



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.5.2003
COM(2003) 288 final

2003/0105 (ACC)

Proposal for a

COUNCIL DECISION

**on the signing of the Agreement on scientific and technological cooperation between the
European Community and the Kingdom of Morocco**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, entered into force on 1 March 2000. Article 47 of this Agreement identifies scientific and technological cooperation as an area of particular interest and potential, and provides, amongst other things, for the establishment of permanent links between the parties' scientific communities.
2. In the context of the implementation of an ambitious international dimension for the European Research Area (see Commission communication COM(2001) 346 final of 25 June 2001, "The International Dimension of the European Research Area"), the Commission underlined the need to strengthen relations with the Mediterranean partner countries in the fields of science, technology and innovation in order to promote the socio-economic progress of the whole Euro-Mediterranean area.
3. The Secretary of State for Scientific Research of the Kingdom of Morocco sent a letter to Commissioner Philippe Busquin on 28 May 2002 in which he reported on Morocco's progress in the field of RTD and, referring to the conclusions of the last meeting of the Morocco-EU Association Committee, asked for an Agreement on scientific and technological cooperation to be negotiated with the Community in order to supplement and strengthen cooperation undertaken to date.
4. This request was made during the visit of the Secretary of State for Scientific Research, Mr Omar Fassi Fehri, to Commissioner Philippe Busquin on 27 June 2002. This visit was followed by a meeting of experts on 28 June 2002 in Brussels, during which Morocco's participation in the fifth and forthcoming sixth FPRD was examined, as well as the possibility of financing the development of research capacities and the implementation of a study to evaluate the Moroccan national research system with the support of DG Research. In conclusion, it would be fully in the interest of the Community to respond positively to Morocco's request and an Agreement on scientific and technological cooperation would be the appropriate instrument for supplementing current cooperation and expanding it at international and regional level.
5. Consequently, on 14 November 2002 DG RTD initiated a procedure aimed at obtaining a negotiating mandate for this Agreement on scientific and technological cooperation. On 12 March 2003, the Commission sent to the Council a recommendation for the adoption of a negotiating mandate and on 14 April 2003 the Council adopted a decision authorising the Commission to negotiate an Agreement on scientific and technological cooperation with the Kingdom of Morocco.
6. The Agreement was negotiated in accordance with the directives attached to the Council Decision of 14 April 2003. The negotiations culminated in the draft Agreement and annexes attached hereto, which were initialled on 24 April 2003 by the authorised representatives of the two parties.
7. The draft Agreement is based on the principles of mutual benefit, reciprocal opportunities for access to each other's programmes and activities relevant to the purpose of the draft Agreement, non-discrimination, the effective protection of intellectual property and equitable sharing of intellectual property rights.

8. In the light of the above considerations, the Commission proposes that the Council should decide:
- that the Agreement on behalf of the European Community;
 - and authorise the President of the Council to appoint the person duly empowered to sign on behalf of the European Community.

Proposal for a

COUNCIL DECISION

on the signing of the Agreement on scientific and technological cooperation between the European Community and the Kingdom of Morocco

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 170 thereof, in conjunction with the first sentence of the first subparagraph of Article 300 (2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Whereas:

- (1) The Commission has negotiated, on behalf of the Community, an Agreement on scientific and technological cooperation with the Kingdom of Morocco;
- (2) Subject to possible conclusion at a later date, the Agreement initialled on 24 April 2003 should be signed,

HAS DECIDED AS FOLLOWS:

Sole Article

Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the person empowered to sign, on behalf of the European Community, the Agreement for scientific and technological cooperation between the European Community and the Kingdom of Morocco.

Done at Brussels, [...]

For the Council
The President
[...]

¹ OJ C [...], [...], p. [...].

AGREEMENT
ON SCIENTIFIC AND TECHNICAL COOPERATION
BETWEEN THE EUROPEAN COMMUNITY
AND THE KINGDOM OF MOROCCO

The European Community (hereinafter "the Community"), of the one part,
and

The Kingdom of Morocco (hereinafter "Morocco"), of the other part,
hereinafter referred as the "Parties",

HAVING REGARD TO the Treaty establishing the European Community, and in particular Article 170 thereof, in conjunction with the first sentence of the second subparagraph and the first sentence of the third subparagraph of Article 300 (2) thereof;

HAVING REGARD TO Decision No 1513/2002/EC² of the European Parliament and of the Council of 27 June 2002 concerning the Sixth Framework Programme of the European Community for research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation (2002 to 2006);

CONSIDERING the importance of science and technology for their economic and social development and the reference thereto in Article 47 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, which entered into force on 24 January 2000³;

CONSIDERING that the Community and Morocco are pursuing research, technological development and demonstration activities in a number of areas of common interest, and that participation in each other's research and development activities on a basis of reciprocity will provide mutual benefits;

DESIRING to establish a formal cooperation framework for scientific and technological research with a view to extending and intensifying the conduct of cooperative activities in areas of common interest and to encourage the application of the results of such cooperation to the economic and social benefit of both Parties;

CONSIDERING the desire to open up the European Research Area⁴, to third countries, and in particular the Mediterranean partner countries,

² OJ L 232, 29.8.2002.

³ OJ L 70, 18.3.2000.

⁴ COM(2001) 346 final, 25.6.2001.

Have agreed as follows:

Article 1 - Purpose and principles

1. The parties shall encourage, develop and facilitate cooperative scientific and technological activities between the Community and Morocco in fields of common interest where they are pursuing scientific research and technological development activities.
2. The cooperative activities should be conducted on the basis of the following principles:
 - promotion of a knowledge-based society for the benefit of the economic and social development of the two parties;
 - mutual benefit based on an overall balance of advantages;
 - reciprocal access to activities under the scientific research and technological development programmes and projects (hereinafter "research") undertaken by each party in the fields covered by this Agreement;
 - timely exchange of information which may affect cooperative activities;
 - appropriate protection of intellectual property rights.

Article 2 - Terms of cooperation

1. Moroccan legal entities, both public and private, shall participate in indirect actions under the European Community Framework Programme for research, technological development and demonstration activities contributing towards the creation of the European Research Area, hereinafter "the Framework Programme", under the same conditions as those applicable to legal entities of Member States of the European Union, subject to the terms and conditions established by or referred to in Annexes I and II.
2. Community legal entities shall participate in Morocco's research projects in fields equivalent to those of the Framework Programme under the same conditions as those applicable to Moroccan legal entities, subject to the terms and conditions established by or referred to in Annexes I and II.
3. Cooperation may also take the following forms and means:
 - joint meetings;
 - regular discussions on the guidelines and priorities for research policies and planning in Morocco and in the Community;
 - exchanges of views and consultation on cooperation and development prospects;

- timely provision of information concerning the implementation and results of joint research programmes and projects of Morocco and of the Community undertaken with the framework of this Agreement;
- visits and exchanges of researchers, engineers and technicians, including for the purposes of research training;
- exchanges and sharing of scientific equipment and materials;
- regular contacts between Moroccan and Community research programme or project managers;
- participation of experts of both Parties in thematic seminars, symposiums and workshops;
- exchanges of information on practices, laws, regulations and programmes concerning cooperation under this Agreement;
- reciprocal access to scientific and technical information concerned by this cooperation;
- any other arrangement adopted by the EC-Morocco Joint Scientific and Technical Cooperation Committee referred to in Article 4, and in conformity with the policies and procedures applicable in both parties.

Article 3 -Enhancement of cooperation

1. The parties undertake to make every effort, within the framework of their respective legislation in force, to facilitate the free movement and establishment of researchers participating in the activities covered by this Agreement and to facilitate the entry into and exit from their territories of materials, data or equipment intended for use in these activities.
2. Where, in accordance with its own rules, the European Community grants contract funding other than in the form of a repayable loan to a legal entity established in Morocco to participate in a Community indirect action, the Government of Morocco will ensure, in the framework of its legislation in force, that no fiscal charge or levy is imposed on the operations benefiting from such funding.

Article 4 - Management of the Agreement

1. The coordination and promotion of the activities covered by this Agreement will be carried out on behalf of Morocco by the government authority responsible for scientific research and on behalf of the Community by the services of the European Commission responsible for the Framework Programme acting as executive agents for the parties (hereinafter "the executive agents").
2. The executive agents shall set up an EC-Morocco Joint Scientific and Technical Cooperation Committee with responsibility for:

- monitoring the implementation and evaluating the impact of this Agreement, and propose any revisions to it which may be necessary, subject to the accomplishment by each Party of its own procedures for the purpose;
 - to propose any appropriate measure aimed at improving and developing scientific and technological cooperation under this Agreement;
 - regularly examining the guidelines and priorities of Moroccan and Community research policies and planning and the prospects for future cooperation under this Agreement.
3. The EC-Morocco Joint Scientific and Technical Cooperation Committee shall be composed of an equal number of representatives of the executive agents of each Party. It shall adopt its rules of procedure.
 4. The EC-Morocco Scientific and Technical Cooperation Committee shall meet at least once a year in the Community and in Morocco alternately. Extraordinary meetings may be held at the request of either Party. The conclusions and recommendations of the EC-Morocco Scientific and Technical Cooperation Committee shall be sent, for information, to the Association Committee of the Euro-Mediterranean Agreement between the European Union and the Kingdom of Morocco.

Article 5 - Terms and conditions of participation

Reciprocal participation in the research activities covered by this Agreement shall take place in accordance with the conditions set out in Annex I and shall be subject to the legislation, regulations, policies and conditions governing the implementation of the programmes in force on the territory of each Party.

Article 6 - Dissemination and utilisation of results and information

The dissemination and utilisation of the results of information acquired and/or exchanged, and the management, allocation and exercise of intellectual property rights arising from the research activities carried out under this Agreement shall be subject to the conditions set out in Annex II to this Agreement.

Article 7- Final provisions

1. Annexes I and II shall form an integral part of this Agreement.

All questions or disputes relating to the interpretation or implementation of this Agreement shall be settled by mutual agreement between the Parties.
2. This Agreement shall enter into force on the date on which the Parties have notified each other in writing that their necessary procedures to this end have been completed.

Every four years the Parties will evaluate the impact of the Agreement on the intensity of their scientific and technical cooperation.

This Agreement may be amended or its scope enlarged by agreement between the Parties. Amendments or extensions shall enter into force on the date on which the Parties have notified each other in writing that the necessary procedures to this end have been completed.

This Agreement may be terminated at any time by either Party with six months written notice.

The projects and activities in progress at the time of any termination of this Agreement will continue until their completion under the conditions laid down in this Agreement, unless the two Parties decide otherwise.

3. If one of the Parties decides its research programmes or projects referred to in paragraph 1 of Article 1, the executive agent of that Party shall notify the executive agent of the other Party of the precise content of the amendments in question.

In that event, and by way of derogation from subparagraph 2 of paragraph 2 of this Article, this Agreement may be terminated under mutually agreed conditions if either of the Parties notifies the other within one month of its intention to terminate this Agreement following the adoption of the amendments referred to in subparagraph 1.

4. This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Kingdom of Morocco. This shall not exclude the carrying-out of cooperative activities on the high seas, in space, or on the territory of third countries in accordance with international law.
5. This Agreement is drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Arabic languages, each of these texts being equally authentic.

Done at

on

For the Government of the
Kingdom of Morocco

For the European Community

ANNEX I

Terms and conditions for the participation of legal entities of Member States of the European Union and of the Kingdom of Morocco

For the purpose of this Agreement, a legal entity means any natural person, or any legal person created under the national law of its place of establishment or under Community law, having legal personality and being entitled to have rights and obligations of any kind in its own name.

I. TERMS AND CONDITIONS FOR THE PARTICIPATION OF LEGAL ENTITIES ESTABLISHED IN MOROCCO IN INDIRECT ACTIONS UNDER THE EC RESEARCH FRAMEWORK PROGRAMME

1. The participation of legal entities established in Morocco in indirect actions under the Framework Programme shall be in accordance with the participation rules laid down pursuant to Article 167 of the Treaty establishing the European Community for the implementation of the Framework Programme⁵.

In addition, legal entities established in Morocco may participate in indirect actions carried out under Article 164 of the Treaty establishing the European Community.

2. The Community may grant funding to legal entities established in Morocco participating in the indirect actions referred to in paragraph 1 in accordance with the terms and conditions laid down by the participation rules referred to in paragraph 1 adopted by the European Parliament and the Council pursuant to Article 167 of the Treaty establishing the European Community, the financial regulations of the European Community and any other applicable Community legislation.
3. A contract concluded by the Community with any legal entity established in Morocco participating in an indirect action must provide for audits and verifications to be carried out by, or under the authority of, the Commission or the Court of Auditors of the European Communities.

In a spirit of cooperation and mutual interest, the relevant authorities of Morocco will provide any reasonable and feasible assistance as may be necessary or helpful to perform such audits and verifications.

II. TERMS AND CONDITIONS FOR THE PARTICIPATION OF LEGAL ENTITIES OF MEMBER STATES OF THE EUROPEAN UNION IN MOROCCO'S RESEARCH PROGRAMMES AND PROJECTS

1. Any legal entity established in the European Community created under the national law of one of the Member States of the European Union or under European Community law may participate in Morocco's research and development projects or programmes in cooperation with legal entities established in Morocco.

⁵ Cf. for the Sixth Framework Programme (2002-2006) Article 6 of Regulation (EC) 2321/2002 of the European Parliament and of the Council of 16 December 2002 (OJ L 355, 30.12.2002, p. 23).

2. Subject to paragraph 1 and to Annex II, the rights and obligations of legal entities established in the Community participating in Morocco's research and development projects or programmes, the terms and conditions applicable to the submission and evaluation of proposals and the granting and conclusion of contracts shall be subject to Morocco's laws, regulations and government directives governing the operation of research and development programmes under the conditions applicable to legal entities established in Morocco, taking into account the nature of the cooperation between Morocco and the European Community in this field.

Funding of legal entities established in the Community participating in Morocco's research and development projects and programmes shall be subject to Morocco's laws, regulations and government directives governing the operation of research and development programme under the conditions applicable to legal entities of third countries participating in Morocco's research and development projects and programmes.

3. Morocco will regularly inform the European Community and its own legal entities of opportunities for legal entities established in the European Community to participate in its research and development projects and programmes.

ANNEX II

Principles concerning the allocation of intellectual property rights

I. APPLICATION

For the purposes of this Agreement, "intellectual property" shall have the meaning given in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm on 14 July 1967.

For the purposes of this Agreement, "knowledge" shall mean the results, including information, whether or not they can be protected, as well as copyrights or rights pertaining to such results following applications for, or the issue of patents, designs, plant varieties, supplementary protection certificates or similar forms of protection

II. INTELLECTUAL PROPERTY RIGHTS OF LEGAL ENTITIES OF THE PARTIES

1. Each Party shall ensure that the intellectual property rights of legal entities of the other Party participating in activities carried out pursuant to this Agreement and the related rights and obligations arising from such participation, shall be consistent with the relevant international conventions that are applicable to the Parties, including the TRIPS Agreement (Agreement on trade-related aspects of intellectual property Rights administered by the World Trade Organisation) as well as the Berne Convention (Paris Act 1971) and the Paris Convention (Stockholm Act 1967).
2. Legal entities established in Morocco participating in an indirect action under the Framework Programme shall have the same rights and obligations with regard to intellectual property as legal entities established in the Community participating in the indirect action. These rights and obligations with regard to intellectual property are laid down in the rules for the dissemination of research results adopted pursuant to Article 167 of the Treaty establishing the European Community⁶ and the contract concluded with the Community for the implementation of the indirect action, such rights and obligations being in compliance with paragraph 1.
3. Legal entities established in the Community participating in Morocco's research programmes or projects shall have the same rights and obligations with regard to intellectual property as those of legal entities established in Morocco participating in such research programmes or projects, such rights and obligations being in compliance with paragraph 1.
4. Each Party shall ensure that the legal entities which it represents takes all necessary steps to define and protect their intellectual property rights.

⁶ Cf. for the Sixth Framework Programme (2002-2006) Article 6 of Regulation (EC) 2321/2002 of the European Parliament and of the Council of 16 December 2002 (OJ L 355, 30.12.2002, p. 23).

III. INTELLECTUAL PROPERTY RIGHTS OF THE PARTIES

1. Except if otherwise specifically agreed by the Parties, the following rules shall apply to knowledge generated by the Parties in the course of activities carried out under Article 2, paragraphs 1 and 2 of this Agreement:
 - a) The Party generating such knowledge shall be the owner of that knowledge. Where the knowledge has been generated jointly and the two Parties' respective share of the work cannot be ascertained, they shall have joint ownership of such knowledge.
 - b) The Party owning the knowledge shall grant access rights to it to the other Party for carrying out activities referred to in Article 2, paragraphs 1 and 2 of this Agreement. Such access rights shall be granted on a royalty-free basis.
2. Except if otherwise specifically agreed by the Parties, the following rules shall apply to scientific literary works of the Parties:
 - a) Where a Party publishes scientific and technical data, information and results by means of journals, articles, reports, books, including video and software, arising and relating to activities carried out pursuant to this Agreement, a worldwide, non-exclusive, irrevocable, royalty-free licence shall be granted to the other Party to translate, reproduce, adapt, transmit and publicly distribute such works.
 - b) All copies of data and information protected by copyright prepared in this context for public distribution shall indicate the names of the author(s) of the work unless an author explicitly declines to be named. They shall also bear a clearly visible acknowledgement of the cooperative support of the Parties.
3. Except if otherwise specifically agreed by the Parties, the following rules shall apply to undisclosed information of the Parties:
 - a) When communicating to the other Party information necessary for the activities carried out pursuant to this Agreement, each Party shall identify that information it wishes to remain undisclosed.
 - b) The Party receiving the information may, under its own responsibility, communicate undisclosed information to entities or persons under its authority for the specific purposes of implementing this Agreement
 - c) With the prior written consent of the Party providing undisclosed information, the other Party may disseminate such undisclosed information more widely than otherwise permitted in paragraph 3.b. The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party will provide such approval to the extent permitted by its domestic policies, regulations and laws.
 - d) Non-documentary undisclosed or other confidential information provided in seminars and other meetings between representatives of the Parties arranged under this Agreement, or information arising from the attachment of staff, use of facilities or the carrying-out of indirect actions, shall remain confidential where the recipient of such undisclosed or other confidential or privileged

information was made aware of the confidential character of the information communicated at the time such communication was made, according to paragraph 3.a.

- e) Each Party shall endeavour to ensure that undisclosed information received by it under paragraph 3.a and 3.d is controlled as provided herein. If one of the Parties becomes aware that it will be, or may be reasonably expected to become, unable to meet the non-dissemination provisions laid down in paragraph 3.a and 3.d, it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.

LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): RTD

Activity: International S&T cooperation

TITLE OF ACTION: PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING OF AN AGREEMENT ON SCIENTIFIC AND TECHNOLOGICAL COOPERATION BETWEEN THE EUROPEAN COMMUNITY AND THE KINGDOM OF MOROCCO

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

1.1 Relevant budget heading(s)

The costs associated with the activities of monitoring and implementing the agreement will be charged to the specific budget headings of the programmes under the Community RTD framework programme (Chapter B6-6013).

2. OVERALL FIGURES

2.1. Method of calculating the total cost of the operation (estimate)

- a. Preparatory activities and review of cooperation activities:** meetings of the steering committee on S&T cooperation, exchanges of information, coordination activities, visits to Morocco by officials and experts: 40 000 €
- b. Scientific and technical workshops/meetings:** 60 000 €

TOTAL : 100 000 €/year

3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contribution from candidate countries	Heading in Financial Perspective
Non-comp	Diff	NO	YES	YES	No 3

4. LEGAL BASIS

- Articles 170 and 300 of the EC Treaty

4.1 Title and reference

- Treaty establishing the European Community, in particular Article 170, in conjunction with Article 300.
- Decision No 1513/2002/EC of the European Parliament and of the Council of 27 June 2002 concerning the sixth framework programme of the European Community for

research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation (2002 to 2006).

5. DESCRIPTION AND GROUNDS

5.1. Need for Community intervention

Community funding is indispensable as this cooperation agreement will contribute to the implementation of the Framework Programme, as well as 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 Morocco.

5.1.1 Objectives pursued

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

- the agreement is designed to enable the Community and Morocco 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 Moroccan scientific community and Moroccan industry in Community research projects and independent participation, without funding, by bodies established in the Community in Moroccan projects;
- the beneficiaries in the EC and Morocco will be the scientific communities, industry and the general public, thanks to the direct and indirect effects of cooperation.

5.1.2 Duration

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

5.2. Actions envisaged and budget intervention arrangements

5.2.1 Type of expenditure

100% financing (missions to Morocco by Commission officials; organisation of workshops, seminars and meetings in Europe and Morocco).

6. FINANCIAL IMPACT

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

6.1.1 Expenditure on management of the Decision (estimate)

Indicative schedule of appropriations (amounts expressed in millions of euros)

	2003	2004	2005	2006
Commitments	0.10	0.10	0.10	0.10
Payments	0.10	0.10	0.10	0.10

7. FOLLOW-UP AND EVALUATION

7.1 Follow-up arrangements

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

The assessment will cover the following:

- a. Compilation of available information: based on 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.

8. ANTI-FRAUD MEASURES

Numerous administrative and financial audits are provided for at each stage of the cooperation activities in the context of this agreement. These include in particular:

- verification, at various levels, of the statements of expenditure before payment;
- audit by the internal audit service;
- audit by the Court of Auditors of the European Union.