II

(Acts whose publication is not obligatory)

COUNCIL AND COMMISSION

COUNCIL AND COMMISSION DECISION

of 12 May 1999

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 Kazakhstan, of the other part

(1999/490/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 proposal from the Commission,

Having regard to the assent of the European Parliament [1],

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,

(1) Whereas conclusion of the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Kazakhstan, of the other, signed on 23 January 1995 in Brussels, will contribute to the achievement of the objectives of the European Communities;

(2) 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 economic cooperation, signed on 18 December 1989 and approved by Decision 90/116/EEC [2];

(3) 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;

(4) Whereas the said Agreement imposes on the European Community certain obligations regarding capital movements and payments between the Community and the Republic of Kazakhstan;

(5) Whereas, in addition, in so far 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 [3], 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 [4], which are based on Article 100 of the Treaty

[1] OJ C 115, 14.4.1997, p. 196.

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

establishing the European Community, that Article should be used as a legal basis;

(6) 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;

(7) 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 Kazakhstan, 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 attached to this Decision.

Article 2

1. The position to be taken by the Community within the Cooperation Council and within the Cooperation Committee when the latter is empowered to act by the Cooperation Council shall be laid down by the Council, on a proposal by the Commission, or, where appropriate, by the Commission, each in accordance with the corresponding 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 77 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.

3. 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

President of the Council shall give the notification provided for in Article 99 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, 12 May 1999.

For the Commission	*For the Council*
The President	*The President*
J. SANTER	K.-H. FUNKE