COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.4.2009
COM(2009)182 final

2009/0062 (CNS)

Proposal for a

COUNCIL DECISION

Concerning the renewal of the Agreement for scientific and technological cooperation between the European Community and Ukraine

EXPLANATORY MEMORANDUM

1. The Agreement on cooperation in science and technology between the European Community and Ukraine was signed in Copenhagen on 4 July 2002 and entered into force on 11 February 2003. Article 12 (b) of the Agreement provides as follows: "This Agreement shall be concluded for an initial period ending on 31 December 2002 and will be renewable by common agreement between the Parties for additional periods of five years".

2. By Council Decision 2003/737/EC of 22 September 2003[1] the Agreement was renewed for a further period of five years which entered into force on 8 November, 2004. The Agreement is due to expire on 7 November, 2009.

3. It is in the interest of the Community to renew this Agreement in order to continue to facilitate cooperation with Ukraine in common S&T priority areas leading to socio-economic benefits for both Parties.

4. Both Parties confirmed their intention to renew the agreement at the 3rd meeting of the EU-Ukraine Sub Committee N° 7, held in Kyiv on 26 and 27 November, 2008.

5. The material content of the renewed Agreement will be identical to the material content of the current Agreement.

6. In the light of the above considerations, the Commission requests the Council:

   – to approve, on behalf of the Community, after consulting the European Parliament, the renewal of the Agreement for scientific and technological cooperation between the European Community and Ukraine for an additional period of five years;

   – to express the consent of the Community to be bound by the Agreement's provisions.

[1] L267 of 17 Oct.2003, p.25

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the second paragraph of Article 170 thereof in conjunction with the first sentence of the first subparagraph of Article 300(2), and the first subparagraph of Article 300(3),

Having regard to the proposal from the Commission[2],

Having regard to the opinion of the European Parliament[3],

Whereas:

(1) By its Decision 2003/96/EC of 6 February, 2003[4], the Council approved the conclusion of the Agreement for scientific and technological cooperation between the European Community and Ukraine.

(2) Article 12 (b) of the Agreement provides as follows: "This Agreement shall be concluded for an initial period ending on 31 December 2002 and will be renewable by common agreement between the Parties for additional periods of five years".

(3) By its Decision of 22 September, 2003[5] the Council approved the renewal of the Agreement for a further period of five years which entered into force on 8 November, 2004.

(4) At the 3rd meeting of EU-Ukraine Sub-Committee N° 7, held on 26 and 27 November, 2008 in Kyiv both Parties confirmed their interest in a renewal of the abovementioned Agreement for another five years.

(5) The material content of the renewed Agreement will be identical to the material content of the Agreement which expires on 7 November, 2009.

(6) The renewal of the Agreement for scientific and technological cooperation between the European Community and Ukraine should be approved on behalf of the Community.

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2 OJ
3 OJ
4 OJ L36 of 12 February 2003, p.32
5 OJ L267 of 17 October 2003, p.25

HAS DECIDED AS FOLLOWS:

Article 1

The renewal of the Agreement for scientific and technological cooperation between the European Community and Ukraine, for an additional period of five years is hereby approved on behalf of the Community.

Article 2

The President of the Council shall, acting on behalf of the Community and in accordance with point (b) of Article 12 of the Agreement, give the notification to the Government of Ukraine that the Community has completed its internal procedures necessary for the entry into force of this renewed Agreement.

Article 3

The decision shall be published in the Official Journal.

Done at Brussels,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL :

Proposal for a Council Decision concerning the renewal of the Agreement for scientific and technological cooperation between the European Community and Ukraine.

2. ABM / ABB FRAMEWORK

Policy Area(s) concerned and associated Activity/Activities:

Policy strategy and coordination of, in particular, the Directorates-General RTD, JRC, ENTR, INFSO and TREN.

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- B.A lines)) including headings:

Costs in connection with the implementation of the Agreement (workshops, seminars, meetings, etc.) will be charged to the administrative budget lines for the specific programmes of the Framework programme of the European Community (08.01.05.03).

3.2. Duration of the action and of the financial impact:

Duration of five years, to be renewed by mutual agreement between the Parties, as laid down in Article 12 (b) of the Agreement.

3.3. Budgetary characteristics:

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
08.01.05.03	Non-comp	Non-diff[6]	NO	YES	YES	No 1a

4. SUMMARY OF RESOURCES

4.1. Financial Resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

[6] Non-differentiated appropriations hereafter referred to as NDA

4.1.2.

EUR million (to 3 decimal places)

Expenditure type	Section no.		2009	2010	2011	2012	2013	Total
Operational expenditure[7]								
Commitment Appropriations (CA)	8.1	a						
Payment Appropriations (PA)		b						
Administrative expenditure within reference amount[8]								
Technical & administrative assistance (NDA)	8.2.4	c	0.110	0.110	0.110	0.110	0.110	0.550
TOTAL REFERENCE AMOUNT								
Commitment Appropriations		**a+c**	0.110	0.110	0.110	0.110	0.110	0.550
Payment Appropriations		**b+c**	0.110	0.110	0.110	0.110	0.110	0.550
Administrative expenditure not included in reference amount[9]								
Human resources and associated expenditure (NDA)	8.2.5	d						
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6	e						

Total indicative financial cost of intervention

TOTAL CA including cost of Human Resources		a+c+d+e	0.110	0.110	0.110	0.110	0.110	0.550
TOTAL PA including cost of Human Resources		b+c+d+e	0.110	0.110	0.110	0.110	0.110	0.550

7 Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

8 Expenditure within article xx 01 04 of Title xx.

9 Expenditure within chapter xx 01 other than articles xx 01 04 or xx 01 05.

Co-financing details

If the proposal involves co-financing by Member States, or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

EUR million (to 3 decimal places)

Co-financing body		Year	N+1	N+2	N+3	N+4	N+5 and later	Total
……	f							
TOTAL CA including co-financing	a+c +d+ e+f							

4.1.3. Compatibility with Financial Programming

x Proposal is compatible with existing financial programming.

☐ Proposal will entail reprogramming of the relevant heading in the financial perspective.

☐ Proposal may require application of the provisions of the Interinstitutional Agreement[10] (i.e. flexibility instrument or revision of the financial perspective).

4.1.4. Financial impact on Revenue

x Proposal has no financial implications on revenue

☐ Proposal has financial impact – the effect on revenue is as follows:

EUR million (to one decimal place)

		Prior to action	Situation following action					
Budget line	Revenue	[Year n-1]	[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5][11]
	a) Revenue in absolute terms							
	b) Change in revenue	Δ						

[10] See points 19 and 24 of the Interinstitutional agreement.

[11] Additional columns should be added if necessary i.e. if the duration of the action exceeds 6 years

4.2. Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

Annual requirements	2009	2010	2011	2012	2013
Total number of human resources					

5. CHARACTERISTICS AND OBJECTIVES

5.1. Need to be met in the short or long term

This decision will allow both Parties to continue, upgrade and intensify their cooperation in areas of common scientific and technological interest.

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

This Agreement is based on the principles of mutual benefit, reciprocal opportunities for cooperation activities such as joint or coordinated calls for joint projects, access to each other's programmes and activities relevant for the purpose of the Agreement and the effective protection of intellectual property and equitable sharing of intellectual property rights. The proposal also provides for missions by EU experts and officials, and for workshops, seminars and meetings to be organised in the European Community and in Ukraine.

The cooperative activities in the field of science and technology under this agreement are complementary to and in support of other Community activities vis à vis Ukraine. As set out in the draft EU-Ukraine Association Agreement, it is foreseen that co-operation between the Parties shall aim at facilitating the increasing involvement of the Ukraine into the European Research Area. Such cooperation shall assist Ukraine to support the reform and reorganisation of its science management system and research institutions (including the development of its capacity in research and technological development) in order to support the development of a competitive economy and knowledge society.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

This decision should allow both Ukraine and the European Community to derive mutual benefit from the scientific and technical progress achieved through their specific research programmes. It will allow an exchange of specific knowledge and a transfer of know-how to the benefit of the scientific community, industry and citizens.

As set out in the draft EU-Ukraine Association Agreement, it is foreseen that co-operation shall take place particularly through:

Exchange of information on each other's science and technology policies;

Participation in the Framework Programme of the European Community (EC) for research and technological development;

Joint implementation of scientific programmes and research activities;

Joint research and development activities aimed at encouraging scientific progress and the transfer of technology and know-how;

Training through mobility programme for researchers and specialists;

The organisation of joint scientific and technological development events/measures;

Implementation measure aimed at the development of an environment conducive to research and the application of new technologies and adequate protection of the intellectual property results of research;

Enhancement of co-operation at regional and international level notably in the Black Sea context and within multilateral organisations such as UNESCO, OECD and G8, as well as in the context of multilateral agreements such as the UN Framework Convention on Climate Change;

Exchange of expertise on management of research and science institutions in order to develop and improve their capacities of conducting and participation in scientific researches.

5.4. Method of Implementation (indicative)

Centralised Management

x Directly by the Commission

Shared or decentralised management

With Member states

With Third countries

Joint management with international organisations (please specify)

Relevant comments:

6. MONITORING AND EVALUATION

6.1. Monitoring system

The Commission departments will regularly monitor all the actions carried out under the cooperation agreement, which will also be subject to a joint regular evaluation by the Community and Ukraine.

Evaluation

6.1.1. Ex-ante evaluation

The Commission will evaluate the actions covered by this cooperation agreement before the end of the five year implementation period. This evaluation will cover:

(a) Performance indicators

– number of missions and meetings;

– number of different fields of cooperation activities.

(b) gathering of information:

Based on information from the specific programmes of the Framework Programme and information provided by Ukraine to the Joint Community-Ukraine Committee provided for by the Agreement.

6.1.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)

N/A

6.1.3. Terms and frequency of future evaluation

The Parties to the Agreement will evaluate the application thereof annually in the meetings of the Joint Community-Ukraine Committee referred to in Article 6 thereof. Further renewal of this agreement will be submitted for assessment by each of the Parties.

7. ANTI-FRAUD MEASURES

When the implementation of the framework programme calls for the use of external contractors or implies granting financial contributions to third parties, the Commission will carry out, where appropriate, financial audits, in particular if it has reason to doubt the realistic nature of work performed or described in the activity reports.

The Community's financial audits will be carried out either by its own staff or by accounting experts approved according to the law of the audited party. The Community will choose the latter freely, while avoiding any risks of conflicts of interest which might be indicated to it by the party subject to the audit.

In addition, in carrying out the research activities, the Commission will ensure that the financial interests of the European Communities are protected by effective checks and, where irregularities are detected, by proportionate and dissuasive measures and penalties.

In order to achieve this aim, rules on checks, measures and penalties, with references to Regulations No 2988/95, 2185/96, 1073/99 and 1074/99 will be set out in all contracts used in the implementation of the framework programme.

In particular, the following points will have to be provided for in the contracts:

– the introduction of specific contractual clauses to protect the financial interests of the EC in carrying out checks and controls in relation to the work performed;

– the carrying out of administrative checks as part of anti-fraud measures, in accordance with Regulations No 2185/96, No 1073/1999 and No 1074/1999;

– the application of administrative penalties for all intentional or negligent irregularities in the implementation of the contracts, in accordance with the framework Regulation No 2988/95, including a blacklisting mechanism;

– the fact that possible recovery orders in case of irregularities and fraud be enforceable according to Article 256 of the EC Treaty.

In addition and as routine measures, an internal audit and control programme in respect of scientific and budgetary aspects will be carried out by the DG Research staff responsible; an internal audit will be carried out by the Internal audit Unit of DG Research; and local inspections will be undertaken by the Court of Auditors of the European Union.

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost

Commitment appropriations in EUR million (to 3 decimal places)

(Headings of Objectives, actions and outputs should be provided)	**Type of output**	**Av. cost**	**Year n**		**Year n+1**		**Year n+2**		**Year n+3**		**Year n+4**		**Year n+5 and later**		**TOTAL**	
			No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIVE No.1 [12]																
Action 1……..																
Output 1																
Output 2																
Action 2……..																
Output 1																
Sub-total Objective 1																
OPERATIONAL OBJECTIVE No.2																
Action 1……..																
Output 1																
Sub-total Objective 2																
OPERATIONAL OBJECTIVE No.n																
Sub-total Objective n																
TOTAL COST																

[12] As described under Section 5.3

8.2. Administrative Expenditure

8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (**number of posts/FTEs**)					
		2009	2010	2011	2012	2013	
Officials or temporary staff[13] (XX 01 01)	A*/AD	1	1	1	1	1	
	B*, C*/AST						
Staff financed[14] by art. XX 01 02							
Other staff[15] financed by art. XX 01 04/05							
TOTAL		1	1	1	1	1	

8.2.2. Description of tasks deriving from the action

Management of the Agreement will entail missions and attending meetings by EU and Ukrainian experts and officials.

8.2.3. Sources of human resources (statutory)

x Posts currently allocated to the management of the programme to be replaced or extended

☐ Posts pre-allocated within the APS/PDB exercise for year n

☐ Posts to be requested in the next APS/PDB procedure

☐ Posts to be redeployed using existing resources within the managing service (internal redeployment)

☐ Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

[13] Cost of which is NOT covered by the reference amount
[14] Cost of which is NOT covered by the reference amount
[15] Cost of which is included within the reference amount

8.2.4. Other Administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)

EUR million (to 3 decimal places)

Budget line (number and heading)	2009	2010	2011	2012	2013		TOTAL
1 Technical and administrative assistance (including related staff costs)							
Executive agencies[16]							
Other technical and administrative assistance	0.110	0.110	0.110	0.110	0.110		0.550
-*intra muros*							
-*extra muros*							
Total Technical and administrative assistance							
	0.110	0.110	0.110	0.110	0.110		0.550

For the organisation of workshops, conferences and seminars to promote information exchange and enhance scientific cooperation between Ukraine and the EC.

8.2.5. Financial cost of human resources and associated costs not included in the reference amount

EUR million (to 3 decimal places)

Type of human resources	2009	2010	2011	2012	2013	Total
Officials and temporary staff (XX 01 01)						
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)						
Total cost of Human Resources and associated costs (NOT in reference amount)						

[16] Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

Calculation– ***Officials and Temporary agents***

Amount given on the basis of the annual cost of an official (all categories included) i.e.:

Calculation– ***Staff financed under art. XX 01 02***

	2009	2010	2011	2012	2013	TOTAL
XX 01 02 11 01 – Missions						
XX 01 02 11 02 – Meetings & Conferences						
XX 01 02 11 03 – Committees[17]						
XX 01 02 11 04 – Studies & consultations						
XX 01 02 11 05 - Information systems						
2.Total Other Management Expenditure (XX 01 02 11)						
3 Other expenditure of an administrative nature (specify including reference to budget line)						
Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)						

Calculation - Other administrative expenditure <u>not</u> included in reference amount

[17] Specify the type of committee and the group to which it belongs.