



Council of the
European Union

Brussels, 7 September 2017
(OR. en)

11432/07
DCL 1

RECH 203
NZ 8

DECLASSIFICATION

of document: 11432/07

dated: 2 July 2007

new status: Public

Subject: Recommendation from the Commission to the Council authorising the Commission to negotiate an agreement on scientific and technological cooperation between the European Community and the Government of New Zealand

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 2 July 2007

11432/07

RESTREINT UE

**RECH 203
NZ 8**

COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 27 June 2007

to: Mr Javier SOLANA, Secretary-General/High Representative

Subject: Recommendation from the Commission to the Council authorising the
Commission to negotiate an agreement on scientific and technological
cooperation between the European Community and the Government of New
Zealand

Delegations will find attached Commission document SEC(2007)839 final.

Encl.: SEC(2007)839 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.6.2007
SEC(2007)839 final

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RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL

authorising the Commission to negotiate an agreement on scientific and technological cooperation between the European Community and the Government of New Zealand

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1. EXPLANATORY MEMORANDUM

New Zealand is the only non European industrialised country with which the EC still does not have a Science and Technology agreement in force or with which it has not yet started negotiations. Currently the cooperation between the Community and New Zealand is based on a Technical Arrangement for Cooperation in Science and Technology between the Commission and the Government of New Zealand which was signed and entered into force on 17 May 1991. This arrangement does not foresee an institutionalised coordination of cooperative activities nor does it provide for specific rules covering the treatment and protection of intellectual property rights.

Over the last year and a half the New Zealand government has repeatedly stated at the highest political level its wish to upgrade the above "Science and Technology arrangement" to a formal agreement. In November 2005 President Barroso reacted positively when the Prime Minister of New Zealand advocated this upgrading during an official visit to the European Commission. Furthermore, in a letter of the New Zealand Minister for Research, Science and Technology to Commissioner Potočnik of 17 October 2006, he stated the case for an upgrade more concretely. His main arguments are:

Status: putting New Zealand on an equal footing with the other industrialised countries that are partners of the EC in Science and Technology;

Access: part of the 7th Framework Programme for Research and Development (FP7) is accessible only for non-Europeans from countries with an agreement; this is, in particular the case for the International research partnership scheme for researchers' exchange, which has attracted New Zealand's interest;

Progress: the full-fledged agreement would better reflect the growing level of collaboration and help boost New Zealand participation in the Framework Programme;

Other: a Science & Technology agreement would also allow to strengthen and formalise the policy dialogue through a Joint Committee and establish a safer legal basis in the area of the protection of intellectual property rights.

Furthermore, the letter identified a number of priority areas of interest for New Zealand, where they would like to strengthen collaboration, notably through the Framework Programme. These areas are: Food, Agriculture and Biotechnology, Information and Communication Technologies, Health, Environment and Researcher mobility. They fully correspond to the areas that the Commission services consider interesting and promising for future collaboration from a European point of view.

Therefore, Commissioner Potočnik replied on 23 November 2006 to the letter of the New Zealand Minister for Research, Science and Technology and confirmed that he shared this assessment as regards the usefulness of a formal Science and Technology cooperation agreement between the Community and New Zealand.

The negotiation and conclusion of a Science and Technology co-operation agreement with New Zealand lies in the European interest. Such an agreement would allow to fully exploit the co-operation potential with this industrialised country. Given that an informal "Science and Technology arrangement" has already existed since 1991, the additional administrative burden and workload deriving from an upgrade would be relatively limited.

In the light of the above, the Commission recommends that:

- the Council authorises the Commission according to Article 170 in conjunction with the first sentence of Article 300(2) and the first indent of Article 300(3) of the EC Treaty to open and conduct negotiations with New Zealand on the conclusion of an agreement on scientific and technical cooperation between the European Community on the one part, and the Government of New Zealand on the other part;
- since, in accordance with Article 300, paragraph 1, of the EC Treaty, the Commission will conduct these negotiations on behalf of the European Community, the Council appoints a special committee to assist it in this task; and
- the Council adopts the negotiating directives in the Annex.

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2. RECOMMENDATION

- The Council authorises the Commission to negotiate an agreement on scientific and technological cooperation with the Government of New Zealand;
- The Commission will conduct the negotiations with the assistance of the special committee created for this purpose in accordance with Article 300, paragraph 1, of the Treaty establishing the European Community;
- The Council calls on the Commission to conduct these negotiations on the basis of the negotiating directives in the Annex ;
- The Commission will keep the Council informed of the state of progress of the negotiations.

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ANNEX

DRAFT NEGOTIATING DIRECTIVES

For an Agreement on scientific and technical cooperation between the European Community and the Government of New Zealand

1. Subject

The aim of the negotiations is to conclude an agreement on scientific and technological cooperation, in accordance with Article 170 in conjunction with the first sentence of Article 300(2) and the first indent of Article 300(3) of the Treaty establishing the European Community. The purpose of this agreement is to establish cooperation under the framework programmes of the European Community for research, technological development and demonstration activities, hereinafter referred to as "the framework programme" and under research programmes or projects of the Government of New Zealand in science and technology fields similar to those covered by the framework programme. This cooperation should be to the benefit of both parties.

2. Information for the Council

The Commission shall inform the Council about the outcome of the negotiations and, where appropriate, about any problem that may arise during the negotiations.

3. Guiding principles

Cooperation under this agreement shall ensure reciprocal access for research bodies from the two parties to their activities in similar fields of research and development and appropriate protection of industrial and intellectual property, with the objective of acting to the mutual benefit of both parties.

4. Scope of the cooperation

The cooperation established by this agreement shall cover the activities of the framework programme subject to the conditions and limitations laid down in the Regulation of the European Parliament and of the Council concerning the rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the framework programme of the European Community.

5. Forms and methods of cooperation

Cooperation shall take the following forms:

- full participation, under the agreement, of New Zealand research and development bodies in indirect research action under the framework programme of the European Community and reciprocal participation by research bodies from the European Community in New Zealand research projects in similar sectors. Participation by New Zealand bodies in indirect Community research action shall be subject to the rules for the participation of undertakings, research centres and universities and for

the dissemination of research results for the implementation of the framework programme;

- visits and exchanges of scientists, organisation of scientific and technical events;
- studies and evaluations aiming to strengthen and structure cooperation between the two parties;
- promotion of any other activity aimed at facilitating the implementation of this agreement, particularly the exchange of scientific and technical information and coordination activities.

6. Duration

The agreement shall be concluded for an unlimited period. It may be terminated at any time by either party upon six months' written notice.

7. Dissemination and utilisation of information

Participation of New Zealand bodies in indirect Community RTD action and the dissemination and exploitation of results, including intellectual property rights, shall be subject to the rules adopted by the European Parliament and the Council for the Community's research programmes under Article 167 of the Treaty and, where appropriate, to the guiding principles on the allocation of intellectual property rights applicable to scientific and technological cooperation agreements with third countries, as laid down in the Joint Declaration of the Council and the Commission of 26 June 1992.

Mutatis mutandis, bodies from the Community participating in New Zealand research activities under this agreement shall have the same rights and obligations as New Zealand bodies.

8. Financing

As far as the participation of New Zealand research bodies in indirect Community research action in the framework programme is concerned, the provisions adopted by the European Parliament and the Council under Article 167 of the EC Treaty applicable to bodies from third countries shall apply.

9. Management of the agreement

A Joint Scientific and Technological Cooperation Committee shall be set up to promote, monitor and assess the various activities under the agreement. It shall consist of representatives of the Commission on the one part and representatives of the Government of New Zealand on the other.

The Committee shall normally meet once a year. Extraordinary meetings may be held at the request of either of the parties.

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL

Recommendation for a COUNCIL DECISION authorising the Commission to negotiate, in the name of the European Community, an agreement on scientific and technological cooperation between the European Community and the Government of New Zealand

2. ABM / ABB FRAMEWORK

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:

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:

This agreement shall be concluded for an unlimited period. It may be terminated at any time by either party upon six months' notice.

3.3. Budgetary characteristics (*add rows if necessary*):

Budget line	Expenditure type		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
08 01.05.03	Non-comp	Non-diff ¹	NO	YES	YES	NO

¹ Non-differentiated appropriations.

4. SUMMARY OF RESOURCES

4.1 Financial Resources

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

EUR million (to 3 decimal places)

Expenditure type	Section no.		Year 2007	n+1	n+2	n+3	n+4	N+5 and later.	Total
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Operational expenditure²

Commitment Appropriations (CA)	8.1	a	0						
Payment Appropriations (PA)		b	0						

Administrative expenditure within reference amount³

Technical & administrative assistance (NDA)	8.2.4	c	0.117						0.117
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TOTAL REFERENCE AMOUNT

Commitment Appropriations		a+c	0.117						0.117
Payment Appropriations		b+c	0.117						0.117

Administrative expenditure not included in reference amount⁴

² Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

³ Expenditure within Article xx 01 04 of Title xx.

⁴ Expenditure within Chapter xx 01 other than Articles xx 01 04 or xx 01 05.

Human resources and associated expenditure (NDA)	8.2.5	d	0.0585						0.0585
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6	e	0						

Total indicative financial cost of intervention

TOTAL CA including cost of Human Resources		a+c+d+e	0.1755						0.1755
TOTAL PA including cost of Human Resources		b+c+d+e	0.1755						0.1755

Co-financing details

No co-financing required

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 Agreement⁵ (i.e. flexibility instrument or revision of the financial perspective).

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:

Note: All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.

EUR million (to one decimal place)

⁵ See points 19 and 24 of the Interinstitutional agreement.

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

Use of existing human resources. The Commission is not requesting additional staff to negotiate the agreement.

5. CHARACTERISTICS AND OBJECTIVES

Details of the context of the proposal are required in the Explanatory Memorandum. This section of the Legislative Financial Statement should include the following specific complementary information:

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

This legislative proposal is the first step towards the signature of an S&T Agreement with New Zealand.

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

Community funding is indispensable as this cooperation agreement contributes to the implementation of the framework programme, including the budget heading covering administrative expenditure borne by the Community (missions by experts and EU officials), organisation of workshops, seminars and meetings in the European Community and New Zealand.

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

The main objective is to stimulate cooperation between the European Community and New Zealand in the areas covered by the RTD framework programmes:

- the agreement is designed to enable the Community and New Zealand to profit, on the basis of the principle of mutual benefit, from the scientific and technical progress achieved under their respective research programmes, by means of participation by the New Zealand scientific community and New Zealand industry in Community research projects and independent participation, without funding, by bodies established in the Community in New Zealand projects;
- beneficiaries in the EC and New Zealand will be the scientific communities, industry and the general public, thanks to the direct and indirect effects of cooperation.

5.4. Method of Implementation (indicative)

Show below the method(s)⁶ chosen for the implementation of the action.

X 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

The cooperation agreement will be regularly assessed by the relevant Commission services.

The assessment will cover the following:

- a. Compilation of available information: based on the data from the specific programmes of the framework programmes.
- b. General assessment of the operation: an evaluation of all the cooperation activities under this agreement will be made by the Commission's departments.

⁶ If more than one method is indicated please provide additional details in the "Relevant comments" section of this point.

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 this Unit and the Court of Auditors of the European Union.

8. DETAILS OF RESOURCES

8.1 Objectives of the proposal in terms of their financial cost: NA

Commitment appropriations in EUR million (to 3 decimal places)

Headings of objectives, actions and outputs should be provided)	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 ⁷															
Action 1															
Output 1															
Output 2															
Action 2															
Output 1															
Sub-total Objective 1															
OPERATIONAL OBJECTIVE No.2															
Action 1															
Output 1															

⁷ As described under Section 5.3.

Sub-total Objective 2																													
OPERATIONAL OBJECTIVE No. n																													
Sub-total Objective n																													
TOTAL COST																													

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8.2 Administrative Expenditure

8.2.1 Number and type of human resources

Use of existing human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (number of posts/FTEs)					
		2007	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5
Officials or temporary staff ⁸ (XX 01 01)	A*/AD						
	B*, C*/ AST						
Staff financed ⁹ by Art. XX 01 02							
Other staff financed ¹⁰ by Art. XX 01 04/05							
TOTAL							

8.2.2 Description of tasks deriving from the action

Expenses expected in connection with the negotiation of the Agreement are for meetings held in Brussels and New Zealand.

8.2.3 Sources of human resources (statutory)

When more than one source is stated, please indicate the number of posts originating from each of the sources)

- 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

⁸ Cost of which is NOT covered by the reference amount.

⁹ Cost of which is NOT covered by the reference amount.

¹⁰ Cost of which is included within the reference amount.

- 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
(08 01 04/05 – Expenditure on administrative management)

EUR million (to 3 decimal places)

Budget line (number and heading)	2007	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
1. Technical and administrative assistance (including related staff costs)							
Executive agencies ¹¹							
Other technical and administrative assistance	0.117						0.117
<i>intra muros</i>	0.117						0.117
<i>extra muros</i>							
Total Technical and administrative assistance	0.117						0.117

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	2007	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later
Officials and temporary staff (08 01 01)	0.0585					
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)	0					
Total cost of Human Resources and associated costs (NOT in reference amount)	0.0585					

¹¹ Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

Calculation– *Officials and Temporary agents*

Reference should be made to Point 8.2.1, if applicable

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

$108\ 000\ \text{euro}/2 = 54\ 000$

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

Reference should be made to Point 8.2.1, if applicable

8.2.6 Other administrative expenditure not included in reference amount

EUR million (to 3 decimal places)

	2007	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
XX 01 02 11 01 – Missions							
XX 01 02 11 02 – Meetings & Conferences							
XX 01 02 11 03 – Committees ¹²							
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*

¹² Specify the type of committee and the group to which it belongs.