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RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL

on the renewal of the Agreement between the European Atomic Energy Community (Euratom) and the Korean Peninsula Energy Development Organisation (KEDO)

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1. INTRODUCTION

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).

Initially it was estimated that a final settlement of these legal and financial issues could be achieved by 31 May 2012. 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, continued protection of the Community interests requires conclusion of a new Agreement between Euratom and KEDO. To that end, the Commission submitted to the Council on 22 March 2012 a Recommendation for a Council Decision authorising the Commission to negotiate the renewal of the Euratom-KEDO Agreement. The Council issued the negotiating directives on 2 May 2012.

2. NEGOTIATIONS

On the basis of the text proposed by the Commission services, following the Council's negotiating directives, 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 includes all the negotiating directives.

3. CONCLUSION

The Commission considers that the renewal of the Agreement between the European Atomic Energy Community (Euratom) and the Korean Peninsula Energy Development Organisation (KEDO), the adoption of which is proposed, is in conformity with the negotiating directives issued by the Council on 2 May 2012.

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.

ANNEX

AGREEMENT BETWEEN THE EUROPEAN ATOMIC ENERGY COMMUNITY AND THE KOREAN PENINSULA ENERGY DEVELOPMENT ORGANISATION

THE EUROPEAN ATOMIC ENERGY COMMUNITY,

Hereinafter referred to as "the Community", and

THE KOREAN PENINSULA ENERGY DEVELOPMENT ORGANISATION,

Hereinafter referred to as "KEDO",

Whereas:

- (1) KEDO was established pursuant to the Agreement of 9 March 1995 on the Establishment of the Korean Peninsula Energy Development Organisation, as amended on 19 September 1997, between the Governments of the Republic of Korea, Japan and the United States of America;
- (2) The fifth Agreement concluded between the Community and KEDO expired on 31 May 2012;
- (3) After its decision to terminate KEDO's nuclear light water reactor project and the 2007 decision to fulfil the responsibilities of the Secretariat with a greatly reduced staff and minimal office facilities, KEDO's Executive Board decided in 2011 to continue KEDO beyond 31 May 2012;
- (4) Both the Community and KEDO have expressed the wish to continue their co-operation with the objective of implementing the termination of the LWR project and an orderly winding up of KEDO;

HAVE AGREED AS FOLLOWS:

Article 1

Application of the provisions of previous Agreement

Unless otherwise specified in one of the articles here below, the provisions of the previous Agreement between the Community and KEDO, which expired on 31 May 2012, shall remain applicable under this Agreement.

Article 2

Community contribution

There shall be no financial contribution from the Community to KEDO's budget under this Agreement.

Article 3

Duration

This Agreement will expire on 31 May 2013. It will be automatically renewed each year for a period of another year, unless a party notifies the other party that it wishes to terminate the Agreement at least one month before the date of expiry. It may also be terminated with immediate effect after withdrawal from KEDO by any of the other Members currently represented in the Executive Board. This Agreement will not be renewed beyond 31 May 2015.

Article 4

Entry into force

This Agreement shall enter into force upon signature by the Community and KEDO and will take effect from 1 June 2012.

Done at Brussels this day of 2012, in two originals

For the European Atomic Energy Community

Done at New York this day of 2012, in two originals

For the Korean Peninsula Energy Development Organisation