

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.07.2004
COM(2004) 464 final

Proposal for a

COUNCIL DECISION

on the signing of the Agreement on scientific and technological cooperation between the European Community and the Arab Republic of Egypt

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, was signed on 25 June 2001. Article 43 of the Agreement identifies scientific and technological cooperation as an area of particular interest and potential, and provides, amongst other things, for the establishment of permanent links between the parties' scientific communities.

2. In the context of the implementation of an ambitious international dimension of the European Research Area (see Commission communication COM(2001) 346 final of 25 June 2001, "The International Dimension of the European Research Area"), the Commission emphasised the need to strengthen relations with the Mediterranean partner countries in the fields of science, technology and innovation in order to promote socio-economic progress throughout the Euro-Mediterranean area.

3. On 29 May 2002 the Minister for Higher Education and Minister of State for Scientific Research of the Arab Republic of Egypt sent Commissioner Philippe Busquin a letter in which he expressed the satisfaction of the Egyptian authorities and scientific community with the scientific cooperation already taking place and asked for negotiations with the Community with a view to concluding a scientific and technological cooperation agreement supplementing and strengthening existing cooperation, with emphasis on regional cooperation.

4. Exploratory meetings were held with the Egyptian authorities responsible for science and technology policy and with representatives of the country's scientific community with a view to assessing Egypt's scientific potential and stepping up its participation in research of mutual interest with the European Community.

   These contacts confirmed that greater cooperation on science and technology with Egypt would be in the mutual interest of both parties. In conclusion, it would be fully in the interest of the Community to respond positively to Egypt's request and an agreement on scientific and technological cooperation would be the appropriate instrument for supplementing existing cooperation and expanding it at international and regional level.

5. On 14 November 2002 DG RTD accordingly initiated the procedure for obtaining a negotiating mandate for such an agreement on scientific and technological cooperation. On 12 March 2003 the Commission sent the Council a recommendation for the adoption of a negotiating mandate, and on 14 April 2003 the Council adopted a decision authorising the Commission to negotiate an agreement on scientific and technological cooperation with Egypt.

6. The Agreement was negotiated in accordance with the directives attached to the Council Decision of 14 April 2003. The negotiations culminated in the draft Agreement and Annexes attached hereto, which were initialled on 4 March 2004 by the authorised representatives of the two parties following two sessions of negotiations.

7. The draft Agreement is based on the principles of mutual benefit, reciprocal opportunities for access to each other's programmes and activities relevant to the

purpose of the draft Agreement, non-discrimination, the effective protection of intellectual property, and equitable sharing of intellectual property rights.

8. In the light of the above considerations, the Commission proposes that the Council should:

– decide that the Agreement should be signed on behalf of the European Community;

– authorise the President of the Council to appoint the person duly empowered to sign on behalf of the European Community.

Proposal for a

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Whereas:

(1) The Commission has negotiated, on behalf of the Community, an Agreement on scientific and technological cooperation with Egypt.

(2) Subject to possible conclusion at a later date, the Agreement initialled on 4 March 2004 should be signed,

HAS DECIDED AS FOLLOWS:

Sole Article

Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the person empowered to sign, on behalf of the European Community, the Agreement for scientific and technological cooperation between the European Community and the Arab Republic of Egypt.

Done at Brussels,

For the Council
The President

ANNEX

AGREEMENT FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

BETWEEN

THE EUROPEAN COMMUNITY AND THE ARAB REPUBLIC OF EGYPT

The European Community, (hereinafter referred to as the "Community") on the one part,

and

The Arab Republic of Egypt **(**hereinafter referred to as "Egypt"), on the other part,

Hereinafter referred to as the "Parties",

CONSIDERING the Treaty establishing the European Community and in particular its Article 170 in relation to its Article 300, paragraph 2, first sentence, and paragraph 3, first subparagraph;

CONSIDERING the European Parliament and Council decision n° 1513/2002/EC on June 27th 2002[1], pertaining to the sixth framework programme of the European Community for research, technological development and demonstration projects contributing to the realisation of the European Research Area and to innovation (2002-2006);

CONSIDERING the importance of science and technology for their economic and social development and the reference which was made in Article 43 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, on the one hand, and the Arab Republic of Egypt, on the other hand, signed on June 25th 2001;

WHEREAS the Community and Egypt undertook common research, technological development and demonstration activities, in various fields of common interest, and that it would be to their mutual advantage that each one of them took part in the activities of research and development of the other, on a reciprocity basis;

WISHING to establish a formal framework for cooperation in scientific and technological research which would make it possible to extend and intensify cooperative efforts in the fields of common interest and to encourage the use of the results of this cooperation considering their mutual economic and social interests;

WISHING to open the European Research Area to non-member countries, and in particular to the Mediterranean partner countries;

Have agreed as follows:

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[1] OJ L 232 of 29.08.2002.

Article 1
Scope and principles

1. The Parties shall encourage, develop and facilitate cooperative activities between the Community and Egypt in fields of common interest where they are pursuing research and development activities in science and technology.

2. Cooperative activities shall be conducted on the basis of the following principles:

   – Promotion of a knowledge-based society to foster the social and economic development of both Parties;

   – Mutual benefit based on an overall balance of advantages;

   – Reciprocal access to the activities of research programmes and projects undertaken by each Party;

   – Timely exchange of information which may affect cooperative activities.

   – Appropriate exchange and protection of intellectual property rights.

Article 2
Means of cooperation

1. Legal entities established in Egypt, as defined in Annex I, including either physical persons or private or public moral persons, shall participate in indirect actions of the European Community's Framework programme for research and technological development and demonstration activities (hereinafter the "***EC Framework Programme***") under the same conditions as those applicable to legal entities of Member States of the European Union, subject to the terms and conditions established by or referred to in Annexes I and II.

2. Legal entities established in the Member States of the European Community shall participate in Egypt's research programmes and projects in themes equivalent to those of the ***EC Framework programme*** under the same conditions as those applicable to legal entities of Egypt, subject to the terms and conditions established by or referred to in Annexes I and II.

3. Cooperation may also take the following forms and means:

   – Regular discussions on the orientations and priorities for research policies and planning in Egypt and the Community;

   – Discussions on cooperation prospects and development;

   – Timely provision of information concerning the implementation of programmes and research projects of Egypt and of the Community, and concerning the results of work undertaken within the framework of this Agreement;

   – Joint meetings;

– Visits and exchanges of research workers, engineers and technicians, including for training purpose;

– Exchanges and sharing of equipment and materials;

– Regular and sustained contacts between programme or project managers of Egypt and the Community;

– Participation of experts in seminars, symposia and workshops.

– Exchanges of information on practices, laws, regulations, and programmes relevant to cooperation under this Agreement;

– Research and technological development training;

– Reciprocal access to scientific and technologic information in the scope of this cooperation;

– Any other modality that would be adopted by the European Community-Egypt Research Committee, as defined in Article 4 and deemed in conformity with the policies and procedures applicable in both Parties.

Article 3
Enhancement of cooperation

1. The Parties will make every effort, within the framework of their applicable legislation, to facilitate the free movement and residence of research workers participating in the activities covered by this Agreement and to facilitate cross-border movement of goods intended for use in such activities.

2. Where in accordance with its own rules the Community unilaterally grants funding to a legal entity of Egypt participating in a Community indirect action, Egypt will ensure that no charge or levy shall be imposed upon that transaction.

Article 4
Management of the Agreement
European Community-Egypt Joint Scientific and Technological Cooperation Committee

1. The coordination and facilitation of activities under this Agreement shall be accomplished on behalf of Egypt by the Academy of Scientific Research and Technology and on behalf of the Community by the services of the European Commission in charge of the Framework programme, acting as executive agents of the Parties (hereinafter referred to as ”Executive Agents”).

2. The Executive Agents shall establish a joint committee called **“**EC-Egypt Joint Scientific and Technological Cooperation Committee” (hereinafter “***the Joint Committee***”), whose functions shall include:

– Ensuring, evaluating and reviewing the implementation of this Agreement, as well as modifying its Annexes or adopting new ones to take into consideration evolutions of the Parties' scientific policies, subject to the fulfilment by each of the Parties of its internal procedures for that purpose.

– Identifying, on an annual basis, potential sectors where cooperation should be developed and improved and examining any measure to that end;

– Regularly discussing the future orientations and priorities of research policies and research planning in Egypt and the Community and the prospects for future cooperation within this Agreement.

3. The *Joint Committee*, which shall be composed of representatives of the Executive Agents, shall adopt its rules of procedure.

4. The *Joint Committee* shall meet at least once a year, alternately in the Community and in Egypt. Extraordinary meetings shall be held at the request of one or the other of the Parties. The conclusions and recommendations of the Joint Committee will be sent for information to the Association Committee of the Euro-Mediterranean Agreement between the European Union and the Arab Republic of Egypt.

Article 5
Financing

The reciprocal participations in research activities under this Agreement are set according to the conditions defined in Annex I and are subject to legislation, regulations, policies and conditions of implementation of the programmes in force on the territory of each Party.

Article 6
Dissemination and use of the results and information

The dissemination and the use of the achieved and/or exchanged results as well as those of information, management, attribution and exercise of intellectual property rights resulting from the research activities undertaken under this Agreement are subject to the conditions provided for in Annex II.

Article 7
Final provisions

1. Annexes I and II form an integral part of this Agreement.

All questions or disputes related to the interpretation or implementation of this Agreement shall be settled by mutual agreement of the Parties.

2. This Agreement will enter into force when the Parties have notified to each other the completion of their internal procedures for its conclusion. Pending the completion by the Parties of their internal procedures for its conclusion, the Parties shall provisionally apply this Agreement upon its signature.

Should a Party notify the other that it shall not conclude the Agreement, it is hereby mutually agreed that projects and activities launched under this provisional application and that are still in progress at the time of the above-mentioned notification shall continue until their completion under the conditions laid down in this Agreement.

3. Either of the Parties may terminate this Agreement at any time upon twelve months notice.

Projects and activities in progress at the time of termination of this Agreement shall continue until their completion under the conditions laid down in this Agreement.

4. Should one of the Parties decide to revise its research programmes and projects referred to in paragraph 1 of Article 1, that Party's Executive Agent shall notify the Executive Agent of the other Party of the exact content of these revisions.

By derogation to subparagraph 2 of paragraph 2, this Agreement may be terminated under mutually agreed conditions should either of the Parties notify one another within one month after the adoption of the revisions referred to in subparagraph 1 of its intention to terminate this Agreement.

5. This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Arab Republic of Egypt. This shall not prevent the conduct of cooperative activities on the high seas, outer space, or the territory of third countries, in accordance with international law.

6. This Agreement is drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German Greek, Italian, Portuguese, Spanish, Swedish and Arabic languages, each of these texts being equally authentic.

Done at ……	Done at ……
on …….	on …….
For the Government of the Arab	For the Commission,
Republic of Egypt	on behalf of the European Community

ANNEX I

Terms and conditions for the participation of legal entities of Member States of the European Union and of Egypt

For the purpose of this Agreement, a legal entity means any natural person, or any legal person created under the national law of its place of establishment or under Community law or international law, having legal personality and being entitled to have rights and obligations of any kind in its own name.

I. TERMS AND CONDITIONS FOR THE PARTICIPATION OF LEGAL ENTITIES OF EGYPT TO INDIRECT ACTIONS OF THE EC FRAMEWORK PROGRAMME

1. Participation of legal entities established in Egypt to indirect actions of the ***EC Framework programme*** shall follow the conditions laid down by the European Parliament and the Council according to Article 167 of the Treaty establishing the European Community.

   In addition, legal entities established in Egypt may participate in indirect actions undertaken according to Article 164 of the Treaty establishing the European Community.

2. The Community may grant funding to legal entities established in Egypt participating in indirect actions referred to in paragraph 1 under the terms and conditions laid down by the decision taken by the European Parliament and the Council according to Article 167 of the Treaty establishing the European Community, the European Community's Financial Regulations and any other applicable Community legislation.

3. A contract concluded by the Community with any legal entity of Egypt in order to perform an indirect action shall provide for controls and audits to be carried out by, or under the authority of, the Commission or the Court of Auditors of the European Communities.

   In a spirit of cooperation and mutual interest, the relevant Authorities of Egypt shall provide any reasonable and feasible assistance as may be necessary or helpful under the circumstances to perform such controls and audits.

II. TERMS AND CONDITIONS FOR THE PARTICIPATION OF LEGAL ENTITIES OF MEMBER STATES OF THE EUROPEAN UNION TO EGYPT RESEARCH PROGRAMMES AND PROJECTS

1. Any legal entity established in the Community, created under the national law of one of the Member States of the European Union or under Community law, may participate in projects of Egypt research and development programmes jointly with Egyptian legal entities.

2. Subject to paragraph 1 and to Annex II, the rights and obligations of legal entities established in the Community participating in Egypt research projects within research and development programmes, and the terms and conditions applicable for the submission and evaluation of proposals and for the granting and conclusion of contracts in such projects shall be subject to Egyptian laws, regulations and government directives governing the operation of research and development programmes, as applicable to Egyptian legal entities and assuring equitable treatment, taking into account the nature of the cooperation between Egypt and the Community in this field.

   Funding of legal entities established in the Community participating in Egypt research projects within research and development programmes shall be subject to the Egyptian laws, regulations and government directives governing the operation of research and development programmes, as applicable to non-Egyptian legal entities participating in Egypt research projects within research and development programmes.

3. Egypt shall regularly inform the Community and Egyptian legal entities of current Egypt programmes and participation opportunities for legal entities established in the Community.

ANNEX II

Principles on the allocation of intellectual property rights

I. Application

For the purposes of this Agreement, "intellectual property" shall have the meaning given in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm on 14 July 1967.

For the purposes of this Agreement, knowledge shall mean the results, including information, whether or not they can be protected, as well as copyrights or rights pertaining to such information following applications for, or the issue of, patents, designs, plant varieties, supplementary protection certificates or similar forms of protection.

II. Intellectual property rights of legal entities of the Parties

1. Each Party shall ensure that the intellectual property rights of legal entities established in the other Party participating in activities carried out pursuant to this Agreement and the related rights and obligations arising from such a participation are consistent with the relevant international conventions that are applicable to the Parties, including the TRIPS Agreement (Agreement on trade-related aspects of intellectual property Rights administered by the World Trade Organisation) as well as the Berne Convention (Paris Act 1971) and the Paris Convention (Stockholm Act 1967).

2. Legal entities established in Egypt participating in an indirect action of the ***EC Framework programme*** shall have the same rights and obligations on intellectual property as those of legal entities established in the Community, under the conditions laid down by the decision taken by the European Parliament and the Council according to Article 167 of the Treaty establishing the European Community, and in the contract concluded with the Community accordingly, and that shall comply with paragraph 1.

3. Legal entities established in the Community participating in Egypt research programmes or projects shall have the same rights and obligations on intellectual property as those of legal entities established in Egypt participating in such research programmes or projects, and that shall comply with paragraph 1.

III. Intellectual property rights of the Parties

1. Except if otherwise specifically agreed by the Parties, the following rules shall apply to knowledge generated by the Parties in the course of activities carried out within Article 2, paragraph 2 of this Agreement:

   a) The Party generating such knowledge shall be the owner of that knowledge. Where their respective share of the work cannot be ascertained, they shall have joint ownership of such knowledge.

   b) The Party owning that knowledge shall grant access rights on it to the other Party for carrying out activities referred to in Article 2, paragraph 2 of this Agreement. Such access rights shall be granted on a royalty-free basis.

2. Except if otherwise specifically agreed by the Parties, the following rules shall apply to scientific literary works of the Parties:

   a) In the case where a Party publishes scientific and technical data, information and results, by means of journals, articles, reports, books, including video and software, arising and relating to activities carried out pursuant to this Agreement, a world-wide, non-exclusive, irrevocable, royalty-free licence shall be granted to the other Party to translate, reproduce, adapt, transmit and publicly distribute such works.

   b) All copies of data and information, protected by copyright, that have to be publicly distributed and prepared under this section shall indicate the names of the author(s) of the work unless an author explicitly declines to be named. They shall also bear a clearly visible acknowledgement of the cooperative support of the Parties.

3. Except if otherwise specifically agreed by the Parties, the following rules shall apply to undisclosed information of the Parties:

   a) When communicating to the other Party information relating to activities carried out pursuant to this Agreement, each Party shall identify the information it wishes to remain undisclosed through confidential insignias or legends.

   b) The receiving Party may under its own responsibility communicate undisclosed information to bodies or persons under its authority for the specific purposes of implementing this Agreement.

   c) With the prior written consent of the Party providing undisclosed information, the receiving Party may disseminate such undisclosed information more widely than otherwise permitted in paragraph b. The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for

such wider dissemination, and each Party shall provide such approval to the extent permitted by its domestic policies, regulations and laws.

d) Non-documentary undisclosed or other confidential information provided in seminars and other meetings between representatives of the Parties arranged under this Agreement, or information arising from the attachment of staff, use of facilities or indirect actions, shall remain confidential when the recipient of such undisclosed or other confidential or privileged information was made aware of the confidential character of the information communicated at the time such communication was made, according to paragraph a.

e) Each Party shall endeavour to ensure that undisclosed information received by it under paragraphs a and d is controlled as provided herein. If one of the Parties becomes aware that it will be, or may be reasonably expected to become, unable to meet the non-dissemination provisions laid down in paragraphs a and d, it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.