



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.9.2008
COM(2008) 581 final

2008/0184 (CNS)

Proposal for a

COUNCIL DECISION

**Concerning the extension of the Agreement for scientific and technological cooperation
between the European Community and the Government of the United States of America**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The Agreement on cooperation in science and technology between the European Community and the Government of the United States of America was signed in Washington on 5th December, 1997 and entered into force on 14 October 1998. Article 12(b) of the Agreement provides as follows: "This Agreement is concluded for an initial period ending of five years. Subject to review by the Parties in the final year of each successive period, the Agreement may be extended with possible amendments, thereafter for additional periods of five years by mutual written agreement by the Parties".
2. By Council Decision 2004/756/EC of 4 October, 2004¹ the Agreement was renewed for a further period of five years which became effective as from 14 October 2003. The Agreement is due to expire on 13 October, 2008.
3. It is in the interest of the Community to extend this Agreement in order to continue to facilitate cooperation with the United States of America in common S&T priority areas leading to socio-economic benefits for both Parties.
4. Both parties confirmed their interest in extending the Agreement in the conclusions of the last meeting of the Joint Consultative Group established under the Agreement (held in Washington on 19-20 February 2008).
5. The material content of the extended Agreement will be identical to the material content of the current Agreement, apart from amendments of a technical nature to update the scope of the agreement in line with the Seventh Community Research Framework Programme (FP7), consisting mainly in adding research on space and security to the list of sectors for cooperative activities.
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 extension for an additional period of five years of the Agreement for scientific and technological cooperation between the European Community and the Government of the United States of America;
 - to authorise the President of the Council to designate the person empowered to sign the Agreement in order to express the consent of the Community to be bound thereby.

¹ OJL335, 11/11/2004, p.5

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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 Commission²,

Having regard to the opinion of the European Parliament³,

Whereas:

- (1) By its Decision of 13 October, 1998⁴, the Council approved the conclusion of the Agreement for scientific and technological cooperation between the European Community and the Government of the United States of America.
- (2) Article 12(b) of the Agreement provides as follows: 'This Agreement is concluded for an initial period of five years. Subject to review by the Parties in the final year of each successive period, the Agreement may be extended with possible amendments, thereafter for additional periods of five years by mutual written agreement by the Parties'.
- (3) By its Decision of 4 October, 2004⁵ the Council renewed the Agreement for a further period of five years which became effective as from 14 October 2003.
- (4) The authorities of the United States of America have informed the services of the Commission that they would welcome the extension of the abovementioned Agreement for another five years. Rapid extension would therefore be in the best interests of both parties.
- (5) The material content of the extended Agreement will be identical to the material content of the Agreement which expires on 13 October 2008, with the exception of a technical amendment consisting mainly in adding research on space and security to the

² OJ Cp.

³ OJ Cp.

⁴ OJ L284, 22.10.1998, p.35

⁵ OJ L335, 11/11/2004, p.5

list of sectors for cooperative activities, in line with the scope of the Seventh Research Framework Programme.

- (6) The extension of the Agreement for scientific and technological cooperation between the European Community and the Government of the United States of America should be approved on behalf of the Community,

HAS DECIDED AS FOLLOWS:

Article 1

The extension of the Agreement for scientific and technological cooperation between the European Community and the Government of the United States of America, with the amended Article 4 as attached to this decision, 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, give the notification to the Government of the United States of America that the Community has completed its internal procedures necessary for the entry into force of this extended Agreement.

Article 3

The decision shall be published in the Official Journal.

Done at Brussels,

*For the Council
The President*

ANNEX

Amended text of Article 4 of the Agreement for scientific and technological cooperation between the European Community and the Government of the United States of America

Article 4

Areas of cooperative activities

- (a) Sectors for cooperative activities ~~are~~ may include :
- environment (including climate research),
 - biomedicine and health (including research on AIDS, infectious diseases and drug abuse),
 - agriculture,
 - fisheries science,
 - engineering research,
 - non-nuclear energy,
 - natural resources,
 - materials sciences (including nanotechnology) and metrology,
 - information and communication technologies,
 - telematics,
 - biotechnology,
 - marine sciences and technology,
 - social sciences research,
 - transportation,
 - security research
 - space research
 - science and technology policy, management, training and mobility of scientists.
- (b) The Parties may modify this list upon recommendation by the Joint Consultative Group mentioned in Article 6, in accordance with procedures in force for each Party.
- (c) The Parties may jointly pursue cooperative activities with third parties.

1. LEGISLATIVE FINANCIAL STATEMENT NAME OF THE PROPOSAL :

Proposal for a Council Decision concerning the extension of the Agreement for scientific and technological cooperation between the European Community and the Government of the United States of America.

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 (xx.01.05.03).

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

Duration of five years, to be extended by mutual agreement between the Parties, as laid down in Article 12 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. 4.1.1 Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

⁶ Non-differentiated appropriations hereafter referred to as NDA

Expenditure type	Section no.		2008	2009	2010	2011	2012		Total
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Operational expenditure⁷

Commitment Appropriations (CA)	8.1	a							
Payment Appropriations (PA)		b							

Administrative expenditure within reference amount⁸

Technical & administrative assistance (NDA)	8.2.4	c	0.110	0.110	0.110	0.110	0.110		0.550
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TOTAL REFERENCE AMOUNT

Commitment Appropriations		a+c							
Payment Appropriations		b+c							

Administrative expenditure not included in reference amount⁹

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							
TOTAL PA including cost of Human Resources		b+c+d+e							

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)

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 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							

4.1.2. 4.1.2 Compatibility with Financial Programming

- 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 Agreement¹⁰ (i.e. flexibility instrument or revision of the financial perspective).

4.1.3. 4.1.3 Financial impact on Revenue

- Proposal has no financial implications on revenue
- Proposal has financial impact – the effect on revenue is as follows:

EUR million (to one decimal place)

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

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

Annual requirements	2008	2009	2010	2011	2012	
Total number of human resources						

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

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 the United States. 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 the USA.

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

This decision should allow both the USA 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.

5.4. Method of Implementation (indicative)

Centralised Management

x Directly by the Commission

Indirectly by delegation to:

Executive Agencies

†Bodies set up by the Communities as referred to in art. 185 of the Financial Regulation

†National public-sector bodies/bodies with public-service mission

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 evaluate all the actions carried out under the cooperation agreement, which will also be subject to a joint regular evaluation by the Community and the USA. 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 the USA to the Joint Consultative Group provided for by the Agreement.

- (c) The Commission will evaluate the actions covered by this participation before the end of the five year implementation period.

6.2. Evaluation

6.2.1. Ex-ante evaluation

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

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

For the Community the positive decision to extend the agreement was based on the favourable assessment by DGs RTD/INFSO/JRC of the benefits accruing for the European participants to the cooperative activities with US partners, as witnessed in particular through the regular working group and Joint Consultative Group meetings.

6.2.3. Terms and frequency of future evaluation

The Parties to the Agreement will evaluate the application thereof annually in the meetings of the Joint Consultative Group referred to in Article 6 thereof. Extension 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)					
		2008	2009	2010	2011	2012	
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 American experts and officials.

8.2.3. Sources of human resources (statutory)

- 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

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

EUR million (to 3 decimal places)

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

Budget line (number and heading)	2008	2009	2010	2011	2012		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 the USA and the EC.

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

EUR million (to 3 decimal places)

Type of human resources	2008	2009	2010	2011	2012	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)						

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*

Other administrative expenditure not included in reference amount

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

EUR million (to 3 decimal places)

	2008	2009	2010	2011	2012	-	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 not included in reference amount

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