



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 22 March 2012

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2012/0059 (NLE)**

**RECH 94
AMLAT 14**

PROPOSAL

from:	European Commission
dated:	20 March 2012
No Cion doc.:	COM(2012) 123 final
Subject:	Proposal for a Council decision concerning the renewal of the Agreement for scientific and technological cooperation between the European Community and the Federative Republic of Brazil

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2012) 123 final



EUROPEAN COMMISSION

Brussels, 20.3.2012
COM(2012) 123 final

2012/0059 (NLE)

Proposal for a

COUNCIL DECISION

**concerning the renewal of the Agreement for scientific and technological cooperation
between the European Community and the Federative Republic of Brazil**

EXPLANATORY MEMORANDUM

1. The Agreement on cooperation in science and technology (S&T) between the European Community and Brazil entered into force on 7 August 2007. Article XII (2) of the Agreement provides as follows: 'This Agreement shall initially be valid for a period of five years and may be renewed by agreement between the Parties after evaluation during the penultimate year of each subsequent renewal period.'
2. It is in the interest of the European Union to renew this Agreement in order to continue to facilitate cooperation with Brazil in common S&T priority areas leading to benefits for both Parties.
3. Both Parties confirmed their intention to renew the Agreement at the fifth meeting of the EU-Brazil Joint Steering Committee, held in Brasilia on 22 November 2011.
4. The material content of the renewed Agreement will be identical to that of the current Agreement.
5. In the light of the above considerations, the Commission requests the Council:
 - to approve, on behalf of the Union, and following the consent of the European Parliament, the renewal of the Agreement for scientific and technological cooperation between the European Community and the Federative Republic of Brazil for an additional period of five years;
 - to authorise the President of the Council to designate the person(s) empowered to notify the Government of the Federative Republic of Brazil that the Union has completed its internal procedures necessary for the entry into force of this renewed Agreement.

Proposal for a

COUNCIL DECISION

concerning the renewal of the Agreement for scientific and technological cooperation between the European Community and the Federative Republic of Brazil

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 186 in conjunction with point (v) of Article 218(6) (a) thereof,

Having regard to the proposal from the European Commission¹,

Having regard to the consent of the European Parliament²,

Whereas:

- (1) By its Decision 2005/781/EC³ of 6 June 2005, the Council approved the conclusion of the Agreement for scientific and technological cooperation between the European Community and the Federative Republic of Brazil.
- (2) Article XII (2) of the Agreement provides as follows: 'This Agreement shall initially be valid for a period of five years and may be renewed by agreement between the Parties after evaluation during the penultimate year of each subsequent renewal period.'
- (3) At the fifth meeting of the EU-Brazil Joint Steering Committee, held on 22 November 2011 in Brasilia, both Parties confirmed their interest in renewing the aforementioned Agreement for another five years.
- (4) The material content of the renewed Agreement will be identical to that of the Agreement which expires on 6 August, 2012.
- (5) The renewal of the Agreement for scientific and technological cooperation between the European Community and the Federative Republic of Brazil should be approved on behalf of the European Union,

¹ OJ

² OJ

³ OJ L295 of 6 June 2005, p. 38.

HAS ADOPTED THIS DECISION:

Article 1

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

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered, acting on behalf of the Union and in accordance with point (2) of Article XII of the Agreement, to notify the Government of the Federative Republic of Brazil that the Union has completed its internal procedures necessary for the entry into force of this renewed Agreement and make the following notification to Brazil:

'As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to "the European Community" in the text of the Agreement are, where appropriate to be read as "the European Union".'

Article 3

This Decision shall enter into force on the date of its adoption. It shall be published in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
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LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

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

1.2. Policy area(s) concerned in the ABM/ABB structure⁴

Policy strategy and coordination of, in particular, the Directorates-General DEVCO, RTD, JRC, EAC, ENER, ENTR, INFOS and MOVE.

1.3. Nature of the proposal/initiative

- The proposal/initiative relates to **a new action**
- The proposal/initiative relates to **a new action following a pilot project/preparatory action**⁵
- The proposal/initiative relates to **the extension of an existing action**
- The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objectives

1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

The present initiative will allow both parties to improve and intensify their cooperation in scientific and technological areas of common interest.

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

Specific objective No 1

This decision should allow both Brazil and the European Union to enhance the cooperation and develop a more strategic partnership by increasing the scale and the scope of existing cooperation addressing key societal challenges, promoting reciprocal access to programmes and funding increasing regional cooperation where appropriate.

⁴ ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

⁵ As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

This decision will allow both Brazil and the European Union to derive mutual benefit from the scientific and technical progress achieved through research cooperation in their respective specific research programmes. It will allow for exchange of specific knowledge and transfer of know-how to the benefit of the scientific community, industry and citizens.

The renewal of this Agreement will allow for increased cooperation.

1.4.4. *Indicators of results and impact*

Specify the indicators for monitoring implementation of the proposal/initiative.

The Commission services will regularly monitor all actions carried out under the Agreement, which will include an evaluation by the EU. This evaluation will consist of the following elements:

(a) performance indicators – number of proposals put forward by Brazil per specific programme compared with the number of proposals selected for funding under the programme;

b) data collection – based on information from the specific programmes of the Framework programme (and information provided by Brazil to the Joint Steering Committee provided for in the Agreement).

1.5. Grounds for the proposal/initiative

1.5.1. *Requirement(s) to be met in the short or long term*

This decision will allow the two parties to continue to improve and intensify their cooperation in scientific and technological areas of mutual benefit.

1.5.2. *Added value of EU involvement*

The Agreement is based on the principles of mutual benefit, reciprocal access to programmes and activities of the other party in connection with the subject of the agreement, non-discrimination, effective protection of intellectual property and equitable sharing of intellectual property rights. The renewal of this Agreement will allow for increased scientific knowledge leading to market access opportunities.

1.5.3. *Lessons learned from similar experiences in the past*

Based on the experience so far in the field of scientific and technological cooperation, it is considered mutually beneficial to continue research cooperation with Brazil by renewing the existing Agreement for a further five-year period.

1.5.4. *Coherence and possible synergy with other relevant instruments*

The renewal of the Agreement with Brazil is considered to be fully consistent with the opening up of participation in EU Framework Programmes to the world.

1.6. Duration and financial impact

- Proposal/initiative of **limited duration**
 - Proposal/initiative in effect from 07/08/2012 to 06/08/2017
 - Financial impact from 2012 to 2017
- Proposal/initiative of **unlimited duration**
 - Implementation with a start-up period from YYYY to YYYY,
 - followed by full-scale operation.

1.7. Management mode(s) envisaged⁶

- Centralised direct management** by the Commission
- Centralised indirect management** with the delegation of implementation tasks to:
 - executive agencies
 - bodies set up by the Communities⁷
 - national public-sector bodies/bodies with public-service mission
 - persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation
- Shared management** with the Member States
- Decentralised management** with third countries
- Joint management** with international organisations (*to be specified*)

If more than one management mode is indicated, please provide details in the 'Comments' section.

Comments

⁶ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

⁷ As referred to in Article 185 of the Financial Regulation.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

Brazil's participation in the Framework programme is monitored on a regular basis through meetings of the Joint Steering Committee established under Article 6 of the Agreement.

2.2. Management and control system

2.2.1. Risk(s) identified

Meetings and bilateral contacts take place on a regular basis allowing for systematic sharing of information and control. No risks have been identified in the control system.

2.2.2. Control method(s) envisaged

2.3. Measures to prevent fraud and irregularities

When the implementation of the Framework programme calls for the use of external contractors or entails 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 Union'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 Union 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, the Commission will make sure, in carrying out the research activities, that the financial interests of the Union are protected by effective checks and, where irregularities are detected, by deterrent and proportionate measures and penalties.

In order to achieve this aim, rules on checks, measures and penalties, with reference to Regulations No 2988/95, No 2185/96 and No 1073/99 will be incorporated 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 EU 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 any recovery orders in the event of irregularities and fraud must be enforceable according to Article 299 of the Treaty on the Functioning of the European Union.

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

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing expenditure budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Description.....]	Diff./non-diff (8)	from EFTA ⁹ countries	from candidate countries ¹⁰	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
1a	08.01.05	non-diff.	YES	YES	NO	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading.....]	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

⁸ Diff. = Differentiated appropriations / Non-Diff. = Non-differentiated appropriations

⁹ EFTA: European Free Trade Association.

¹⁰ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework:		1a	[Heading 1a – Competitiveness for Growth and Employment]						
DG: <.....>			Year 2012 ¹¹	Year 2013	Year 2014	Year 2015	Year 2016	Year 2017	TOTAL
• Operational appropriations									
Number of budget line	Commitments (1)								
	Payments (2)								
Number of budget line	Commitments (1a)								
	Payments (2a)								
Appropriations of an administrative nature financed from the envelope for specific programmes ¹²									
Number of budget line	08.01.05 (3)								
	Commitments =1+1a +3		0.110	0.110	0.110	0.110	0.110	0.110	0.660
TOTAL appropriations for DG RTD	Payments =2+2a +3		0.110	0.110	0.110	0.110	0.110	0.110	0.660

¹¹ Year N is the year in which implementation of the proposal/initiative starts.

¹² Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

• TOTAL operational appropriations	Commitments	(4)																			
	Payments	(5)																			
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes	Commitments	(6)	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.660
	Payments	=4+6	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110
TOTAL appropriations under HEADING <1a.> of the multiannual financial framework	Commitments	=4+6	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.660
	Payments	=5+6	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110	0.110

If more than one heading is affected by the proposal / initiative:

• TOTAL operational appropriations	Commitments	(4)																			
	Payments	(5)																			
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes	Commitments	(6)																			
	Payments	=4+6																			
TOTAL appropriations under HEADINGS 1 to 4 of the multiannual financial framework (Reference amount)	Commitments	=4+6																			
	Payments	=5+6																			

Heading of multiannual financial framework:	5	' Administrative expenditure '
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EUR million (to three decimal places)

	Year N	Year N+1	Year N+2	Year N+3	... enter as many years as necessary to show the duration of the impact (see point 1.6)	TOTAL
DG: <.....>						
• Human resources						
• Other administrative expenditure						
TOTAL DG <.....>						

TOTAL appropriations under HEADING 5 of the multiannual financial framework							
(Total commitments = Total payments)							

EUR million (to three decimal places)

	Year N ¹³	Year N+1	Year N+2	Year N+3	... enter as many years as necessary to show the duration of the impact (see point 1.6)	TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework						
Commitments						
Payments						

¹³

Year N is the year in which implementation of the proposal/initiative starts.

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.3.1. Summary

- The proposal/initiative does not require the use of administrative appropriations
- The proposal/initiative requires the use of administrative appropriations, as explained below:

EUR million (to three decimal places)

	Year 2012 ¹⁶	Year 2013	Year 2014	Year 2015	Year 2016	Year 2017		TOTAL
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HEADING 5 of the multiannual financial framework								
Human resources								
Other administrative expenditure								
Subtotal HEADING 5 of the multiannual financial framework								

Outside HEADING 5¹⁷ of the multiannual financial framework								
Human resources	0.064	0.064	0.064	0.064	0.064	0.064		0.384
Other expenditure of an administrative nature	0.046	0.046	0.046	0.046	0.046	0.046		0.276
Subtotal outside HEADING 5 of the multiannual financial framework								

TOTAL	0.110	0.110	0.110	0.110	0.110	0.110		0.660
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¹⁶ Year N is the year in which implementation of the proposal/initiative starts.

¹⁷ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.3.2. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources
- The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full amounts (or at most to one decimal place)

	Year 2012	Year 2013	Year 2014	Year 2015	Year 2016	Year 2017	
• Establishment plan posts (officials and temporary agents)							
XX 01 01 01 (Headquarters and Commission's Representation Offices)							
XX 01 01 02 (Delegations)							
08 01 05 01 (Indirect research)	0.5	0.5	0.5	0.5	0.5	0.5	
10 01 05 01 (Direct research)							
• External personnel (in Full Time Equivalent unit: FTE)¹⁸							
XX 01 02 01 (CA, INT, SNE from the 'global envelope')							
XX 01 02 02 (CA, INT, JED, LA and SNE in the delegations)							
XX 01 04 yy¹⁹	- at Headquarters ²⁰						
	- in delegations						
XX 01 05 02 (CA, INT, SNE - Indirect research)							
10 01 05 02 (CA, INT, SNE - Direct research)							
Other budget lines (specify)							
TOTAL	0.5	0.5	0.5	0.5	0.5	0.5	

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

¹⁸ CA= Contract Agent; INT= agency staff (*Intérimaire*); JED= '*Jeune Expert en Délégation*' (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

¹⁹ Under the ceiling for external personnel from operational appropriations (former 'BA' lines).

²⁰ Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

Officials and temporary agents	Preparation and management of Joint committee meetings foreseen under Article VI of the Agreement and missions ensuring the good functioning and implementation, as well as regular review, of the Agreement.
External personnel	

3.2.4. *Compatibility with the current multiannual financial framework*

- Proposal/initiative is compatible the current multiannual financial framework.
- Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

- Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework²¹.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties
- The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to three decimal places)

	Year N	Year N+1	Year N+2	Year N+3	... enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

²¹ See points 19 and 24 of the Interinstitutional Agreement.

3.3. Estimated impact on revenue

- Proposal/initiative has no financial impact on revenue.
- Proposal/initiative has the following financial impact:
 - on own resources
 - on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the ongoing budget year	Impact of the proposal/initiative ²²						
		Year N	Year N+1	Year N+2	Year N+3	... insert as many columns as necessary in order to reflect the duration of the impact (see point 1.6)		
Article								

For miscellaneous assigned revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

²² As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.