

**INTRODUCTORY GUIDE**  
**TO THE PARTNERSHIP AND COOPERATION AGREEMENT**  
**BETWEEN THE KYRGYZ REPUBLIC AND THE EUROPEAN UNION**

by **Tendik Tynystanov**<sup>1</sup>

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The general purpose of this guide is to provide a popular interpretation of the principal provisions of the Partnership and Cooperation Agreement signed between the EU and the Kyrgyz Republic on February 9 1995 in Brussels by the President of Kyrgyzstan Askar Akaev and the President of the European Commission Jacques Santer (further referred to as the PCA or the Agreement). This publication is an attempt to describe the implications for cooperation under the PCA

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<sup>1</sup> Tendik Tynystanov is Master of Economics, having studied in Bishkek/Kyrgyzstan and the University of Missouri, USA, where he obtained a Bachelor's degree in Public Policy Administration. After having worked for an UNDP project and the International Organisation for Migration (IOM) and for the TEMPUS programme in Bishkek, his activities focus now on the EU/Kyrgyzstan Partnership + Cooperation Agreement Project. The views expressed in this article do not necessarily represent the views of the European Commission.

and familiarize the reader with the political, legal and economic context of the agreement. The layout of the guide is organised around the main clauses of the PCA to ensure thorough coverage of all titles of the Agreement. All references made to specific “Titles” or “Articles” in this guide correspond to the titles and articles in the PCA, unless otherwise indicated.

## THE EUROPEAN UNION

The European Union, previously known as the European Community, was set up shortly after World War II, when France proposed to establish “the first concrete foundation of a European federation”. It was created over time through a number of successful binding treaties to provide efficient policy-making in the areas of common interest, in which member states were willing to renounce their sovereignty. EU’s semi-centennial history began when the six countries signed the Treaty on the European Coal and Steel Community<sup>2</sup>. Later, in 1957 the Treaty of Rome was signed, which enabled a free flow of goods and investment between Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, Luxembourg, and the Netherlands. The European Community (in broad terms) established under this Treaty, created a particularly advantageous climate for economic prosperity of the parties to the Treaty. Soon other European nations joined the European Community to benefit from its provisions. In 1991 to further integration, the leaders of the 12 European Community nations--Great Britain, France, Germany, Italy, Ireland, Belgium, Denmark, the Netherlands, Spain, Portugal, Greece and Luxembourg signed the Maastricht Treaty on European Union, which laid down the path for the formation of the Economic and Monetary Union. This Treaty also foresaw the Common Foreign and Security Policy and a Justice and Home Affairs policy, which were managed at intergovernmental level.

Growing from 6 member states the EU underwent four waves of accession, integrated the majority of Western European countries, and is preparing for further expansion in the East. Today, the EU, comprised of 15 member states: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxemburg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom of Great Britain and Northern Ireland, embraces over 370 million Europeans. The new paradigm that was shaped with the creation of the EU continues to evolve. In 1995 the provisions for the “Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market of the Union” were laid down in a separate document. The document provided for the free movement of capital and industrial products, regulated competition conditions, major issues in social policy, agriculture, and transport, etc. to ensure the development of closer linkages between the EU and the Central and Eastern European countries (e.g. Bulgaria, Poland, Hungary, Latvia, Lithuania, etc.). Shortly after that a concept of “candidate states” for these countries emerged.

The Agenda 2000 was an even more ambitious document, describing the strategy for the Union’s expansion in the East. In accordance with the strategy, the EU began a new era of accession with Hungary, Poland, Estonia, the Czech Republic and Slovenia, as the closest to satisfying the membership eligibility criteria and assisted Bulgaria, Latvia, Lithuania, Romania and Slovakia to meet these requirements. The strategy was also viewed as a call for a conference of all the European

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<sup>2</sup> The Treaty expired in 2002

states desiring the EU membership, which enabled a dialogue on numerous issues ranging from Common Foreign and Security Policy to Justice and Home Affairs. The Partnership and Cooperation Agreements, signed by the EU with many other countries, including the former Soviet republics, was a logical outcome of the EU's expansion strategy, aimed at strengthening collaboration and reinforcing the existing ties to develop strong multilateral interregional relationships (see below for details).

A wide scope of activities ranging from agriculture to employment and social affairs are governed by the EU institutions. The European Commission is a main executive body, which also has the right to propose policies and legislation. The 20 Commissioners are appointed by a common agreement among the member states and approved by the European Parliament. The European Parliament, composed of 626 members, plays a limited legislative role. The Parliament debates political and economic issues, approves the EU budget and questions the European Commission and the Council of Ministers. The Council of Ministers is a decision making body of the EU, composed of the ministers, representing the national governments of the 15 member states. It enacts legislation and oversees intergovernmental cooperation. Although being seen in perspective as such, the EU today should, under no circumstances, be seen as a state or a government, neither should it be considered an international organization. Instead, it should be understood as an institutional framework for governing shared sovereignty, created with the ultimate goal to form a united Europe.

### **CHRONOLOGY OF EU'S HISTORY**

(more at <http://www.eurunion.org>)

- 1952** Six countries - Belgium, France, the Federal Republic of Germany, Italy, Luxembourg and the Netherlands - create the European Coal and Steel Community (ECSC) by pooling their coal and steel resources in a common market controlled by an independent supranational authority.
- 1958** The Rome Treaties set up the European Economic Community (EEC) and the European Atomic Energy Community (Euratom), extending the common market for coal and steel to all economic sectors in the member countries.
- 1973** The United Kingdom, Ireland, and Denmark join the European Community (EC).
- 1979** The European Parliament is elected, for the first time, by direct universal suffrage and the European Monetary System (EMS) becomes operative.
- 1981** Greece becomes the 10th member state.
- 1985** The program to complete the Single Market by 1992 is launched.
- 1986** Spain and Portugal become the 11th and 12th member states.

- 1987** The Single European Act (SEA) introduces majority voting on Single Market legislation and increases the power of the European Parliament.
- 1989** The Madrid European Council launches the plan for achievement of Economic and Monetary Union (EMU).
- 1990** East and West Germany are reunited.
- 1991** Two parallel intergovernmental conferences produce the Treaty on European Union (Maastricht) which EU leaders approve at the Maastricht European Council.
- 1992** Treaty on European Union signed in Maastricht and sent to member states for ratification. First referendum in Denmark rejects the Treaty.
- 1993** The Single Market enters into force on January 1. In May, a second Danish referendum ratifies the Maastricht Treaty, which takes effect in November.
- 1994** The EU and the 7-member European Free Trade Association (EFTA) form the European Economic Area, a single market of 19 countries. The EU completes membership negotiations with EFTA members Austria, Finland, Norway and Sweden.
- 1995** Austria, Finland and Sweden join the Union on January 1. Norway fails to ratify accession treaty. EU prepares the 1996 intergovernmental conference on EU institutional reform.
- 2001** Treaty of Nice results from 2000 Intergovernmental Conference.

### ABOUT THE PCA

The Partnership and Cooperation Agreement between the EU and the Kyrgyz Republic, which came into force on July 1 1999, aims to promote political, economic, legislative, social, financial, civil, scientific, technological, and cultural collaboration between the EU and the Kyrgyz Republic. It reflects the sincere desire of both parties to establish a legal base for successful long-term cooperation in terms of continuous political dialogue, further consolidation of democratic principles in the Kyrgyz Republic, its further transition into a market economy, and promotion of trade and investment. Among other things, the Agreement foresees bringing the Kyrgyz legislation closer to the European legislative standards. The European Union as an entity and each of its member states are bound by this agreement.

The signing of the Partnership and Cooperation Agreement heralds a new era in EU-Kyrgyz relations. The PCA provides stable, but flexible institutionalised links between the parties. If previously, the EU-Kyrgyz relations were featured by technical assistance and humanitarian aid,

today the PCA aims to foster political dialogue, promote economic and cultural interaction by establishing a practical cooperation basis. The all-inclusive provisions of the PCA are laid in 99 articles, 2 annexes, and 1 protocol on mutual assistance in customs matters. The Agreement is concluded for a period of ten years, after which it will be automatically renewed, unless either party decides to terminate it. It is specified, however, that in case either party fails to fulfil its obligations, the other party may take “appropriate measures”, discussed in the Cooperation Council, which oversees implementation of the PCA, except in cases of special urgency.

The PCA respects existing links of the Kyrgyz Republic with its neighbours and other members of the international community. It is based upon several principles, among which respect for democracy and human rights, adherence to the norms of international law, and the principles of the market economy are the most important ones. Violation of any of these principles is deemed to warrant special urgency.

## EU RELATIONS WITH KYRGYZSTAN

(from EU Online [www.europa.eu.int](http://www.europa.eu.int))

### General Framework

- The 1989 **Trade and Co-operation Agreement** signed with Soviet Union has been implemented by the Kyrgyz Republic after its independence. Regular Joint Committees between EU and Kyrgyzstan took place since then.
- The **Partnership and Co-operation Agreement (PCA)** was signed on 9 February 1995 and **entered into force on 1 July 1999**. The **first Co-operation Council**, at the level of Foreign Ministers, took place in Brussels on 20 July 1999. Yearly meetings are jointly organised both at ministerial level and at high official level.

### EU Assistance

- A 32 Mecu **loan** for the purchase of medicines was reimbursed in 1996.
- Three FEOGA **food aid programmes** have been implemented: in 1994-1995 (14 MECU), 1995-1996 (5 MECU) and in 1996 (10 MECU). **Food Security programmes** for Kyrgyzstan have increased gradually: 8 MECU in 1997, 8.5 MECU in 1998 and 1999, €10 million in 2000

(under implementation) and **€10 million in 2001** (earmarked by Commission decision).

- Since 1993 **ECHO has provided humanitarian assistance** to Kyrgyzstan for an amount of €25.4 million, mainly in the field of medicine and food. ECHO's assistance was more important in 1994 and 1995 in order to help people after floods and earthquakes. Some emergency food assistance was granted in 1998. ECHO was mainly providing drugs and medical supplies to the most vulnerable parts of the population, with a total 1999 budget of €2.2 million.

- Up to 1999 **TACIS has provided grant assistance for an amount of €53 million**. A new **Indicative Programme has been adopted** in October 2000. A total allocation of **€16 million for the period 2000-2003** has been earmarked, covering three priority areas:

- 1) support for institutional, legal and administrative reform
- 2) support to the private sector and assistance for economic development
- 3) infrastructure development

- Two **Action Programmes** should develop projects in these three priority areas during the period 2000-2003.

- In addition, other EU funded actions of interest to Kyrgyzstan will be financed separately through the TACIS Inter-State Programme (mainly INOGATE, TRACECA, WARMAP and fight against drug trafficking).

- In 1999 exceptional TACIS assistance to Kyrgyzstan for an amount of €2 million was delivered to ease the impact of the Russian crisis on its economy and population. ECHO managed this assistance.

## **THE PARTNESHIP AND COOPERATION AGREEMENT**

The objectives of the partnership, set out in Article 1 are as follows:

- *to provide an appropriate framework for the political dialogue between the EU and the Kyrgyz Republic allowing the development of political relations;*
- *to support Kyrgyz efforts to consolidate its democracy, to develop its economy, and to complete the transition into a market economy;*

- to promote trade and investment and harmonious economic relations between the Parties and so to foster their sustainable economic development;
- to provide a basis for legislative, economic, social, financial, civil scientific, technological and cultural cooperation.

### **Institutions**

To ensure that the parties observe its provision the PCA establishes three authoritative bodies: *the Cooperation Council, the Cooperation Committee, and the Parliamentary Cooperation Committee.*

*Cooperation Council:* The Cooperation Council, the highest body, which supervises the implementation of the Agreement, meets at ministerial level once a year. It has met three times so far to discuss the implementation of the PCA, trade and investment related issues, etc. It consists of the members of the Council of the European Union and members of the European Commission, on one hand, and of members of the Government of the Kyrgyz Republic, on the other. The office of the President of the CC is held alternately by a representative of the EU and the member of the Cabinet of the Kyrgyz Republic. The Council's explicit tasks include making of recommendations, in accordance with further provisions of the PCA. For example, it recommends on the development of the trade provisions, improvement of labour and employment conditions, multilateral agreements on intellectual property, etc. Apart from specific tasks, the Cooperation Council debates issues of mutual interest. For example, the agenda for the July meeting in 2002 included among other things discussions about the situation in Afghanistan and the Aksy events in the south of the Republic. Thus, the CC serves as the principal forum for *political dialogue*. Furthermore, it discusses disputes, concerning the implementation or interpretation of the Agreement, and refers them to conciliators, who make non-binding recommendations. The Cooperation Council is informed in case either party wishes to use special conditions foreseen in further chapters of the PCA. The CC is assisted by a Cooperation Committee, which met most recently in December 2000, and in the sub-committee on trade, investment and legislative approximation whose first meeting took place in May 2000.

*Cooperation Committee:* The Cooperation Committee is composed of senior civil officials of the Kyrgyz Government, the Council of the European Union, and the European Commission. The duties of the Committee are, for the most part, determined by the Cooperation Council. Normally, it prepares the meetings of the CC, and ensures continuity between its meetings. Sometimes, additional powers of the CC are delegated to the Cooperation Committee. The sessions of the Cooperation Committee are chaired alternately by the EU and the Kyrgyz Republic.

Parliamentary Cooperation Committee (PCC) consists of the members of Jogorku Kenesh (Kyrgyz Parliament) and the European Parliament. It is presided alternately by the representatives of both parties. It serves as a discussion forum for the parliamentarians to meet and exchange views. It

has the right to request information relevant to the implementation of the Agreement and make recommendations to the Cooperation Council.

A constant theme of the EU-Kyrgyz political dialogue has been the need to improve the business climate in the Republic as a precondition for attracting foreign investment. The importance of this element was the reason why the only sub-committee so far set up under the PCA focuses on these questions. The establishment of the constant political dialogue has helped to identify “[the joint transition priorities of Kyrgyzstan and the European Union](#)”. Nevertheless, “while [responsibility for taking forward the PCA agenda appears to be formally shared between the Prime Minister’s office and the Ministry of Foreign Affairs](#), no operational mechanism exists within the Kyrgyz government to coordinate PCA implementation. Recently, the [Presidential Administration](#) has taken the lead in establishing an [Inter-Ministerial Committee](#) on PCA implementation, but the membership and precise mandate of this committee is not yet known”.

### **Political Dialogue**

Title II of PCA foresees continuous political dialogue between the European Union and the Kyrgyz Republic through the institutional network of regular contact to strengthen the links between the parties and other democratic states, and elaborate a common position on various political issues of universal concern, especially in the areas of security. The dialogue will take place at various levels, as describe in Articles 5, 6, and 7. At the ministerial level, the dialogue will occur at within the Cooperation Council, established by Article 75 and on other occasions by mutual agreement. The dialogue will also take place at the Parliamentary Cooperation Committee, described in Article 80. The Agreement obliges both parties to set up other mechanisms, possibly in the form of subcommittees, for the dialogue to take place outside the Cooperation Council and the Parliamentary Cooperation Committee. The Parties should develop the procedures for regular meetings of senior officials of the EU and the Kyrgyz Republic, taking full advantage of diplomatic channels, both bilateral and multilateral, and other means of exchange of opinions (e.g. regular expert meetings).

If properly conducted, the dialogue will strengthen the pluralistic society and the rule of law in the Kyrgyz Republic, increase respect for human rights, help to increase internal security and stability, etc. It will contribute greatly towards the achievement of the goals of the Agreement expounded in Article 1.

### **Trade in Goods**

The Kyrgyz Republic has made every effort to boost its trade with the European Union member states. Accession to the WTO in 1998 symbolised the sincere desire of the Kyrgyz state to

participate in global trade on equal terms. Nevertheless, the small good turnover is a warning indicator that more needs to be done to promote trade and commerce between the Kyrgyz Republic and the EU.

### Trade

- **Main EU exports** to Kyrgyzstan: electrical machinery (25%), machinery (16%), vehicles (14%), measuring, optical and surgical tools (6%), iron products (4%).

- **Main EU imports** from Kyrgyzstan: gold (95%), cotton (2%).

- Kyrgyzstan benefits from the **General System of Preferences** since 1 January 1993.

### EU trade with Kyrgyzstan ( in Millions ECU/€, source: Eurostat/Comext)

YEAR	EU IMPORTS	EU EXPORTS	TOTAL TRADE	BALANCE
93*	7.1	26.2	33.3	+19.1
94*	22.5 (+215%)	45.3 (+72%)	67.8 (+104%)	+22.8
95	33.9 (+50%)	52.7 (+12%)	86.6 (+25%)	+18.8
96	22.6 (-33%)	79.4 (+48%)	102 (+18%)	+56.4
97	46.3 (+104%)	74.6 (-5%)	120.9 (+11.9%)	+28.3
98	192 (+315%)	88 (+17%)	280 (+132%)	-104
99	130.1 (-32%)	75.2 (-15%)	205.3 (-27%)	- 54.9
00**	88.2	43.1	131.3	- 45.1

The PCA outlines several mechanisms for fostering trade between the parties in Articles 8 to 18. These mechanisms guarantee the parties *better access to each other's markets, condition for easy flow of goods, and ensure fair competition between imports and exports*. As described in the Article 8, the parties will grant to one other the “most favoured nation” status, in the following areas:

- *customs duties and charges applied to imports and exports, including the method of collecting such duties and charges*
- *customs clearance, transit, warehouses and transshipment*
- *taxes and other internal charges applied directly or indirectly to imported goods*
- *methods of payment and the transfer of such payments*

*- the rules relating to the sale, purchase, transport, distribution and use of goods on the domestic market*

In other words, both parties agree not to apply customs duties and levies on one another's exports and imports higher than those they apply to any other country in the world. "The parties are prohibited to apply more cumbersome customs procedures or less favourable conditions for taxes and other charges to imported goods, trade-related payments and the rules of sale, purchase, transport, distribution of goods on the domestic market than those they apply to any other country". These provisions, however, are inferior to the main provisions in the WTO, to which the Kyrgyz Republic is a member. They will not affect advantages accorded to adjacent countries with the purpose of facilitate frontier traffic. Neither are they applicable to the advantages granted with the aim of creating a customs union or a free-trade area.

## THE WORLD TRADE ORGANIZATION

The WTO came into being in 1995. It evolved from the General Agreement on Tariffs and Trade (the GATT), which was the WTO's predecessor through the so-called Uruguay Round negotiations (1986-94). The GATT part of the WTO covers trade in goods, while the rest of the WTO deals with trade in services and intellectual property. The Organization's objective is to "help trade flow smoothly, freely, fairly and predictably". It does this by

- Administering trade agreements
- Acting as a forum for trade negotiations
- Settling trade disputes
- Reviewing national trade policies
- Assisting developing countries in trade policy issues, through technical assistance and training programmes
- Cooperating with other international organizations

The WTO embraces 144 nations, accounting for 97% of the world trade. Because the ultimate goal of the Organization is to condition for trade without discrimination, it foresees "most favoured nation treatment" and "national treatment" for all of its' members. The first concept refers to the obligatory provision by members to each other of good's treatment no less favourable than that accorded to any other country. The other one calls upon them to treat imported goods in the same way or no less favourable as domestic products. Customs tariffs are to be used for the sole purpose of protecting domestic producers.

The European Union is treated as one country, to prevent Kyrgyzstan benefit from the duty free regime inside the EU and the free trade regime between the EU and the candidate states (mainly Central and East European countries).

In accordance with the PCA, *the parties guarantee each other free transit of goods destined for third countries over their territories*. The Agreement does not, however, preclude restrictions on

imports and exports of transit goods based on the ideas of public morality, public security, protection of health and life of humans, animals and plants, protection of intellectual property, etc. All related matters are governed by Article 5, paragraphs 2 – 5 of the GATT, which among other things exempts transit goods from customs duties.

Articles 11 to 14 provide the framework for *no qualitative restrictions on trade in goods*. Under this framework, goods originating in the EU will be imported into the Kyrgyz Republic at market related prices and free of all quantitative restrictions and vice versa. Quotas, however, may be imposed in exceptional cases and following special procedures described in the Article 13 of the PCA. Either party can take measures against unfair trade practices (e.g. dumping policy). This Partnership and Cooperation Agreement does not cover or covers partially trade in textile, nuclear materials, and coal and other products mentioned by the Treaty establishing the European Coal and Steel Community.

### **Provisions Affecting Business Investment**

Title IV of the PCA describes the mechanisms designed to create attractive opportunities for business and investment. It provides for *promoting favourable labour conditions, establishment and operation of companies, current payments and capital, protection of intellectual, industrial, and commercial property, and cross border supply of services*.

Each of the EU member states on one part, as well as the Kyrgyz Republic on another part, are obliged to provide discrimination-free treatment to all legally employed nationals of the EU member states or the Kyrgyz Republic, especially, in terms of *working conditions*, remuneration, and dismissal. The Cooperation Council established under the Agreement will examine and recommend actions to prevent illegal immigration. Various rules regarding employment of key personnel (e.g. managers or experts; see Article 28 paragraph 2 for term definition) by a foreign company apply under this Agreement. For example, if a Kyrgyz company, opens its' branch on the territory of the EU and wishes to appoint a Kyrgyz national, a supervisor of the branch, this person should have been employed or have been a partner with this company for at least a year, preceding the appointment (see Article 28 for other provisions).

As it was mentioned, the Title IV contains important provisions regarding the *establishment and operation of companies* (see Article 25 for term definitions). The same principles of “most favoured nation treatment” and “national treatment” are applied. This means that it is as easy for a Kyrgyz company to be established and/or operate in one of the member states as for the European company to be established and/or operate on the territory of the Kyrgyz Republic. Once a company or a branch of a company of either party is established on the territory of another party it is granted a “national treatment” for operation, which means that it is subject to the same conditions as local companies. Several sectors are exceptions to this rule; namely: mining, fishing, real estate, audio-

visual services, telecommunications, certain professional services, agriculture, and news agencies. In these areas certain restrictions exist in some parts of the European Union. Air transport, inland waterways and maritime transport are exempt from this obligation.

The Kyrgyz Republic and the EU, nevertheless, plan to promote *the cross border supply of services* under this Agreement. Business conditions are to be gradually improved through the recommendations of the Cooperation Council. The issues of coordinating development of transportation by road, rail, air and inland waterways will most probably be dealt with by bilateral agreements between the parties (see Article 34). The Agreement also foresees the free supply of services in international maritime transport and contains several cargo-sharing provisions, mentioned in the Article 33.

Article 42 of the Partnership and Cooperation Agreement governs *current payments and capital mobility*. The parties agree to authorize payments in freely convertible currency connected with the movement of goods, services, and persons. Transfers of capital, as well as repatriation of profits stemming from such transfers, especially those connected with the establishment/operation of companies, must be authorised under this Agreement. The drafters of the PCA have not gone into deep describing the rules of capital movement such as investment in securities, but both parties will consult each other on how to facilitate such payments. New restrictions on foreign exchange relating current payments and capital movement are not allowed. Only in exceptional cases may the parties temporarily (for a period of no more than 6 months) restrict capital movements other than those related to direct investment to alleviate the difficulties with exchange rates and monetary policies.

Both parties must prevent the illegal use of designs, trademarks, patents, software, artistic works, etc. Provisions on *intellectual, industrial, and commercial property protection* are quite simple. Described in Article 43 and Annex II of the Agreement they oblige the Kyrgyz Republic to enforce protection of intellectual, industrial, and commercial property with the ultimate goal to provide the adequate level of property protection (up to the levels existing in the EU) within a period of five years. By the end of this period the Republic should accede to the international conventions on property rights such as:

- Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971);
- International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome, 1961);
- Protocol relating to the Madrid Agreement concerning the International Registration of Marks (Madrid, 1989);
- Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks (Geneva 1977 and amended in 1979);
- Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the purposes of Patent Procedures (1977, modified in 1980);

– International Convention for the Protection of New Varieties of Plants (UPOV) (Geneva Act, 1991), and other conventions recommended by the Cooperation Council.

The Cooperation Council will also decide whether to extend the period of five years should the Kyrgyz Republic fail to provide the adequate level of property rights protection in a timely manner. In the meantime, the European nationals and companies should be given treatment no less favourable than that granted by the Republic to any third country under bilateral agreements. The only exception is given to the advantages granted by the Kyrgyz Republic to any third country on an effective reciprocal basis and to advantages granted to another country of the former USSR.

The PCA in general (and Title IV in particular) attempts not to limit the freedom of the parties to implement policies that may damage the environment created under its framework, but still are seen by the party as beneficial. For instance, the parties are free to take actions that do not conform with the provisions in the Title IV for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure integrity and stability of the financial system. However, any such action is deemed legitimate only if it is not used as a mean of avoiding the obligations of a party under this Agreement (see Article 26). In accordance with the Article 30, the Kyrgyz Government is under obligation to inform the other party of all intended changes in the national legislation that may cause difficulties for European companies to be established and/or operate on the territory of the Republic. Should such legislation be introduced it should not apply to the European companies for a period of three years.

### **Legislative Cooperation**

One of the major conditions for strengthening the economic links between the Kyrgyz Republic and the European Community is the approximation of Kyrgyz legislation to the EU model. Article 44 of the PCA requires Kyrgyzstan to gradually make its legislation compatible with that of the Community. This provision is extended to the following areas: customs law, company law, banking law, company accounts and taxes, intellectual property, protection of workers at the workplace, financial services, rules on competition, public procurement, protection of health and life of humans, animals and plants, the environment, consumer protection, indirect taxation, technical rules and standards, nuclear laws and regulations and transport.

The European Union will facilitate the process of adaptation of Kyrgyz legislation by providing technical assistance in the form of the exchange of experts, the provision of early information especially on relevant legislation, organization of seminars, training activities, and aid for translation of relevant Community legislation.

## Economic Cooperation

Title VI, Articles 45 to 69, provide a comprehensive framework for economic cooperation. The overall objective is to facilitate the economic reform in Kyrgyzstan and help the country achieve sustainable economic development, taking into account the importance of harmonious social development and environmental considerations. This is especially important in terms of the regional development, considering the desire of the EU to participate in the process of promoting cooperation between the Newly Independent States. The cooperation will concentrate on economic and social development, human resources development, support for enterprises (including privatisation, investment and development of financial services), agriculture and food, energy and civil nuclear safety, transport, tourism, environmental protection and regional cooperation.

### TACIS Programme

*(see also EU relations with Kyrgyzstan box above)*

The TACIS Programme is the European's Union's initiative to provide technical assistance to the Newly Independent States and Mongolia to facilitate their transition to a market economy and the development of democratic societies. TACIS' activities can roughly be divided into two areas: transfer of technical expertise and assisting in developing programmes aimed alleviating the critical situation in target areas of the economy. The Programme touches upon the government reform, developing the infrastructure, justice and home affairs, agriculture, environment, economic reform, and developing the interstate cooperation projects (e.g. INNOGATE or TRACECA). TACIS has remained the main instrument for financing these projects. The types and mechanisms of technical assistance provided through TACIS are determined in close coordination with local authorities.

Under the umbrella of the Economic cooperation the parties have specific obligations to bear in several directions, including ***public procurement, mining and raw materials, agriculture and the agro-industrial sector, money laundering, regional development small and medium-sized enterprises, information and communication, consumer protection, drug control, energy, postal services and telecommunications, financial services, tourism, statistical cooperation, social cooperation, customs, and economics*** mentioned in Articles 48, 50, 53, 59, 60, 63, 64, 65, 69 54, 57, 58, 62, 67, 61, 66, and 68 respectively. In terms of ***industrial cooperation***, the parties will concentrate on the development of business links between economic operators of both sides, the EU's

participation in Kyrgyzstan's efforts to restructure its industry, the improvement of management, the development of appropriate commercial rules and practices, environmental protection.

The PCA contains specific provisions aimed at establishing favourable climate for private investment, both domestic and foreign, especially through improving conditions for investment protection, transfer of capital, and information dissemination investment opportunities. Among other things, Article 47 of the PCA names the following objectives of *investment promotion and protection*:

- conclusion, where appropriate, between the Member States and the Kyrgyz Republic of agreements for the promotion and protection of investment;
- conclusion, where appropriate, between the Member States and the Kyrgyz Republic of agreements to avoid double taxation;
- creation of favourable conditions for attracting foreign investments into the Kyrgyz economy;
- establishment of stable and adequate business law and conditions, and to exchange information on laws, regulations and administrative practices in the field of investment;
- exchange information on investment opportunities in the form of, inter alia, trade fairs, exhibitions, trade weeks and other events.

The importance of **technical regulations and standards and the procedures for assessing conformity** with such technical regulations and standards have grown in the last 50 years. Both parties aspire toward mutual recognition in the field of conformity assessment. Article 49 calls the Kyrgyz Republic for promoting communication with international organizations and institutions, specialised in this field, promote the use of the European standards and regulations, allow the sharing of experience and technical information in quality management.

In terms of *cooperation in science and technology* the parties agree to promote civil scientific research and technological development. Article 51 stipulates the exchange of scientific and technical information, joint research activities, and training activities and mobility programmes for research staff engaged in these activities. Special attention will be given to the redeployment of scientists, currently or previously engaged in production of weapons of mass destruction.

The parties also agree to cooperate in the areas of *general education and training*. The cooperation will focus, in particular on:

- updating higher education and training systems in the Kyrgyz Republic including the system of certification of higher educational institutions and diplomas of higher education;
- raising professional qualification of public and private sector executives and civil servants;
- cooperation between educational institutions and between educational institutions and companies;
- mobility for teachers, graduates, administrators, young scientists and researchers, and young people;
- promotion of teaching in the field of European Studies;
- teaching EU languages;

- post-graduate training of conference interpreters;
- training of journalists;
- training of trainers.

The PCA foresees a wide scope of activities in the field of environmental protection. Article 55 lists the following target areas of collaboration:

- effective monitoring of pollution levels and assessment of environment; system of information on the state of the environment;
- combating local, regional and transboundary air and water pollution;
- ecological restoration;
- sustainable, efficient and environmentally effective production and use of energy;
- safety of industrial plants;
- classification and safe handling of chemicals;
- water quality;
- waste reduction, recycling and safe disposal, implementation of the Basle Convention;
- the environmental impact of agriculture, soil erosion, and chemical pollution;
- the protection of forests;
- the conservation of biodiversity, protected areas and sustainable use and management of biological resources;
- land-use planning, including construction and urban planning;
- use of economic and fiscal instruments;
- global climate change;
- environmental education and awareness;
- technical assistance concerning rehabilitation of zones affected by radioactivity and addressing related health and social problems;
  - implementation of the Espoo Convention on Environmental Impact Assessment in a trans-boundary context

These are to be implemented through:

- disaster planning and other emergency situations;
- exchange of information and experts, including information and experts dealing with the transfer of clean technologies and the safe and environmentally sound use of biotechnologies;
- joint research activities;
- improvement of laws towards Community standards;
- cooperation at regional level, including cooperation within the framework of the European Environment Agency, and at international level;
- development of strategies, particularly with regard to global and climatic issues and also in view of achieving sustainable development;

- environmental impact studies

Another important field of cooperation, covered by the PCA is *transport*. The development of compatibility of the Kyrgyz transportation with the European standards is seen as a key objective. Article 56 stipulates for modernization of transportation infrastructure, modernising of management and operations of road transport, railways, ports and airports, including modernisation of routes, promotion of joint research and development programmes, and preparation of the legislative and institutional framework for policy development.

### **Cultural Cooperation**

The provisions of PCA related to cultural cooperation focus on promotion, encouragement, and facilitation of cultural programmes and are contained in Article 70 of the Agreement.

### **Financial Cooperation in the Field of Technical Assistance**

Financial assistance to the Kyrgyz Republic will be covered within the framework of the TACIS Programme. The objectives and priorities of the assistance will be described in the jointly developed indicative programme. The financial contributions of the EU will be coordinated with those of other sources (received from third parties or the EU member states).

### **General and Final Provisions**

All provisions of the Partnership and Cooperation Agreement are binding on the parties. Several specified cases, however, allow the parties to take actions, which are not in line with the Agreement:

- measures meant to prevent the disclosure of essential state secrets;
  - measures relating to the production and trade of weapons;
  - special measures to maintain law and order and to safeguard peace;
  - measures necessary to respect international obligations and commitments in the control of dual use of industrial goods and technology.
- In addition the Kyrgyz Republic and the EU have retained other rights to impose limitations forbidden by certain articles of the Agreement (see above for details).

Should any disputes regarding the implementations or interpretation of the PCA occur, the Cooperation Council would resolve them through recommendations. If it fails to resolve the dispute both parties would appoint conciliators, who would attempt to make their recommendation by a

majority vote. Yet, such recommendation would not be binding. Usually, if any party considers certain provisions of the PCA not being respected it may take appropriate action after notifying the Cooperation Council. In case either party repudiates the Agreement or violates one of its basic principles (see page 7) the other party may immediately suspend the agreement without notification.

To provide the opportunity for individuals and companies to protect their rights arising from this agreement, the parties guarantee each other's nationals and companies the same access to courts and administrative organs as their own nationals and legal persons. The use of arbitration is encouraged, especially to resolve commercial issues.

### **References**

European Union Online: <http://www.europa.eu.int>

WTO Website: <http://www.wto.org>

EC Delegation in the US: <http://www.eutunion.org>

EC Delegation in Kazakhstan: <http://www.delkaz.cec.eu.int>

EC Delegation in Russia: <http://www.eur.ru>