COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 515 final

Brussels, 20 October 1993

Proposal for a

COUNCIL DECISION

on the conclusion of an Agreement, in the form of exchanges of letters, with the European Bank for Reconstruction and Development on the contribution of the European Economic Community to the Nuclear Safety Account

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In conformity with the conclusions of the European Council of Lisbon, and following the conclusion of the Council of 7 December 1992, the Commission proposed that the Community should make a contribution available of 20 MECU to the Nuclear Safety Account set up at the EBRD, in order to enhance the nuclear safety of the countries of Central and Eastern Europe and of the former Soviet Union, and negotiate an agreement to this end in the form of an exchange of letters with the EBRD.

   (Doc. SEC(93) 363 final of 9 March 1993).

2. On 21 April 1993, the Council decided to authorize the Commission to negotiate the Community's participation in the above mentioned account on the basis of negotiating directives aiming notably at the following points :

   - to provide for provisions on the coordination of nuclear safety related activities initiated by the Nuclear Safety Account, on the one hand, and of the Community assistance programs PHARE and TACIS, on the other;

   - to provide for rules concerning a certain degree of financial control by the Court of Auditors of the Nuclear Safety Account's financial operations;

   - to provide for a contribution of 20 MECU to the above mentioned account in 1993.

   (Doc. of the Council No. 6049/93 of 21 April 1993).

3. In conformity with this Council decision, the Commission has negotiated exchanges of letters with the EBRD. These are reproduced in the annex of the attached draft decision.

3.1 As regards the form of the agreement, it will consist, on the one hand, of letters from the Community and the EBRD as foreseen by Article II, Section 2.02 of the Rules governing the use and functioning of the Nuclear Safety Account and, on the other hand, of "side letters" accompanying the former and relating to the points of the negotiating directives which are not covered by the former.

3.2 As to the substance of the exchanges of letters, the following points should be noted :

- In order to best safeguard the financial interest of the Community as well as the auditing powers of the Court of Auditors and of the Commission, it appears useful to ensure in particular that the reports of the internal and external auditors of the EBRD on the operations of the Nuclear Safety Account be put at the disposal of the Commission and of the Court of Auditors. Moreover, should they think it appropriate, the latter would be in a position to verify the financial operations of the Nuclear Safety Account to the extent that these operations are related to Community's contribution.

- Following the first calls for tender issued by the EBRD in the framework of the Nuclear Safety Account's operations, it seems necessary to ensure that the Rules governing the Account as regards the awarding of tender contracts be correctly interpreted in the light of Community law. To this effect, a particular provision specifies that, as from the conclusion of the agreement on the Community contribution, no discrimination will be made between Member States of the Community, irrespective of whether or not they have individually contributed to the Account.

- As far as the payment procedure of the Community contribution is concerned, it is foreseen that the contribution of 20 MECU will be made available to the Nuclear Safety Account either in cash or in non-interest bearing promissory notes in one single instalment in 1993.

4. The Council is requested to approve the conclusion of the Agreement, in the form of exchanges of letters as reproduced in the annex to the attached draft decision, with the European Bank for Reconstruction and Development on the contribution of the European Economic Community for the Nuclear Safety Account.

The Commission suggests that its Vice-President Sir Leon Brittan be authorized by the Council to sign the Agreement with binding effect for the Community.

COUNCIL DECISION

of 1993

on the conclusion of an Agreement, in the form of exchanges of letters, with the European Bank for Reconstruction and Development on the contribution of the European Economic Community to the Nuclear Safety Account

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the precarious situation in the field of nuclear safety in several countries of Central and Eastern Europe and of the former Soviet Union requires international efforts in order to enhance the level of nuclear safety in these countries; whereas the Community, through its technical assistance programs PHARE and TACIS, devotes considerable means to this end,

Whereas in complement to the efforts already undertaken a multilateral fund, called Nuclear Safety Account, has been established with the European Bank for Reconstruction and Development which aims at the financing of short term measures to enhance the level of nuclear safety in the countries in question; whereas the European Council of Lisbon as well as the Council in its conclusions of 7 December 1992 have expressed the wish that the Community contributes to this fund; whereas to this end the Council, on 21 April 1993, has authorized the Commission to negotiate a contribution agreement; and whereas this Agreement should now be concluded,

Whereas the Agreement will contribute to the achievement of the Community's objectives; whereas the Treaty does not provide, for the adoption of this Decision, powers other than those of Article 235,

Has decided as follows :

Article 1

The Agreement on the contribution to the Nuclear Safety Account in the form of an exchanges of letters between the Community and the European Bank for Reconstruction and Development, is hereby approved on behalf of the European Economic Community.

The texts of exchanges of letters are annexed to this Decision.

Article 2

The Community shall be represented in the Assembly of contributors and, if need be, in the Operating Committee of the Nuclear Safety Account, by the Commission which shall appoint its representatives.

Article 3

This decision shall be published in the Official Journal of the European Communities.

Done at Brussels, ...1993

For the Council

The President

Annex

A. Form of Letter by Contributor to President of Bank

Dear Sir,

I am writing to acknowledge your communication regarding the establishment by the European Bank for Reconstruction and Development (the "Bank") of the Nuclear Safety Account (the "Account") to be governed by the Rules which had previously been adopted by consensus among the representatives of the G-7 governments.

1. I am pleased to confirm that the European Economic Community wishes to make a Contribution to the Account in accordance with the Rules in the aggregate amount of 20 million ECU on the basis of domestic laws and regulations and in accordance with annual budgetary appropriations.

2. To the extent it is available by legislative action the Contribution will be paid in cash or in non interest bearing promissory notes in ECU in one instalment during the period of calendar year 1993.

3. I confirm that the terms used herein have the meaning attributed to them in the Rules.

Sincerely yours,

B. Form of Reply by President of Bank

Dear Sir,

Thank you for your letter of concerning the contribution of the European Economic Community to the Nuclear Safety Account in the aggregate amount of 20 million ECU.

This is to confirm that the European Bank will be pleased to accept this contribution for inclusion in the Account pursuant to the Rules governing the Account.

Sincerely yours,

C. Draft side letter to be sent jointly with the letter confirming the contribution

Dear Sir,

As a complement to my letter confirming the European Community's commitment to make a contribution of 20 MECU in 1993 to the Nuclear Safety Account, in accordance with Article II, Section 2.02 of the Rules, the Commission, on behalf of the European Economic Community, asks the Bank, in its capacity as administrator and operator of the Account, to confirm its agreement to the following provisions which will form an integral part of the Contribution Agreement:

1. The Commission and the Bank shall closely coordinate on nuclear safety assistance projects and related policy orientations, ensuring the cohesion and the complementarity of the activities generated by the Nuclear Safety Account in relation to the Community's PHARE and TACIS nuclear safety assistance programmes. To this end, beyond the information received through normal channels of operation of the Account, particularly in the context of meetings of the Assembly of Donors or of the Operating Committee, the Commission and the Bank will arrange for a regular exchange of views and experiences on nuclear safety assistance projects of mutual interest as well as for any other useful means of coordination.

2. As regards the financial operations of the Nuclear Safety Account to the extent that it is related to the Community's contribution, the Commission may forward all relevant information to the European Court of Auditors. Moreover, the Bank will supply all supplementary information that the Commission or the Court of Auditors may wish to receive.

   In particular, the reports of the internal and external auditors of the Bank on the Nuclear Safety Account, to be established in accordance with Art. IV, Section 4.04 of the Rules, shall be made available to the Commission and, through it, to the European Court of Auditors. In case they consider it appropriate, the Commission and the European Court of Auditors, according to their respective competences, will be entitled to verify the financial operations of the Nuclear Safety Account to the extent that it is related to the Community's contribution.

3. As concerns the procurement arrangements pursuant to the Rules, the Commission understands that the Bank accepts the understanding whereby, upon conclusion to this Contribution Agreement, no discrimination will be made between individual Member States of the European Community, irrespective of their having concluded individual Contribution Agreements with the Bank or not, as far as the awarding of procurement contracts for services or supplies are concerned in the course of operations of the Nuclear Safety Account.

Sincerely yours,

D. Draft side letter of reply by President of Bank

Dear Sir,

In complement to my letter accepting the contribution of the European Economic Community to the Nuclear Safety Account, I am pleased to confirm the agreement of the Bank to the provisions contained in the side letter to your letter of .

Sincerely yours,

FINANCIAL STATEMENT

I. FINANCIAL IMPLICATIONS

1. Title of operation:
Community contribution to the Multilateral Fund for Nuclear Safety in the countries of Eastern and Central Europe and the former Soviet Union.
("Nuclear Safety" Account established at the EBRD)

2. Budget heading involved:
Article B7 - 630

3. Legal basis
Article 235 EEC Treaty

4. Description of operation

4.1 Specific objectives of the operation
Contribution of the Community to the "Nuclear Safety" Account established at the EBRD, administered by the Assembly of Donours/Operational Committee which includes the principal donours, thereunder the Community

4.2 Period covered : 3 years

4.3 Populations affected
Countries of Eastern and Central Europe and the former Soviet Union.

5. Classification of expenditure or revenue

5.1 NCE
5.2 NDA

6. Type of expenditure or revenue

6.1 100% subsidy, for joint financing of a multilateral fund established at the EBRD.

7. Financial impact

7.1 Method of calculating total cost of operation:
Financial participation of the Community in the amount of 20 MECU, in accordance with the Council decision of 21 April 1993 (Council document nr. 6049/93 of 21.4.93)

7.2 Indicative breakdown of allocation commitments and payments

	BRS 1/93	Draft budget 94
Commitments	20 MECU	pm
Payments	20 MECU	pm

8. Fraud prevention measures

Auditing system of the EBRD as well as specific provisions regarding the auditing rights of the Commission and the Court of Auditors, according to the exchange of letters with the EBRD.

II. ADMINISTRATIVE EXPENDITURE

1. Will the proposed operation involve an increase in the number of Commission staff?

No

III. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

1. Objectives and coherence with financial programming

1.1 Specific objectives of the proposed operation. This must be quantified (as far as is possible) and presented for each of the years concerned if the operation is multiannual.

Support of the activities of the "Nuclear Safety" Account with the purpose of financing measures to improve the security of nuclear reactors in the countries of Eastern and Central Europe and the former Soviet Union.

1.2 Is the operation incorporated in the DG's financial programming for the relevant years?

Foreseen in the Programmes TACIS/PHARE 1993.

1.3 To which broader objective defined in the DG's financial programming does the objective of the proposed operation correspond?

Continuation of the Community action, notably with respect to the supply of equipment needed to improve nuclear safety.

2. Grounds for the operation

2.1 Grounds for the operation

Multilateral operation following the decisions of the European Council of Lisbon (June 1992), the G7 Munich Summit of July 1992 and the Council conclusions of 7.12.1992.

3. Monitoring and evaluation of the operation

Seat of the Commission in the Assembly of Donours/Operational Committee of the Account, which determines and monitors the projects and which has the authority to review the effectiveness of the activities financed.

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DOCUMENTS

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