



COMMISSION OF THE EUROPEAN COMMUNITIES

**Brussels, 12.11.1996
COM(96) 572 final**

**Proposal for a
COUNCIL DECISION**

**approving the conclusion by the Commission of a cooperation agreement between the
European Atomic Energy Community and the Republic of Kazakstan in the field of
nuclear safety**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. By Decision of 17 June 1991 the Council authorised the Commission to negotiate an agreement for cooperation with the Soviet Union on nuclear safety. Following the dissolution of the Soviet Union negotiations continued at first solely with the Russian Federation. By decision of 22 December 1994 the Council authorised the Commission to conclude a cooperation agreement on nuclear safety with the Russian Federation.
2. The Community considered it appropriate to complement the negotiation of the nuclear safety agreement with Russia with similar agreements with other successor States of the Soviet Union. Accordingly by Decision of 9 June 1995 the Council issued Directives to the Commission for the negotiation inter alia of a bilateral agreement for cooperation with Kazakstan on nuclear safety.
3. In subsequent negotiations with Kazakstan an understanding was reached on a text equivalent in scope and content to the one negotiated with the Russian Federation. The text is in full accordance with the Council's directives.
4. On the basis of mutual benefit, the aim of the agreement would be to contribute to the improvement of nuclear safety in the areas of reactor safety research, radiation protection, nuclear waste management, decommissioning, decontamination and dismantling of nuclear installations and R&D on safeguards of nuclear material.
5. Kazakstan has acceded to the NPT (Treaty on the Non-Proliferation of Nuclear Weapons) and has signed a full scope safeguards agreement with the IAEA that is in effect.
6. The Commission therefore proposes that the Council adopts the annexed decision which approves the conclusion of the above mentioned agreement for cooperation between EURATOM and Kazakstan in the field of nuclear safety.

**Proposal for a
COUNCIL DECISION**

approving the conclusion by the Commission of a cooperation agreement between the European Atomic Energy Community and the Republic of Kazakstan in the field of nuclear safety

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 101 (2) thereof,

Having regard to the Agreement on Partnership and Cooperation signed on 23 January 1995 by the European Union and Kazakstan expressing the desire to establish a close cooperation inter alia in the area of nuclear safety.

Having regard to the Council's decision of 09 June 1995 issuing directives to the Commission for the negotiation of a bilateral agreement for cooperation between the European Atomic Energy Community and Kazakstan on nuclear safety,

Whereas the agreement set out in the annex to this Decision is in accordance with the negotiating directives referred to above and achieves a balance which corresponds to the concept of mutual benefit,

HAS DECIDED AS FOLLOWS:

Sole Article

The conclusion by the Commission of a cooperation agreement between the European Atomic Energy Community and the Republic of Kasakstan in the field of nuclear safety is hereby approved.

Done at Brussels,

For the Council
The President

AGREEMENT FOR CO-OPERATION
BETWEEN THE EUROPEAN ATOMIC ENERGY COMMUNITY AND
THE REPUBLIC OF KAZAKSTAN IN THE FIELD OF NUCLEAR SAFETY

The European Atomic Energy Community, hereinafter referred to as "the Community"; of the one part, and the Republic of Kazakstan, hereinafter referred to as "Kazakstan", of the other part, both also generally referred to hereinafter as the "Party" or "Parties", as appropriate,

RECALLING that an Agreement on Partnership and Cooperation was signed on 23 January 1995 by the European Union and Kazakstan;

RECALLING that the Commission of the European Communities, hereinafter referred to as "the Commission", has responsibilities, inter alia, for laying down basic standards for radiation protection, and for ensuring their implementation, and for collecting and monitoring radiation data at Community level;

RECALLING that the Commission is charged with implementing Community action to protect the environment and with co-operating in this connection with third parties;

CONSIDERING that the Commission implements a Community research programme in nuclear safety, including reactor safety, radiation protection, waste management and nuclear plant decommissioning and dismantling, as well as in safeguards for nuclear materials, and intends to develop scientific and technological co-operation with third countries on these subjects with a view to contributing towards internationally accepted nuclear safety principles and guidelines;

CONSIDERING that Kazakstan operates a nuclear power plant and three powerful research reactors which could be used as a part of a research and development programme to increase the safety of nuclear power plants;

CONSIDERING that large areas of Kazakstan have been contaminated by radioactive fall-out and a significant remediation effort will be required in these areas;

RECALLING that Kazakstan's regulatory activity for the nuclear sector is intended to ensure the protection of the environment and population in general, as well as the protection of workers, against radiation on the basis of internationally accepted guidelines and principles;

RECOGNIZING that the future contribution of nuclear energy to meet the energy needs of Kazakstan and of Europe as a whole, with due consideration for diversification, the economy and the environment, also depends on developing satisfactory answers to the safety related issues aforementioned;

MINDFUL of the various forms of co-ordinated action on nuclear safety envisaged by the Community and Kazakstan,

HAVE AGREED AS FOLLOWS:

Article 1

Co-operation under this Agreement shall, on the basis of mutual benefit, contribute to the improvement of nuclear safety, including the definition and application of scientifically warranted and internationally accepted nuclear safety guidelines.

Article 2

The Parties will endeavour to promote co-operation in the following areas:

(a) Reactor safety research

Review and analysis of safety issues; identification of appropriate techniques to improve reactor safety including through research and development and evaluation studies on nuclear reactors in operation and planned.

(b) Radiation protection

Research, regulatory aspects, development of safety standards, public information, training and education, particular attention shall be paid to low-dose effects, industrial exposures and post-accident management.

(c) Nuclear waste management

Management of radioactive wastes including remediation of contaminated areas management and disposal of long-lived radioactive wastes.

(d) Decommissioning, decontamination and dismantling of nuclear installations

Strategies for decommissioning and dismantling nuclear installations, including radiological aspects.

(e) Research and development on safeguards of nuclear material

Development and evaluation of nuclear material measurement techniques and characterization of reference materials for safeguards activities and development of the systems of accounting for and control of nuclear materials.

(f) Prevention of illicit trafficking of nuclear material

Cooperation shall relate to the promotion of methods and techniques of control of nuclear material.

Article 3

1. Co-operation shall be implemented in particular through:

- exchange of technical information by means of reports, visits, seminars, technical meetings, etc.;
- exchange of personnel between laboratories and/or bodies involved on both sides, including for training purposes;
- exchange of samples, materials, instruments and apparatus for experimental purposes;
- balanced participation in joint studies and activities.

2. To the extent necessary, implementing arrangements to set out the scope, terms and conditions to implement specific co-operation activities, may be entered into by the Parties and/or by bodies which either Party may eventually entrust with the aforementioned activities.

Such implementing arrangements may, inter alia, cover financing provisions, assignment of management responsibilities and detailed provisions on dissemination of information and intellectual property rights.

3. In order to minimize duplication of efforts, the Parties shall coordinate their activities under this Agreement with other international activities related to nuclear safety in which they are participants.

Article 4

1. Each Party's obligations under this Agreement shall be subject to the availability of the required funds.
2. All costs resulting from co-operation shall be borne by the Party that incurs them.
3. The financing of industrial activities shall be excluded from the scope of this Agreement.

Article 5

1. In so far as the Community is concerned, this Agreement shall apply to the territories in which the Treaty establishing the European Atomic Energy Community applies.
2. Co-operation under this Agreement shall be in accordance with the laws and regulations in force.
3. Each Party shall use its best endeavours, within the framework of the laws and regulations applicable, to facilitate the accomplishment of formalities involved in the movement of persons, the transfer of materials and equipment and the transfer of currency required to conduct the co-operation.
4. Compensation for damages incurred during the implementation of this Agreement shall be in accordance with the laws and regulations applicable.

Article 6

Treatment of information, industrial property and copyright connected with the co-operation activities under this Agreement shall be in accordance with the Annexes, which form an integral part of this Agreement.

Article 7

Subject to the laws and regulations applicable, the Parties shall endeavour to settle all questions connected with this Agreement through consultations between themselves.

Article 8

1. A Co-ordinating Committee consisting of members appointed in equal number by the two Parties shall be established to supervise the implementation of this Agreement.
2. The Co-ordinating Committee shall meet each year, alternately in the Community and in Kazakstan, for regular sessions in order to:
 - review and assess the state of co-operation under this Agreement and prepare annual reports thereon;

- determine by mutual agreement the specific tasks to be undertaken under this Agreement, without prejudice to the taking of autonomous decisions by the Parties on their respective programmes.

3. If mutually agreeable, extraordinary sessions may be held for dealing with particular topics, or in particular circumstances.

Article 9

1. This Agreement shall enter into force on the date which the Parties, by an exchange of diplomatic notes, specify for its entry into force and shall remain in force for an initial period of 10 years.

2. Thereafter, this Agreement shall be automatically renewed for five-year periods, unless either Party, by written notice, requests its termination or renegotiation not later than six months prior to the expiry date.

3. In the event of termination or renegotiation, this Agreement shall remain in force in its previous form with respect to co-operation activities effectively entered into prior to the request for termination or renegotiation until the end of such activities and relative implementing arrangements or for one calendar year after the expiry of this Agreement in its previous form, whichever is the earlier.

4. Termination of this Agreement shall not affect rights and obligations under Article 6.

Article 10

This Agreement shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Russian, Spanish, Swedish languages, each text being equally authentic.

Done at on

For the European Atomic
Energy Community

For the Government of the
Republic of Kazakstan

**GUIDING PRINCIPLES ON THE ALLOCATION OF
INTELLECTUAL PROPERTY RIGHTS (*) RESULTING FROM
JOINT RESEARCH UNDER
THE AGREEMENT FOR CO-OPERATION
IN THE PEACEFUL USES OF NUCLEAR ENERGY**

I. OWNERSHIP, ALLOCATION AND EXERCISE OF RIGHTS

1. All research carried out pursuant to this Agreement shall be "joint research". The participants shall jointly develop joint technology management plans (TMPs) (**) in respect of the ownership and use, including publication, of information and Intellectual Property (IP) to be created in the course of joint research. Those plans shall be approved by the Parties before the conclusion of any specific R&D co-operation contracts to which they refer. The TMPs shall be developed taking into account the aims of the joint research, the relative contributions of the participants, the advantages and disadvantages of licensing by territory or for fields of use, requirements imposed by laws applicable and other factors deemed appropriate by the participants. The rights and obligations concerning the research generated by visiting researchers in respect of IP shall also be addressed in the joint technology management plans.

2. Information or IP created in the course of joint research and not addressed in the technology management plan shall be allocated, with the approval of the Parties, according to the principles set out in the technology management plan. In case of disagreement, such information or IP shall be owned jointly by all the participants involved in the joint research from which the information or IP results. Each participant to whom this provision applies shall have the right to use such information or IP for his own commercial exploitation with no geographical limitation.

3. Each Party shall ensure that the other Party and its participants may have the rights to IP allocated to them in accordance with these principles.

4. While maintaining the conditions of competition in areas affected by the agreement each Party shall endeavour to ensure that rights acquired pursuant to this Agreement are exercised in such a way as to encourage in particular:

(i) the dissemination and use of information created, disclosed, or otherwise made available, under the Agreement;

(ii) the adoption and implementation of international standards.

(*) Definitions of the concepts referred to in these guiding principles are set out in Annex II.

(**) The indicative features of such TMPs are set out in Annex III.

II. COPYRIGHT WORKS

Copyright belonging to the Parties or to their participants shall be accorded treatment consistent with the Berne Convention (1971 Paris Act).

III. SCIENTIFIC LITERARY WORKS

Without prejudice to Section IV, unless otherwise agreed in the TMP, publication of results of research shall be made jointly by the Parties or participants to that joint research. Subject to the foregoing general rule, the following procedures shall apply:

1. In the case of publication by a Party or public bodies of that Party of scientific and technical journals, articles, reports, books, including video and software, arising from joint research pursuant to this Agreement, the other Party shall be entitled to a worldwide, non-exclusive, irrevocable, royalty-free licence to translate, reproduce, adapt, transmit and publicly distribute such works.
2. The Parties shall ensure that literary works of a scientific character arising from joint research pursuant to this Agreement and published by independent publishers shall be disseminated as widely as possible.
3. All copies of a copyright work to be publicly distributed and prepared under this provision shall indicate the names of the author(s) of the work unless an author or authors expressly declines or decline to be named. They shall also bear a clearly visible acknowledgement of the co-operative support of the Parties.

IV. UNDISCLOSED INFORMATION

A. Documentary undisclosed information

1. Each Party or its participants, as appropriate, shall identify at the earliest possible moment and preferably in the technology management plan the information that it wishes to remain undisclosed in relation to this Agreement, taking account inter alia of the following criteria:
 - secrecy of the information in the sense that the information is not, as a body or in the precise configuration or assembly of its components, generally known among or readily accessible by lawful means to experts in the field;
 - the actual or potential commercial value of the information by virtue of its secrecy;
 - previous protection of the information in the sense that it has been subject to steps that were reasonable under the circumstances by the person lawfully in control, to maintain its secrecy.

The Parties and the participants may in certain cases agree that, unless otherwise indicated, parts or all of the information provided, exchanged or created in the course of joint research pursuant to the Agreement may not be disclosed.

2. Each Party shall ensure that undisclosed information under this Agreement and its ensuing privileged nature is readily recognizable as such by the other Party, for example by means of an appropriate marking or restrictive legend. This also applies to any reproduction of the said information, in whole or in part.

A Party receiving undisclosed information pursuant to the Agreement shall respect the privileged nature thereof. These limitations shall automatically terminate when this information is disclosed by the owner without restriction to experts in the field.

3. Undisclosed information communicated under this Agreement may be disseminated by the receiving Party to persons within or employed by the receiving Party, and other concerned departments or agencies in the receiving Party authorized for the specific purposes of the joint research under way, provided that any undisclosed information so disseminated shall be pursuant to an agreement of confidentiality and shall be readily recognizable as such, as set out above.
4. With the prior written consent of the Party providing undisclosed information under this Agreement, the receiving Party may disseminate such undisclosed information more widely than otherwise permitted in paragraph 3 above. The Parties shall co-operate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party will grant such approval to the extent permitted by its domestic policies, regulations and laws.

B. Non-documentary undisclosed information

Non-documentary undisclosed or other confidential or privileged information provided in seminars and other meetings arranged under this Agreement, or information arising from the attachment of staff, use of facilities, or joint projects, shall be treated by the Parties or their participants according to the principle specified for documentary information in the Agreement, provided, however, that the recipient of such undisclosed or other confidential or privileged information has been made aware of the confidential character of the information communicated at the time such communication is made.

C. Control

Each Party shall endeavour to ensure that undisclosed information received by it under this Agreement shall be controlled as provided therein. If one of the Parties becomes aware that it will be, or may reasonably be expected to become, unable to meet the non-dissemination provisions of paragraphs A and B above, it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.

DEFINITIONS

1. **INTELLECTUAL PROPERTY:** shall have the meaning found in Article 2 of the Convention establishing the World Intellectual Property Organization, done at Stockholm on 14 July 1967.
2. **PARTICIPANT:** any natural or legal person, including the parties themselves, participating in a project under this Agreement.
3. **JOINT RESEARCH:** research implemented and/or funded by the joint contributions of the Parties and with collaboration from participants of both Parties, where appropriate.
4. **INFORMATION:** scientific or technical data, results or methods of research and development stemming from the JOINT RESEARCH and any other information deemed necessary by the Parties and/or participants engaged in the JOINT RESEARCH to be provided or exchanged under this Agreement or research pursuant thereto.

**INDICATIVE FEATURES OF A
TECHNOLOGY MANAGEMENT PLAN (TMP)**

The TMP is a specific agreement to be concluded between the participants, about the implementation of joint research and the respective rights and obligations of the participants. With respect to IPR, the TMP will normally address, inter alia: ownership, protection, user rights for R&D purposes, exploitation and dissemination, including arrangements for joint publication, the rights and obligations of visiting researchers and dispute settlement procedures. The TMP may also address foreground and background information, licensing and deliverables.

ISSN 0254-1475

COM(96) 572 final

DOCUMENTS

EN

12 11 15 14

Catalogue number : CB-CO-96-574-EN-C

ISBN 92-78-11480-4

Office for Official Publications of the European Communities

L-2985 Luxembourg