II

(Acts whose publication is not obligatory)

COUNCIL AND COMMISSION

COUNCIL AND COMMISSION DECISION

of 28 May 1998

on the conclusion of the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part [1]

(98/401/EC, ECSC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 54(2), the last sentence of Article 57(2), and Articles 66, 73c(2), 75, 84(2), 99, 100, 113 and 235, in conjunction with the second sentence of Article 228(2) and the second subparagraph of Article 228(3) thereof,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 95 thereof,

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

Having regard to the assent of the European Parliament [2],

Having consulted the ECSC Consultative Committee and with the assent of the Council,

Having regard to the approval of the Council given in accordance with Article 101 of the Treaty establishing the European Atomic Energy Community,

Whereas conclusion of the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other, signed on 28 June 1994 in Brussels, will contribute to the achievement of the objectives of the European Communities;

Whereas the purpose of that Agreement is to strengthen the links established in particular by the Agreement between the European Economic Community and the European Atomic Energy Community and the Union of Soviet Socialist Republics on trade and commercial and

[1] This Partnership and Cooperation Agreement was signed with the Republic of Moldova on 28 November 1994 by the European Communities and the twelve Member States at the time. Following enlargement, an Additional Protocol was signed with the Republic of Moldova on 15 May 1997 so as to enable Austria, Finland and Sweden to become members of the Agreement alongside the other twelve Member States and to make the Swedish and Finnish language versions of the Agreement official.
After completion of the necessary procedures, the Communities and their Member States also decided — on the conclusion of this Partnership Agreement — to apply the aforementioned Additional Protocol provisionally pending its entry into force, in accordance with Article 4 thereof. Accordingly, the text of the Partnership Agreement contained in the Finnish and Swedish editions of the Official Journal is the one which is made official by the Additional Protocol.
The Partnership and Cooperation Agreement concluded with the Republic of Moldova will enter into force on 1 July 1998, the notifications regarding the completion of the procedures laid down in Article 105, second paragraph, of the Agreement having been completed by the parties on 29 May 1998.

[2] OJ C 339, 18.12.1995, p. 48.

economic cooperation, signed on 18 December 1989 and approved by Decision 90/116/EEC [1];

Whereas certain obligations, provided for by the Partnership and Cooperation Agreement outside the scope of Community trade policy, affect or are likely to affect the arrangements laid down by Community acts adopted in the areas of the right of establishment, transport and the treatment of enterprises;

Whereas the said Agreement imposes on the European Community certain obligations regarding capital movements and payments between the Community and the Republic of Moldova;

Whereas, in addition, insofar as the said Agreement affects Council Directive 90/434/EEC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States [2], and Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States [3], which are based on Article 100 of the Treaty establishing the European Community, that Article should be used as a legal basis;

Whereas certain provisions of the said Agreement impose on the Community obligations in the field of the provision of services which go beyond the crossborder framework;

Whereas for certain provisions of the said Agreement which are to be implemented by the Community, the Treaty establishing the European Community makes no provision for specific powers; whereas it is therefore necessary to resort to Article 235 of the Treaty,

HAVE DECIDED AS FOLLOWS:

Article 1

The Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, together with the protocol, declarations and the exchange of letters, are hereby approved on behalf of the European Community, the European Coal and Steel Community and the European Atomic Energy Community.

The texts are annexed to this Decision.

Article 2

1. The position to be adopted by the Community in the Cooperation Council and the Cooperation Committee shall be determined by the Council, on a proposal from the Commission, or, where appropriate, by the Commission, in each case in accordance with the relevant provisions of the Treaties establishing the European Community, the European Coal and Steel Community and the European Atomic Energy Community.

2. In accordance with Article 83 of the Partnership and Cooperation Agreement, the President of the Council shall chair the Cooperation Council and shall present the Community's position. A representative of the Commission shall chair the Cooperation Committee in accordance with its rules of procedure and shall present the Community's position.

The decision to publish the recommendations of the Cooperation Council and the Cooperation Committee in the *Official Journal of the European Communities* shall be taken on a case-by-case basis by the Council and the Commission.

Article 3

The President of the Council shall give the notification provided for in Article 105 of the Agreement on behalf of the European Community. The President of the Commission shall give such notification on behalf of the European Coal and Steel Community and the European Atomic Energy Community.

Done at Brussels, 28 May 1998.

For the Commission	*For the Council*
The President	*The President*
J. SANTER	M. FISHER

[1] OJ L 68, 15.3.1990, p. 1.
[2] OJ L 225, 20.8.1990, p. 1.
[3] OJ L 225, 20.8.1990, p. 6.