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EUROPEAN COMMISSION

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2010/0103 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the signing and provisional application of a Protocol to the Partnership and Co-operation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, on a framework Agreement between the European Union and the Republic of Moldova on the general principles for the participation of the Republic of Moldova in Union programmes**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

As part of the European Neighbourhood Policy, the gradual opening-up of certain Union programmes and agencies to the participation of European Neighbourhood Policy partner countries represents one of many measures to promote reform, modernisation and transition in the European Union's neighbourhood. This policy aspect is outlined in the Commission Communication "on the general approach to enable European Neighbourhood Policy partner countries to participate in Community agencies and Community programmes"<sup>1</sup>.

The Council endorsed this approach on 5 March 2007<sup>2</sup>.

Based upon this Communication and those conclusions, the Council, on 18 June 2007, issued directives to the Commission to negotiate Framework Agreements with Algeria, Armenia, Azerbaijan, Egypt, Georgia, Israel, Jordan, Lebanon, Moldova, Morocco, the Palestinian Authority, Tunisia, and Ukraine, on the general principles for their participation in Community programmes<sup>3</sup>.

The June 2007 European Council<sup>4</sup> reaffirmed the paramount importance of the European Neighbourhood Policy and endorsed a Presidency Progress Report<sup>5</sup> that had been submitted to the General Affairs and External Relations Council (GAERC) meeting on 18/19 June as well as the related Council Conclusions<sup>6</sup>. This report recalled the Council directives to negotiate relevant additional protocols, identifying Israel, Morocco and Ukraine as being likely to be the first partner countries to benefit from these measures. Negotiations with Israel concluded in September 2007 leading to the signature of a Protocol in April 2008<sup>7</sup> while those with Morocco have concluded and those with Ukraine continue.

In March 2008, it was decided to start negotiations with the Republic of Moldova. Negotiations with the Republic of Moldova have since been completed to the satisfaction of the Commission. The text of the protocol negotiated with the Republic of Moldova is attached.

The Commission herewith submits a proposal for a Council Decision on the signature and provisional application of the Protocol. This protocol contains a Framework Agreement on the general principles for the participation of the Republic of Moldova in Union programmes. It contains standard stipulations that are intended to be applied to all European Neighbourhood Policy partner countries with which such protocols are to be concluded. The negotiated text also foresees that the Parties shall provisionally apply the provisions of this Protocol from the date of its signature.

According to 218(6)(a) of the Treaty on the Functioning of the European Union, the European Parliament shall be requested to give its consent to the conclusion of this Protocol.

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<sup>1</sup> COM (2006) 724 final of 4 December 2006;

<sup>2</sup> GAERC conclusions of 5 March 2007;

<sup>3</sup> Council Decision (restricted) authorising the Commission to negotiate Protocols [...], Doc 10412/07;

<sup>4</sup> Presidency Conclusions – Brussels, 21/22 June 2007, Doc 11177/07;

<sup>5</sup> Presidency Progress Report on "Strengthening the European Neighbourhood Policy", Doc 10874/07;

<sup>6</sup> Conclusions on Strengthening the European Neighbourhood Policy, adopted by the Council (General Affairs and External Relations) on 18 June 2007, Doc 11016/07;

<sup>7</sup> OJEU L129/40-43 of 17.5.2008.

In parallel, the Commission submits a proposal for a Council Decision on the conclusion of the said Protocol.

The Council is invited to adopt the following proposed Decision.

Proposal for a

## **COUNCIL DECISION**

**on the signing and provisional application of a Protocol to the Partnership and Co-operation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, on a framework Agreement between the European Union and the Republic of Moldova on the general principles for the participation of the Republic of Moldova in Union programmes**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 19, 114, 168, 169, 172, 173 (3), 188, 192, 352, in conjunction with Article 218(5) and the second subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 18 June 2007 the Council authorised the Commission to negotiate a Protocol to the Partnership and Cooperation Agreement with the Republic of Moldova on a framework Agreement on the general principles for its participation in Union programmes.
- (2) These negotiations have been concluded to the satisfaction of the Commission;
- (3) Subject to its conclusion at a later date, the Protocol should be signed on behalf of the Union and its Member States.
- (4) The text of the Protocol negotiated with the Republic of Moldova provides, in Article 10, for the provisional application of the Protocol before its entry into force,

HAS ADOPTED THIS DECISION:

### *Article 1*

The Commission is hereby authorised to sign, on behalf of the Union, the Protocol to the Partnership and Co-operation Agreement establishing a partnership between the European Communities and its Member States and the Republic of Moldova, on a framework Agreement between the European Union and the Republic of Moldova on the general principles for the participation of the Republic of Moldova in Union programmes and to designate the persons empowered to proceed to the signature.

The text of the Protocol to be signed is attached to this Decision.

*Article 2*

This Protocol shall be applied provisionally as from the date of its signature, pending its conclusion at a later date.

*Article 3*

This Decision shall enter into force on the day of its adoption. It shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council*  
*The President*

## PROTOCOL

**to the Partnership and Co-operation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, on a framework Agreement between the European Union and the Republic of Moldova on the general principles for the participation of the Republic of Moldova in Union programmes**

THE EUROPEAN UNION, hereinafter referred to as “the Union”,

of the one part,

and

the Republic of Moldova, hereinafter referred to as “Moldova”,

of the other part,

Whereas:

- (1) Moldova entered into a Partnership and Co-operation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and Moldova, of the other part, on 28 November 1994 (Official Journal of the European Communities L 181 of 24 June 1998).
- (2) The Brussels European Council of 17/18 June 2004 welcomed the Commission’s proposals for a European Neighbourhood Policy (ENP) and endorsed the Council conclusions of 14 June 2004.
- (3) The Council has, on numerous further occasions, repeatedly concluded in favour of this policy.
- (4) The Council, on 5 March 2007, expressed support for the general and global approach outlined in the Commission’s Communication of 4 December 2006, COM (2006) 724 final, to enable ENP partners to participate in Community agencies and Community programmes on their merits and where the legal bases so allow.
- (5) Moldova has expressed its wish to participate in a number of Union programmes.
- (6) The specific terms and conditions, including financial contribution and reporting and evaluation procedures, regarding the participation of Moldova in each particular programme should be determined by agreement between the European Commission, acting on behalf of the Union, and Moldova,

HAVE AGREED AS FOLLOWS:

*Article 1*

Moldova shall be allowed to participate in all current and future Union programmes opened to the participation of Moldova in accordance with the provisions adopting these programmes.

*Article 2*

Moldova shall contribute financially to the general budget of the European Union corresponding to the specific programmes in which Moldova participates.

*Article 3*

Moldova's representatives shall be allowed to take part, as observers and for the points which concern Moldova, in the management committees responsible for monitoring the programmes to which Moldova contributes financially.

*Article 4*

Projects and initiatives submitted by participants from Moldova shall, as far as possible, be subject to the same conditions, rules and procedures pertaining to the programmes concerned as applied to Member States.

*Article 5*

The specific terms and conditions regarding the participation of Moldova in each particular programme, in particular the financial contribution payable and reporting and evaluation procedures, will be determined by agreement between the Commission, acting on behalf of the Union, and the competent authorities of Moldova (Memorandum of Understanding).

If Moldova applies for Union external assistance to participate in a given Union programme on the basis of Article 3 of Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument or pursuant to any similar Regulation providing for Union external assistance to Moldova that may be adopted in the future, the conditions governing the use by Moldova of the Union assistance shall be determined in a financing agreement, respecting in particular Article 20 of Regulation (EC) No 1638/2006.

*Article 6*

Each Memorandum of Understanding concluded pursuant to article 5, shall stipulate, in accordance with the Community's Financial Regulation, that financial control or audits or other verifications, including administrative investigations will be carried out by, or under the authority of, the European Commission, the European Anti-Fraud Office and the Court of Auditors.



Detailed provisions shall be made on financial control and auditing, administrative measures, penalties and recovery enabling the European Commission, the European Anti-Fraud Office, and the Court of Auditors to be granted powers equivalent to their powers with regard to beneficiaries or contractors established in the Union.

#### *Article 7*

The present Protocol concerning a framework Agreement shall apply for the period for which the Partnership and Co-operation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, is in force.

This Protocol shall be signed and approved by the Union and by Moldova in accordance with their respective procedures.

Either Contracting Party may denounce this Protocol by written notification to the other Contracting Party. This Protocol shall terminate six months after the date of such notification.

Termination of the Protocol following denunciation by any of the parties shall have no influence over the checks and controls to be carried out under the provisions laid down in Articles 5 and 6 where appropriate.

#### *Article 8*

No later than three years after the date of entry into force of this Protocol, and every three years thereafter, both Contracting Parties may review the implementation of this Protocol on the basis of the actual participation of the Republic of Moldova in one or more Union programmes.

#### *Article 9*

This Protocol shall apply, on the one hand, to the territories in which the Treaties on European Union and the Treaty on the Functioning of the European Union apply and under the conditions laid down in these Treaties, and, on the other hand, to the territory of the Republic of Moldova

#### *Article 10*

This Protocol shall enter into force on the first day of the month following the date on which the Parties notify each other through diplomatic channels of the completion of their procedures necessary for its entry into force.

Pending its entry into force, the Parties agree that, notwithstanding the completion of their internal procedures, they shall provisionally apply the provisions of this Protocol from the date of its signature, pending its conclusion at a later date.

*Article 11*

This Protocol is drawn up in duplicate in the official languages of the parties

Each of the language texts is equally authentic.

*Article 12*

This Protocol shall form an integral part of the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part.

Done at Brussels, [date]

*For the Government of the Republic of Moldova*

*For the European Union*