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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, 29 November 2002

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COVER NOTE

from : the Secretary-General of the European Commission
signed by Mr Sylvain BISARRE, Director

date of receipt : 27 November 2002

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

Subject : Recommendation for a Council Decision authorising the Commission to negotiate the renewal of the agreement on scientific and technical cooperation between the European Community and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part

Delegations will find attached Commission document SEC(2002) 1236 final.

Encl.: SEC(2002) 1236 final



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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.11.2002
SEC(2002) 1236 final

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Recommendation for a

COUNCIL DECISION

authorising the Commission to negotiate the renewal of the agreement on scientific and technical cooperation between the European Community and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part

(presented by the Commission)

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EXPLANATORY MEMORANDUM

1. By their Decision of 4.04.2002, the Council and (for the Euratom part) the Commission concluded the Agreement for scientific and technical cooperation between the European Community and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part. This agreement entered into force on 1.6.2002.
2. The present Agreement associates Switzerland to all nuclear and non-nuclear specific programmes of the 5th framework programmes (EC and Euratom) and provides for a renewal (Article 9, § 2), should the Community adopt new framework programmes for RTD. On 7.06.2002 the Swiss Confederation has officially requested to the Commission the renewal of the present Agreement. The renewal of the Agreement will be beneficial to the interests of both parties. In reply to this request, the Commission proposes to the Council the present negotiation directives. The swift renewal of the Agreement is profitable to the Community interests in the relevant sectors. The Commission recalls the Council conclusions of 30.09.2002 on the EU-Swiss relations according to which an EU agreement for the conclusion of negotiations with Switzerland in other sectors would be difficult to achieve if the ongoing negotiations on the taxation of savings were not to be finalised before the end of the year in accordance with the Feira European Council conclusions.
3. Following the adoption of the sixth framework programmes (EC and Euratom), it would be appropriate to foresee the provisional application of the renewed agreement so as to allow Swiss entities to participate in the first calls under the sixth framework programmes.
4. In the light of the above, the Commission recommends:
 - that the Council authorise the Commission to negotiate with the Swiss Confederation the renewal of the present agreement for scientific and technical cooperation between the European Community and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, including a provisional application of this agreement;
 - that, since in accordance with the Treaty, the Commission will conduct these negotiations on behalf of the European Community, the Council appoint a special committee to assist it in this task; and
 - that the Council issue the appended negotiating directives.

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Recommendation for a

COUNCIL DECISION

authorising the Commission to negotiate the renewal of the agreement on scientific and technical cooperation between the European Community and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part

1. The Council authorises the Commission to negotiate the renewal of the agreement for scientific and technical cooperation between the European Community and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part.
2. The Commission will conduct the negotiations with the assistance of the special committee created for this purpose in accordance with Article 300 of the Treaty establishing the European Community.
3. The Council calls on the Commission to conduct these negotiations on the basis of the annexed negotiating directives.
4. The Commission will keep the Council informed of the state of progress of the negotiations.

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ANNEX

Draft negotiating directives

for renewing the Agreement for scientific and technical cooperation between the European Community and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part

The aim of the negotiations is to renew the above-mentioned Agreement for the duration of the sixth framework programmes for RTD activities (2002-2006), and this in accordance with the procedure foreseen under Article 9, paragraph 2 of the Agreement.

The terms and conditions of the present Agreement will be adapted to the rules applicable to the sixth framework programmes. It would be appropriate to foresee the provisional application of the renewed agreement so as to allow Swiss entities to participate in the first calls under sixth framework programmes.

The renewed agreement should provide for adequate protection of the financial interests of the European Communities covering communication of financial data, audits and administrative anti-fraud investigations on the spot, administrative assistance and the recovery of money. Insofar necessary, the renewed agreement should also envisage elimination of obstacles from taxation and social security to the cross border participation of researchers in research projects under the agreement in particular for the personnel of the JRCs governed by the EC staff regulations.

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LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): RTD

Activit(y/ies): International S&T cooperation

TITLE OF ACTION: RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE COMMISSION TO NEGOTIATE THE RENEWAL OF THE AGREEMENT FOR SCIENTIFIC AND TECHNICAL COOPERATION BETWEEN THE EUROPEAN COMMUNITY AND THE EUROPEAN ATOMIC ENERGY COMMUNITY, OF THE ONE PART, AND THE SWISS CONFEDERATION, OF THE OTHER PART

1. BUDGET LINE(S) + HEADING(S)

- Participation in indirect actions by the Swiss entities, as well as costs in connection with the follow-up and implementation of the Agreement (travelling expenses of European experts and of EC officials on mission, workshops, seminars, meetings) will be charged to the specific budget headings of the specific programmes of the Community RTD framework programmes (B6 601 and B6-1).
- Switzerland's participation
Chapter 60 (revenue), Articles B6-451 and B6-551 (expenditure)
Switzerland's contribution to the budget of the framework programmes will be proportionate to its GDP compared with that of the Union (see point 2.5). It will be allocated to the various specific programmes of the framework programmes in proportion to their budgets.

2. OVERALL FIGURES

2.1. Total allocation for action (Part B): € million for commitment

2.2. Period of application:

2002-2006. Renewal arrangements are laid down in Article 9 of the Agreement.

2.3. Overall multiannual estimate of expenditure:

(a) Schedule of commitment appropriations/payment appropriations (financial intervention) *(see point 6.1.1)*

€ million *(to three decimal places)*

	2003	2004	2005	2006
Commitments	0	0	0	0
Payments	0	0	0	0

(b) Technical and administrative assistance and support expenditure *(see point 6.1.2)*

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Commitments	0,156	0,156	0,156	0,156
Payments	0,156	0,156	0,156	0,156

TOTAL a+b				
Commitments	0,156	0,156	0,156	0,156
Payments	0,156	0,156	0,156	0,156

- (c) Overall financial impact of human resources and other administrative expenditure
(see points 7.2 and 7.3)

Commitments/ payments	0	0	0	0
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TOTAL a+b+c				
Commitments	0,156	0,156	0,156	0,156
Payments	0,156	0,156	0,156	0,156

2.4. Compatibility with financial programming and financial perspective

[YES...] Proposal is compatible with existing financial programming.

2.5. Financial impact on revenue:

[YES...] Proposal has financial impact: financial contribution by a non member country to the budget of the sixth framework programmes. The effect on revenue is as follows:

Switzerland's contribution to the framework programmes will be proportionate to its GDP compared with that of the Union.

Estimated contribution for FPVI on the grounds of GDP 2001 (in mio€) :

GDP EUR 15	8.816.927 ¹
GDP Switzerland	276.060 ¹

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Proportionality Factor :

$$\frac{\text{GDP Switzerland}}{\text{GDP EUR 15 + Switzerland}} = \frac{276.060}{9.092.987} = 3,036\% \text{ ratio}$$

EC budget 6 th			Contribution (Estimate)	
2003	3.759	x 3,036 %	135,324	
2004	4.004	x 3,036 %	144,144	
2005	4.190	x 3,036 %	150,84	
2006	4.317	x 3,036 %	155,412	
Total	16.270		585,720	(2003-2006)

3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
Non-comp	Diff/	NO	NO	NO	No 3

4. LEGAL BASIS

Articles 170 and 300 of the EC Treaty, and Article 101, second paragraph of the Euratom Treaty.

5. DESCRIPTION AND GROUNDS

5.1. Need for Community intervention

Community funding is indispensable as the planned cooperation forms part of the implementation of the framework programmes, including the budget section: participation by Switzerland in the specific programmes and administrative expenditure by the European side (missions by experts and EC officials; organisation of workshops, seminars and meetings in the EC and Switzerland).

5.1.1. Objectives pursued

The Agreement should enable Switzerland and the Communities to derive mutual benefit from the scientific and technical progress achieved through their reciprocal research programmes, with participation by the Swiss scientific community and industry in programmes of the framework RTD programmes of the European Communities and non-subsidized participation in Swiss publicly financed research activities by entities established in the European Community.

Beneficiaries in the EU and Switzerland will be the scientific communities, industry and the population generally, thanks to the direct and indirect impact of cooperation.

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5.2. Action envisaged and budget intervention arrangements

Budgetary arrangements will be based on the type of cooperation proposed (association of a non-member country in specific programmes of Community research).

5.3. Methods of implementation

Direct management by the Commission.

6. FINANCIAL IMPACT

6.1. Total financial impact on Part B - (over the entire programming period)

6.2. Calculation of costs by measure envisaged in Part B (over the entire programming period)

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

7.1. Impact on human resources

The Commission is not requesting any additional posts for the management of the Agreement.

No officials are being specifically assigned to manage the Agreement. It will be managed by the staff authorised for the sixth framework programmes.

7.2. Overall financial impact of human resources

The amounts are total expenditure for twelve months.

7.3. Other administrative expenditure deriving from the action

Expenditure on management of the Agreement (estimate)		
Travel expenses per year		
EU Experts' mission to Switzerland		
within the framework of the specific programmes covering the four activities		
50 EU experts (for 100 projects) x 3 nights = 50 experts x 3 nights		
prices per mission		
1 return travel	(around € 800)	€ 800
per diem	(€ 150 x 3)	€ 450
expert fees	(€ 250 x 3)	€ 750
	TOTAL	€ 2 000
	total costs for 50 missions	€ 100 000
	+ 10 % margin	€ 110 000

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EU officials' missions to Switzerland (DGs RTD, INFSO, ENTR, AGRI, FISH, TREN, JRC)		
14 missions per year (management of the agreement as a whole) (2 per DG) + 14 missions per year (specific programmes)		
total : 28 missions per year		
return travel Brussels-Berne	(around € 800)	€ 800
nights in hotel :	1 night (€ 140/night)	€ 140
per diem :	1 day x € 150	€ 150
	TOTAL	€ 1 090
	total costs for 28 missions	€ 30 520
	+ 10 % margin	€ 33.572
Workshops/seminars		
2/year (estimate)	€ 12 000	
	+ 10 % margin	€ 13 200
	Total	€ 156 772/year

The amounts are total expenditure for twelve months.

I.	Annual total (7.2 + 7.3)	156.772 €
II.	Duration of action	4 years
III.	Total cost of action (I x II)	627.088 €

8. FOLLOW-UP AND EVALUATION

8.1. Follow-up arrangements

The cooperation Agreement will be regularly evaluated by the relevant Commission departments and will be subject to one joint Community-Switzerland evaluation each year. Evaluation will cover:

(a) Performance indicators:

- number of proposals put forward by Switzerland per specific programme compared with the number of proposals selected for funding under the programme;
- number of proposals put forward by Switzerland compared with the number of proposals selected for funding under the framework programmes;
- number of proposals put forward under the specific programmes of the framework programmes compared with the relative share (1%) of Switzerland's participation in those programmes;
- number of Swiss proposals selected for funding in the specific programmes of the framework programmes compared with its relative participation in those programmes.

(b) Gathering information:

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On the basis of data on the specific programmes of the framework programmes.

(c) Overall evaluation:

At the end of the 6th framework programmes the Commission will evaluate all cooperation activities covered by the Agreement.

(d) Corrections:

Through information to the relevant partners on both sides on practical arrangements for taking part in the specific programmes of the framework programmes. The information will be passed on in accordance with the recommendations of the Joint Cooperation Committee.

8.2. Arrangements and schedule for the planned evaluation

(Describe the planned schedule and arrangements for interim and ex post evaluations to be carried out in order to assess whether the intervention has achieved the objectives set. In the case of multiannual programmes, at least one thorough evaluation in the life cycle of the programme is needed. For other activities ex post or mid-term evaluations should be carried out at intervals not exceeding six years.)

9. ANTI-FRAUD MEASURES

When the implementation of the framework programmes 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 reasons to doubt the realistic nature of work performed or described in the activity reports.

The Communities' 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 Communities 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 European Communities are protected by effective checks and, in case of detected irregularities, measures as well as deterrent and proportionate sanctions.

In order to achieve this aim, rules on checks, measures and sanctions, with references to the Regulations No 2988/95, 2185/96, 1073/99 and 1074/99 will be taken up in all contracts used in the implementation of the framework programmes.

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 participation of administrative checks in the field of fraud-fighting, in accordance with Regulations No 2185/96, 1073/99 and 1074/99;

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- the application of administrative sanctions for all intentional or negligent irregularities in the implementation of the *contracts*, in accordance with the framework Regulation No 2988/95, including a black listing mechanism;
- the fact that possible recovery orders in case of irregularities and fraud be enforceable according to Article 164 of the EAEC 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; internal audit carried out by the Internal audit Unit of Research DG; and local inspections by this Unit and the Court of Auditors.

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