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## DECLASSIFICATION

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Subject: Adoption of a Council Decision authorizing the Commission to negotiate an agreement for scientific and technological cooperation between the European Community and the People's Republic of China

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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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9128/98

RESTREINT

RECH 57  
ASIE 6

**"I/A" ITEM NOTE**

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from : General Secretariat of the Council

to : Committee of Permanent Representatives/Council

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Subject : Adoption of a Council Decision authorizing the Commission to negotiate an agreement for scientific and technological cooperation between the European Community and the People's Republic of China

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1. The Commission submitted to the Council on 30 March 1998 the abovementioned recommendation for a Council Decision authorizing the negotiation of an agreement for scientific and technological cooperation with the People's Republic of China.

The agreement, as proposed by the Commission, should be negotiated on the basis of negotiating directives and subsequently concluded in accordance with art. 130 m under the procedure laid down in art. 228 of the Treaty establishing the European Community.

2. After examination of the proposal, the Research Working Party reached an agreement on the texts of the draft Council Decision together with the negotiating directives and on the draft statement for the Council's minutes as reproduced in Annexes I and II to this Note.
3. It is therefore suggested that the Committee of Permanent Representatives recommend to the Council:
  - to adopt, as an "A" item at one of its next meetings, the attached Council Decision authorizing the Commission to negotiate a scientific and technological cooperation agreement with the People's Republic of China together with the negotiating directives (Annex I);
  - to enter into its minutes the statement contained in Annex II.

**COUNCIL DECISION**  
**AUTHORIZING THE COMMISSION TO NEGOTIATE**  
**AN AGREEMENT FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION**  
**BETWEEN THE EUROPEAN COMMUNITY**  
**AND THE PEOPLE'S REPUBLIC OF CHINA**

1. The Council authorizes the Commission to negotiate an agreement for scientific and technological cooperation between the European Community and the People's Republic of China.
2. The Commission shall conduct the negotiations with the assistance of the special Committee set up for this task in accordance with Article 228 of the EC Treaty.
3. The Council invites the Commission to conduct these negotiations in accordance with the attached negotiating directives.
4. The Commission will keep the Council informed of the state of progress of the negotiations.

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**DRAFT NEGOTIATING DIRECTIVES**

**for an agreement for scientific and technological cooperation  
with the People's Republic of China**

1. Objective

The aim of the negotiations is to conclude an agreement, in accordance with Article 130m in conjunction with the first sentence of Article 228(2) and the first indent of Article 228(3) of the Treaty establishing the European Community, for cooperation in the fields covered by the fifth framework programme of the European Community for research, technological development and demonstration activities (1998-2002), hereinafter referred to as the fifth framework programme. This cooperation should be to the benefit of both parties.

2. Guiding principles

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

3. Scope of the cooperation

The cooperation established by this agreement shall cover the first research activity under the fifth framework programme, as provided for in Article 130g(a) of the Treaty establishing the European Community.

#### 4. Forms and means of cooperation

Cooperation shall take the following forms :

- participation of Chinese research entities in indirect research actions under the Community's Fifth framework programme and reciprocal participation by research entities<sup>(1)</sup> from the European Community in Chinese research projects in similar sectors. Participation by Chinese entities in indirect Community research actions shall be subject to the rules for the participation of undertakings, research centres and universities in the specific programmes of research, technological development and demonstration activities of the European Community (1998-2002); joint research and technological development activities by European and Chinese entities must be approved by both parties in order to come under this agreement;
- visits and exchanges of scientists;
- participation by experts in seminars, symposia and workshops.

#### 5. Duration

The agreement shall be concluded for the duration of the fifth framework programme (1998-2002) and may be renewed by common agreement between the parties (tacit renewal) after evaluation during the penultimate year of implementation of the fifth framework programme or of subsequent framework programmes. It may be terminated at any time by either party upon six months' written notice.

#### 6. Dissemination and utilisation of information

Participation of Chinese entities in indirect Community RTD actions and the dissemination and optimisation of results, including intellectual property rights, shall be subject to the rules adopted by the Council for the Community's research programmes concerning dissemination of the research results from the specific programmes of research, technological development and demonstration of the European Community and, where appropriate, to the guiding principles on the allocation of intellectual property rights applicable to scientific and technological cooperation with third countries, as laid down in the Joint Declaration of the Council and the Commission of 30 June 1992.

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(1) As defined in Article 1 of the Council Decision of ... concerning the rules for participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the fifth framework programme of the European Community (1998-2002) (OJ No .....)

*Mutatis mutandis*, entities from the Community participating in Chinese research activities under this agreement shall have the same rights and obligations as Chinese entities.

#### 7. Financing

As far as the participation of Chinese research bodies in indirect Community research actions under the first activity in the fifth framework programme is concerned, the provisions of the Council Decision concerning the rules for the participation of undertakings, research centres and universities in the research, technological development and demonstration activities of the European Community applicable to legal entities from third countries shall apply (no transfer of funds).

#### 8. Management of the agreement

A Joint Science and Technology Cooperation Committee shall be set up to promote, monitor and evaluate the activities envisaged under the agreement. It shall consist of representatives of the Commission on the one part and representatives of the People's Republic of China on the other. The Committee shall normally meet once per year, preferably before the meeting of the Joint Committee set up under the Trade and Economic Cooperation Agreement between the European Economic Community and the People's Republic of China (Council Regulation (EEC) N° 2616/85 of 16 September 1985), and shall report to that Joint Committee. Extraordinary meetings may be held at the request of either of the parties.

DRAFT STATEMENT FOR THE COUNCIL MINUTES

The Council and the Commission agree that at the moment of signing the Agreement they will enter a joint statement into the minutes along the following lines :

"The Council and the Commission declare that this Agreement and any activities entered into under it will in no way affect the powers vested in the Member States to undertake bilateral activities with the People's Republic of China in the field of science, technology and research and development and to conclude agreements to that end, where appropriate.

They therefore agree that, when the Agreement is being signed, the person empowered by the President of the Council to sign will communicate the contents of this statement to the authorities of the People's Republic of China".

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