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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	12 September 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 521 final
Subject:	Recommendation for a COUNCIL DECISION approving the conclusion, by the European Commission, of the Agreement between the European Atomic Energy Community (Euratom) and the Korean Peninsula Energy Development Organisation (KEDO)

Delegations will find attached document COM(2023) 521 final.

Encl.: COM(2023) 521 final



EUROPEAN
COMMISSION

Brussels, 12.9.2023
COM(2023) 521 final

Recommendation for a

COUNCIL DECISION

approving the conclusion, by the European Commission, of the Agreement between the European Atomic Energy Community (Euratom) and the Korean Peninsula Energy Development Organisation (KEDO)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The Euratom Community has been a full member of the Korean Peninsula Energy Organisation (KEDO) since 1997. The main objective of KEDO was the provision of two nuclear light water reactors to the DPRK (Democratic People's Republic of Korea - North Korea), as part of international non-proliferation efforts on the Korean Peninsula. As a result of the DPRK's failure to implement its non-proliferation obligations, the operative activities of KEDO were terminated and the 12 year old secretariat closed on 31 May 2007. In spite of this KEDO's Executive Board decided not to terminate the organisation immediately, but to maintain it in the form of an empty shell (as a pure skeleton, with a secretariat employed on a temporary basis) in order to allow it to defend its financial and legal interest and those of its four members represented in the Executive Board (Euratom, Japan, South Korea and the USA). The KEDO continuation in its empty shell format would in fact allow its members to uphold financial claims against the DPRK for financial losses (which amount to USD 1.89 billion), to provide them with legal protection against liability or compensation claims and to keep the ownership of the infrastructure and other assets in the DPRK. The Executive Board therefore approved plans for the continued operation of the Secretariat covering the five-year period ending on 31 May 2012, and then decided to extend the renewal for subsequent three-year periods ending 31 May 2015, 31 May 2018 and 31 May 2021.

It was previously estimated that a final settlement of these legal and financial issues could be achieved by 31 May 2021. Therefore the Community's membership was to last until that date under the latest Euratom-KEDO Agreement. However since KEDO needs more time to finalise its outstanding issues, the continued protection of the Community interests requires the conclusion of a new Agreement between Euratom and KEDO. To that end, the Council granted to the Commission, on 13 April 2021, negotiation directives authorising the Commission to retroactively negotiate the renewal of the Euratom-KEDO Agreement beyond 31 May 2021, for a standard three-year period as in the previous renewals.

- **Consistency with existing policy provisions in the policy area**

The proposal prolongs the validity of the previous Agreement between the Euratom Community and KEDO. The content is in line with previous Council decisions adopted for the same purpose¹.

- **Consistency with other Union policies**

The renewal of the Agreement between Euratom and KEDO enables Euratom to protect its financial and legal interests as one of the members of KEDO.

¹ See Council Decision (EU, Euratom) 2019/1945 of 19 November 2018 approving the conclusion, by the European Commission, of the Agreement between the European Atomic Energy Community (Euratom) and the Korean Peninsula Energy Development Organisation (KEDO), OJ L 304, 26.11.2019, p. 1–1; and Council Decision (EU, Euratom) 2019/1946 of 19 November 2018 approving the conclusion, by the European Commission, of the Agreement between the European Atomic Energy Community (Euratom) and the Korean Peninsula Energy Development Organisation (KEDO), OJ L 304, 26.11.2019, p. 4–4.

2. NEGOTIATIONS

- **Legal basis and conclusion**

The proposed legal basis is the second paragraph of Article 101 of the Treaty establishing the European Atomic Energy Community.

On the basis of the text proposed by the Commission services, an ad referendum agreement has now been reached with KEDO on the attached text for renewal of the Agreement between the European Atomic Energy Community (Euratom) and the Korean Peninsula Energy Development Organisation (KEDO). In the opinion of the Commission services, this text is consistent with the negotiating directives issued by the Council on 13 April 2021.

The Commission therefore recommends to the Council to approve, pursuant to the second paragraph of Article 101 of the Treaty establishing the European Atomic Energy Community, the renewal of the Agreement between the European Atomic Energy Community (Euratom) and the Korean Peninsula Energy Development Organisation (KEDO) in Annex.

- **Subsidiarity**

The proposal asks for a Council decision only in so far as the Euratom areas of competence are concerned. Hence, there is no conflict with the principle of subsidiarity.

- **Proportionality**

The proposal does not go beyond what is necessary to achieve the objective to prolong the Euratom membership in KEDO, in line with the negotiating directives issued by the Council. Moreover, the proposal does not create any financial cost for the Euratom Community, the Union budget, national governments, regional or local authorities, economic operators nor citizens.

- **Choice of the instrument**

The choice of the instrument is in line with Article 101, second paragraph, of the Treaty establishing the European Atomic Energy Community, providing that agreements between the Euratom Community and an international organisation shall be concluded by the Commission with the approval of the Council.

3. BUDGETARY IMPLICATIONS

There will be no budgetary implications.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community (Euratom), and in particular the second paragraph of Article 101 thereof,

Having regard to the recommendation from the Commission,

Whereas the Agreement between the European Atomic Energy Community (Euratom) and Korean Peninsula Energy Development Organisation (KEDO) should be concluded,

HAS ADOPTED THIS DECISION:

Sole article

The conclusion by the European Commission of the Agreement between the European Atomic Energy Community (Euratom) and the Korean Peninsula Energy Development Organisation (KEDO) is hereby approved.

The text of the Agreement is attached to this Decision.

Done at Brussels,

*For the Council
The President*