

AZERBAIJAN



Decision of 31.5.1999
[OJ L 246/1 of 17.9.1999](#)

Agreement: art. 67
[OJ L 246/21](#)

Protocol
[OJ L 246/39](#)

II

(Acts whose publication is not obligatory)

COUNCIL AND COMMISSION

COUNCIL AND COMMISSION DECISION

of 31 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 Azerbaijan, of the other part

(1999/614/EC, ECSC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Azerbaijan, of the other part, signed on 22 April 1996 in Luxembourg, will contribute to the achievement of the objectives of the European Communities;

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 44(2), the last sentence of Article 47(2), and Articles 55, 57(2), 71, 80(2), 93, 94, 133 and 308, in conjunction with the second sentence of Article 300(2) and the second subparagraph of Article 300(3) thereof,

(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⁾;

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

(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;

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

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

Having regard to the proposal from the Commission,

(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

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

⁽²⁾ OJ L 68, 15.3.1990, p. 1.

⁽³⁾ OJ L 225, 20.8.1990, p. 1.

⁽¹⁾ OJ C 115, 14.4.1997, p. 193.

States⁽¹⁾, which are based on Article 94 of the Treaty 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 cross-border 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 308 of the Treaty establishing the European Community,

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 Azerbaijan, 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 82 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

The President of the Council shall give the notification provided for in Article 104 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, 31 May 1999.

For the Commission

The President

J. SANTER

For the Council

The President

O. SCHILY

⁽¹⁾ OJ L 225, 20.8.1990, p. 6.

PARTNERSHIP AND COOPERATION AGREEMENT

between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the European Community, the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community,

hereinafter referred to as 'Member States', and

THE EUROPEAN COMMUNITY, THE EUROPEAN COAL AND STEEL COMMUNITY, AND THE EUROPEAN ATOMIC ENERGY COMMUNITY,

hereinafter referred to as 'the Community',

of the one part, and

THE REPUBLIC OF AZERBAIJAN,

of the other part,

CONSIDERING the links between the Community, its Member States and the Republic of Azerbaijan and the common values that they share,

RECOGNISING that the Community and the Republic of Azerbaijan wish to strengthen these links and to establish partnership and cooperation which would strengthen and widen the relations established in the past 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, which, since the dissolution of the USSR, applies *mutatis mutandis* bilateral relations between the European Communities and each of the Independent States,

establishment of permanent systems of mutual information on dangerous products, the improvement of information provided to consumers especially on prices, characteristics of products and services offered, the development of exchanges between the consumer interest representatives, and increasing the compatibility of consumer protection policies, and the organisation of seminars and training periods.

Article 67

Customs

1. The aim of cooperation shall be to guarantee compliance with all the provisions scheduled for adoption in connection with trade and fair trade and to achieve the approximation of the Republic of Azerbaijan's customs system to that of the Community.

2. Cooperation shall include the following in particular:

- the exchange of information,
- the improvement of working methods,
- the introduction of the Combined Nomenclature and the single administrative document,
- the interconnection between the transit systems of the Community and the Republic of Azerbaijan,
- simplification of inspections and formalities in respect of the carriage of goods,
- support for the introduction of modern customs information systems,
- the organisation of seminars and training periods.

Technical assistance shall be provided where necessary.

3. Without prejudice to further cooperation foreseen in this Agreement and in particular Articles 72 and 74, mutual assistance in customs matters between administrative authorities of the Parties shall take place in accordance with the provisions of the Protocol attached to this Agreement.

Article 68

Statistical cooperation

Cooperation in this area shall have as its aim the development of an efficient statistical system to provide the reliable statistics needed to support and monitor the process of economic reform and contribute to the development of private enterprise in the Republic of Azerbaijan. It shall also address the protection of confidentiality.

The Parties, in particular, shall cooperate in the following fields:

- adaptation of the Azerbaijani statistical system to international methods, standards and classification,
- exchange of statistical information,
- provision of necessary statistical macro- and microeconomic information to implement and manage economic reforms.

The Community shall contribute to this end by rendering technical assistance to the Republic of Azerbaijan.

Article 69

Economics

The Parties shall facilitate the process of economic reform and the coordination of economic policies by cooperating to improve understanding of the fundamentals of their respective economies and the design and implementation of economic policy in market economies. To this end, the Parties shall exchange information on macroeconomic performance and prospects.

The Community shall provide technical assistance so as to:

- assist the Republic of Azerbaijan in the process of economic reform by providing expert advisory and technical assistance,
- encourage cooperation among economists in order to expedite the transfer of know-how for the drafting of economic policies, and provide for wide dissemination of policy-relevant research.

Article 70

Monetary policy

At the request of the Azerbaijani authorities, the Community shall provide technical assistance designed to support the efforts of the Republic of Azerbaijan towards the strengthening of its monetary system and the introduction of full convertibility of the currency.

This will include technical assistance for the design and application of the Republic of Azerbaijan's monetary and credit policy, in full coordination with the international financial institutions, for the training of personnel, and for the development of financial markets, including the stock exchange. It shall also include informal exchanges of views concerning the principles and the functioning of the European Monetary System and Community regulations on financial markets and capital movements.

PROTOCOL

on mutual assistance between administrative authorities in customs matters

Article 1

Definitions

For the purposes of this Protocol:

- (a) 'customs legislation' shall mean any legal or regulatory provisions applicable in the territory of the Parties governing the import, export, transit of goods and their placing under any customs procedure, including measures of prohibition, restriction and control;
- (b) 'applicant authority', shall mean a competent administrative authority which has been appointed by a Party for this purpose and which makes a request for assistance in customs matters;
- (c) 'requested authority', shall mean a competent administrative authority which has been appointed by a Party for this purpose and which receives a request for assistance in customs matters;
- (d) 'personal data', shall mean all information relating to an identified or identifiable individual.

Article 2

Scope

1. The Parties shall assist each other, in the areas within their jurisdiction, in the manner and under the conditions laid down in this Protocol, in preventing, detecting and investigating operations in breach of customs legislation.

2. Assistance, in customs matters, as provided for in this Protocol, shall apply to any administrative authority of the Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of the judicial authority, unless those authorities so agree.

Article 3

Assistance on request

1. At the request of the applicant authority, the requested authority shall furnish it with all relevant information to

enable it to ensure that customs legislation is correctly applied, including information regarding operations noted or planned which are or could be in breach of such legislation.

2. At the request of the applicant authority, the requested authority shall inform it whether goods exported from the territory of one of the Parties have been properly imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.

3. At the request of the applicant authority, the requested authority shall, within the framework of its laws, take the necessary steps to ensure that a surveillance is kept on:

- (a) natural or legal persons of whom there are reasonable grounds for believing that they are breaching or have breached customs legislation;
- (b) places where goods are stored in a way that gives grounds for suspecting that they are intended to supply operations in breach of customs legislation;
- (c) movements of goods notified as possibly giving rise to breaches of customs legislation;
- (d) means of transport for which there are reasonable grounds for believing that they have been, are or might be used in operations in breach of customs legislation.

Article 4

Spontaneous assistance

The Parties shall provide each other, in accordance with their laws, rules and other legal instruments, with assistance without prior request if they consider that to be necessary for the correct application of customs legislation, particularly when they obtain information pertaining to:

- operations which are or appear to be in breach of such legislation and which may be of interest to another Party,
- new means or methods employed in carrying out such operations,

- goods known to be subject to breaches of customs legislation,
- natural or legal persons of whom there are reasonable grounds for believing that they are or have been in breach of customs legislation,
- means of transport for which there are reasonable grounds for believing that they have been, are or might be used in operations in breach of customs legislation.

Article 5

Delivery/notification

At the request of the applicant authority, the requested authority shall in accordance with its legislation, take all necessary measures in order:

- to deliver all documents,
- to notify all decisions,

falling within the scope of this Protocol to an addressee, residing or established in its territory. In such cases Article 6(3) shall apply as far as the request itself is concerned.

Article 6

Form and substance of requests for assistance

1. Requests pursuant to this Protocol shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.

2. Requests pursuant to paragraph 1 of this Article shall include the following information:

- (a) the applicant authority making the request;
- (b) the measure requested;
- (c) the object of and the reason for the request;
- (d) the laws, rules and other legal elements involved;
- (e) indications as exact and comprehensive as possible on the natural or legal persons who are the target of the investigations;

(f) a summary of the relevant facts and of the enquiries already carried out, except in cases provided for in Article 5.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to such authority.

4. If a request does not meet the formal requirements, its correction or completion may be requested; precautionary measures may, however, be ordered.

Article 7

Execution of requests

1. In order to comply with a request for assistance, the requested authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out. This provision shall also apply to the administrative department to which the request has been addressed by the requested authority when the latter cannot act on its own.

2. Requests for assistance will be executed in accordance with the laws, rules and other legal instruments of the requested Party.

3. Duly authorised officials of a Party may, with the agreement of the other Party involved and within the conditions laid down by the latter, obtain from the offices of the requested authority or other authority for which the requested authority is responsible, information relating to operations which are or may be in breach of customs legislation which the applicant authority needs for the purposes of this Protocol.

4. Officials of a Party may, with the agreement of the other Party involved and subject to the conditions laid down by the latter, be present at enquiries carried out in the latter's territory.

Article 8

Form in which information is to be communicated

1. The requested authority shall communicate results of enquiries to the applicant authority in the form of documents, certified copies of documents, reports and the like.

2. The documents provided for in paragraph 1 may be replaced by computerised information produced in any form for the same purpose.

*Article 9***Exceptions to the obligation to provide assistance**

1. The Parties may refuse to give assistance as provided for in this Protocol, where to do so would:

- (a) be likely to prejudice the sovereignty of the Republic of Azerbaijan or that of a Member State which has been asked for assistance under this Protocol; or
- (b) be likely to prejudice public policy, security or other essential interests, in particular in the cases referred to under Article 10(2); or
- (c) involve currency or tax regulations other than customs duties legislation; or
- (d) violate an industrial, commercial or professional secret.

2. Where the applicant authority asks for assistance which it would itself be unable to provide if so asked, it shall draw attention to that fact in its request. It shall then be left to the requested authority to decide how to respond to such a request.

3. If assistance is refused, the decision and the reasons therefore must be notified to the applicant authority without delay.

*Article 10***Information exchange and confidentiality**

1. Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential or restricted nature, depending on the rules applicable in each of the Parties. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to like information under the relevant laws of the Party which received it and the corresponding provisions applying to the Community institutions.

2. Personal data may be exchanged only where the receiving Party undertakes to protect such data in at least an equivalent way to the one applicable to that particular case in the supplying Party.

3. Information obtained shall be used solely for the purposes of this Protocol. Where one of the Parties requests the use of such information for other purposes, it shall ask for

the prior written consent of the authority which furnished the information. Moreover, it shall be subject to any restrictions laid down by that authority.

4. Paragraph 3 shall not impede the use of information in any judicial or administrative proceedings subsequently instituted for failure to comply with customs legislation. The competent authority which supplied that information shall be notified of such use.

5. The Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Protocol.

*Article 11***Experts and witnesses**

1. An official of a requested authority may be authorised to appear, within the limitations of the authorisation granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol in the jurisdiction of the other Party, and produce such objects, documents or authenticated copies thereof, as may be needed for the proceedings. The request for an appearance must indicate specifically on what matters and by virtue of what title or qualification the official will be questioned.

2. The authorised official shall enjoy the protection guaranteed by existing legislation to officials of the applicant authority on its territory.

*Article 12***Assistance expenses**

The Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol, except, as appropriate, for expenses to experts and witnesses and to interpreters and translators who are not public service employees.

*Article 13***Application**

1. The application of this Protocol shall be entrusted to the central customs authorities of the Republic of Azerbaijan on

the one hand and the competent services of the Commission of the European Communities and, where appropriate, the customs authorities of the Member States on the other. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration the rules in force in the field of data protection. They may recommend to the competent bodies amendments which they consider be made to this Protocol.

2. The Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Protocol.

Article 14

Complementary

Without prejudice to Article 10, any agreements on mutual assistance which have been concluded between one or more Member States and the Republic of Azerbaijan shall not prejudice Community provisions governing the communication between the competent services of the Commission of the European Communities and the customs authorities of the Member States of any information obtained in customs matters which could be of Community interest.
