COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.4.2004
COM(2004) 266 final

Proposal for a

COUNCIL DECISION

on the signing and provisional application of a Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Partnership and Cooperation Agreement (PCA) between the European Communities and their Member States, of the one part, and the **Republic of Azerbaijan** of the other part is a "mixed" agreement, which entered into force on 1 July 1999, i.e. before the enlargement of the Union to include the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic. It has therefore become necessary to draw up a protocol to the PCA to allow for the accession of the ten new Member States to the Agreement in accordance with Article 6(2) of the Act of Accession annexed to the Treaty of Accession of 16 April 2003. The Protocol also covers certain technical adjustments linked to institutional and legal developments within the European Union.

On 8 December 2003, the Council authorised the Commission to open negotiations, on behalf of the Community and its Member States, with Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Turkmenistan, Ukraine and Uzbekistan in order to conclude Protocols to the Partnership and Cooperation Agreements.

The negotiations with the **Republic of Azerbaijan** have subsequently been completed. The text of the negotiated protocol is attached.

The attached proposals are for (1) a Council Decision on the signature and provisional application of the Protocol and (2) a Council and Commission Decision on the conclusion of the Protocol.

The Commission proposes that the Council should :

– decide on the signature and provisional application of the Protocol on behalf of the European Community and its Member States;

– conclude the Protocol on behalf of the European Community and its Member States and gives its approval for conclusion by the European Atomic Energy Community.

Proposal for a

COUNCIL DECISION

on the signing and provisional application of a Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 44(2), the last sentence of Article 47(2), and Articles 55, 57(2), 71, 80(2), 93, 94, 133 and 181a, in conjunction with Article 300(2) first subparagraph first sentence, thereof,

Having regard to the Treaty of Accession of 16 April 2003, and in particular Article 2(3) thereof,

Having regard to the Act annexed to the Treaty of Accession, and in particular Article 6(2) thereof,

Having regard to the proposal from the Commission,[1]

Whereas:

(1) On 8 December 2003, the Council authorised the Commission, on behalf of the Community and its Member States, to negotiate with the **Republic of Azerbaijan** a Protocol to the Partnership and Cooperation Agreement to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, and to provide for certain technical adjustments linked to the institutional and legal developments within the European Union.

(2) Subject to its possible conclusion at a later date, the Protocol has been negotiated between the Parties and should now be signed on behalf of the European Community and its Member States,

(3) The Protocol should be applied on a provisional basis as from the date of accession, pending completion of the relevant procedures for its formal conclusion,

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[1] OJ C […], […], p. […].

HAS DECIDED AS FOLLOWS:

Article 1

The President of the Council is hereby authorised to designate the person(s) empowered to sign, on behalf of the European Community and its Member States, the Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the **Republic of Azerbaijan**, of the other part, to take account of the accession of the Czech Republic, the Republic of Cyprus, the Republic of Estonia, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, subject to possible conclusion at a later stage.

The text of the Protocol is attached to this Decision.

Article 2

Pending its entry into force, the Protocol shall be applied on a provisional basis from the date of accession.

Done at Brussels, […]

For the Council
The President

ANNEX

DRAFT

PROTOCOL TO THE PARTNERSHIP AND COOPERATION AGREEMENT

establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union

THE KINGDOM OF BELGIUM,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

REPUBLIC OF ESTONIA,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

REPUBLIC OF CYPRUS,

REPUBLIC OF LATVIA,

REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

REPUBLIC OF HUNGARY,

REPUBLIC OF MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

hereinafter referred to as the 'Member States', represented by the Council of the European Union, and

THE EUROPEAN COMMUNITY AND THE EUROPEAN ATOMIC ENERGY COMMUNITY,

hereinafter referred to as 'the Communities' represented, by the Council of the European Union and the European Commission,

of the one part,

and the **Republic of Azerbaijan**

of the other part,

HAVING REGARD TO the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union on 1 May 2004,

HAVE AGREED AS FOLLOWS:

Article 1

The Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia shall be Parties to the Partnership and Cooperation Agreement, establishing a partnership between the European Communities and their Member States, of the one part, and the **Republic of Azerbaijan**, of the other part, signed in Luxemburg on 22 April 1996 (hereinafter the 'Agreement') and shall respectively adopt and take note, in the same manner as the other Member States of the Community, of the texts of the Agreement and of the documents attached to it.

Article 2

To take account of recent institutional developments within the European Union, the Parties agree that, following expiry of the Treaty establishing the European Coal and Steel Community, existing provisions in the Agreement referring to the European Coal and Steel Community shall be deemed to refer to the European Community, which has taken over all rights and obligations contracted by the European Coal and Steel Community.

Article 3

This Protocol shall form an integral part of the Agreement.

Article 4

1. This Protocol shall be approved by the Communities, by the Council of the European Union on behalf of the Member States, and by the **Republic of Azerbaijan** in accordance with their own procedures.

2. The Parties shall notify each other of the accomplishment of the corresponding procedures referred to in the preceding paragraph. The instruments of approval shall be deposited with the General Secretariat of the Council of the European Union.

Article 5

1. This Protocol shall enter into force on the same day as the Treaty of Accession of 2003,[2] provided that all the instruments of approval of this Protocol have been deposited before that date.

2. Where not all the instruments of approval of this Protocol have been deposited before that date, this Protocol shall enter into force on the first day of the first month following the date of the deposit of the last instrument of approval.

3. Where not all the instruments of approval of this Protocol have been deposited before 1 May 2004, this Protocol shall apply provisionally with effect from 1 May 2004.

Article 6

The texts of the Agreement, the Final Act and all documents annexed to it are drawn up in the Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovene and Slovak languages.

These texts are annexed to this Protocol and are equally authentic with the texts in the other languages in which the Agreement, the Final Act and the documents annexed to it are drawn up.

Article 7

This Protocol is drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovene, Slovak, Spanish, Swedish and in Azerbaijani languages, each of these texts being equally authentic.

Done at […] on […] in the year 2004

FOR THE MEMBER STATES

FOR THE EUROPEAN COMMUNITIES

FOR THE REPUBLIC OF AZERBAIJAN

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[2] OJ L 236, 23.9.2003.