within six months following the end of the financial year which they cover for approval by the General Assembly.

**Article 15 : Financial year and exceptional loss**

- 15.1 The financial year runs from the 1st of January to the 31st of December of every year. Exceptionally, the first financial year shall begin at the date of registration of the Grouping following the signature of the Formation Agreement and shall end at the 31st December of that year.
- 15.2 The President of the General Assembly shall call an extraordinary General Assembly if in any financial year there is a projected net loss greater than the budgeted expenses for the same period.

**Article 16 : Dissolution of the Grouping**

- 16.1 The Grouping is dissolved :
- when it incurs an accumulated loss greater than the equivalent value in any of the currencies of the Members of 1,000,000 EURO according to the exchange rate published in the Official Journal of the European Communities at the date of entry into force of the Formation Agreement;
  - by unanimous decision of its Members;
  - by judicial decision pronounced at the request of one Member if there exists among the Members a dispute of such a nature that it renders the continued functioning of the Grouping impossible;
- when the Grouping has only one Member.
- 16.2 In the event of incapacity, dissolution, bankruptcy or withdrawal of any Member of the Grouping, the Grouping continues to function under the Formation Agreement without prejudice to Article 16.1.

**Article 17 : Admission of a new Member**

The criteria for admission of a new Member which should be satisfied simultaneously in conformity with the Object of the Grouping and in recognition of the fact that the Members are non-profit-making organisations, shall be :

- a. a contribution to the basic infrastructure and to the creation of additional and other data and products and value added services;
- b. a participation in programmes agreed by WMO;
- c. an endorsement of the Permanent Representative with WMO of the country where the applying Member has its registered office. The Permanent Representative shall represent the new Member in such a way that no Member country of WMO can have more than one Member in the Grouping.

**Article 18 : Withdrawal of a Member**

- 18.1 A Member may withdraw by giving written notice to the President of the General Assembly.
- 18.2 Such withdrawal becomes effective on the date of acceptance of such notice by the President of the General Assembly, but not later than 30 days after receipt of such notice.
- 18.3 All liabilities and obligations incurred prior to the date referred to in Article 18.2 shall continue to fall under the scope of responsibility of the withdrawing Member in accordance with Article 20.1.
- 18.4 Following the withdrawal of a Member, the scale of contributions defined in Article 10 shall be modified with effect from the start of the following financial year.

**Article 19 : Exclusion of a Member**

- 19.1 In the event that a Member does not fulfil its financial obligations or does not abide by any arbitration ruling as described in the Internal Rules of Administration, the General Assembly may decide to exclude that Member in accordance with Article 11.7c.
- 19.2 Notwithstanding its exclusion, all liabilities and obligations incurred prior to its exclusion shall remain the responsibility of the excluded Member. The said Member shall continue to be liable for its financial obligations for the current financial year.

**Article 20 : Liabilities**

- 20.1 The Members of the Grouping are severally and jointly liable with the Grouping for the debts of the Grouping.
- 20.2 The liability of the Members is subsidiary to that of the Grouping, i.e. by default of the Grouping, as determined by a judicial decision.
- 20.3 Any Member of the Grouping which repays a debt of the Grouping shall be indemnified by the other Members and by any withdrawing Member, to the extent that they are liable according to Article 18.4.
- 20.4 The exclusion of liability of any new Member for debts incurred by the Grouping prior to that Member's accession requires a special agreement between the new Member and the Grouping prior to such accession.
- 20.5 The liability of the Grouping shall be insured in the name and on behalf of the Grouping subject to a decision by the General Assembly according to Article 11.7b.

**Article 21 : Powers**

Powers are conferred on a Member of the Grouping which is bearer of an original or a certified copy of the Formation Agreement, solely in order to accomplish all legal formalities of publication and registration with the Court of Commerce, in the name and on behalf of the Grouping.

**Article 22 : Entry into force**

- 22.1 The Formation Agreement shall enter into force according to Article 1 when signed by at least five of the Members which are mentioned in the Preamble.
- 22.2 The Formation Agreement shall remain open for signature one year after the Agreement comes into force. After such time, any Member mentioned in the Preamble which has not signed the Formation Agreement shall be deemed to be a Third Party and any reference to that Member shall be deleted from this document.

Done at ...  
on ...  
in .... original copies  
in the French and English languages,  
the French version being the one used for the compliance with mandatory rules of Belgian

corporate law,  
the English version being the one used between the signatories.  
Every Member recognizes having received an original copy in each language version.