ASSOCIATION AGREEMENT
BETWEEN THE EUROPEAN UNION
AND THE EUROPEAN ATOMIC ENERGY COMMUNITY
AND THEIR MEMBER STATES, OF THE ONE PART,
AND THE REPUBLIC OF MOLDOVA, OF THE OTHER PART

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PREAMBLE

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

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THE GRAND DUCHY OF LUXEMBOURG,

HUNGARY,

THE REPUBLIC OF MALTA,

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ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty on European Union and the Treaty on the Functioning of the European Union, hereinafter referred to as "the Member States",

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THE EUROPEAN UNION, hereinafter referred to as "the Union" or "the EU" and

THE EUROPEAN ATOMIC ENERGY COMMUNITY, hereinafter referred to as "the Euratom"

of the one part, and

THE REPUBLIC OF MOLDOVA

of the other part,

hereafter jointly referred to as "the Parties",

CONSIDERING the common values and strong links of the Parties, established in the past through the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, and being developed within the framework of the European Neighbourhood Policy and the Eastern Partnership, and recognising the common desire of the Parties to further develop, strengthen and extend their relations;

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ACKNOWLEDGING the European aspirations and the European choice of the Republic of Moldova;

RECOGNISING that the common values on which the EU is built – namely democracy, respect for human rights and fundamental freedoms, and the rule of law – lie also at the heart of political association and economic integration as envisaged in this Agreement;

TAKING into account that this Agreement will not prejudice, and leaves open, the way for future progressive developments in EU-Republic of Moldova relations;

ACKNOWLEDGING that the Republic of Moldova as a European country shares a common history and common values with the Member States and is committed to implementing and promoting those values, which for the Republic of Moldova inspire its European choice;

RECOGNISING the importance of the EU-Republic of Moldova European Neighbourhood Policy Action Plan of February 2005 in strengthening EU-Republic of Moldova relations and in helping to move the reform and approximation process in the Republic of Moldova forward, thus contributing to gradual economic integration and deepening of political association;

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COMMITTED to strengthening respect for fundamental freedoms, human rights, including the rights of persons belonging to minorities, democratic principles, the rule of law, and good governance;

RECALLING in particular their will to promote human rights, democracy and the rule of law, including by cooperating to that end within the framework of the Council of Europe;

WILLING to contribute to the political and socio-economic development of the Republic of Moldova, through wide-ranging cooperation in a broad spectrum of areas of common interest, including in the field of good governance, freedom, security and justice, trade integration and enhanced economic cooperation, employment and social policy, financial management, public administration and civil service reform, civil society participation, institution building, reduction of poverty, and sustainable development;

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COMMITTED to all the principles and provisions of the Charter of the United Nations, the Organisation for Security and Cooperation in Europe (OSCE), in particular of the Helsinki Final Act of 1975 of the Conference on Security and Cooperation in Europe and the concluding documents of the Madrid and Vienna Conferences of 1991 and 1992 respectively, and the Charter of Paris for a New Europe of 1990, as well as the United Nations Universal Declaration of Human Rights of 1948 and the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950;

RECALLING their will to promote international peace and security as well as engaging in effective multilateralism and the peaceful settlement of disputes, in particular by cooperating to that end within the framework of the United Nations (UN) and the OSCE;

RECOGNISING the importance of the active participation of the Republic of Moldova in regional cooperation formats;

DESIROUS to further develop regular political dialogue on bilateral and international issues of mutual interest, including regional aspects, taking into account the Common Foreign and Security Policy (CFSP) of the EU, including the Common Security and Defence Policy (CSDP);

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TAKING ACCOUNT of the EU's willingness to support the international effort to strengthen the sovereignty and territorial integrity of the Republic of Moldova and to contribute to the reintegration of the country;

RECOGNISING the importance of the commitment of the Republic of Moldova to a viable settlement of the Transnistrian conflict, and the EU's commitment to support post-conflict rehabilitation;

COMMITTED to preventing and combating all forms of organised crime, trafficking in human beings and corruption, and to stepping up cooperation in the fight against terrorism;

COMMITTED to deepening their dialogue and cooperation on mobility, migration, asylum and border management in the spirit of the EU external migration policy framework aiming at cooperation on legal migration, including circular migration and tackling illegal migration, as well as ensuring the efficient implementation of the Agreement between the European Community and the Republic of Moldova on the readmission of persons residing without authorisation;

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RECOGNISING the gradual steps being taken towards a visa-free regime for the citizens of the Republic of Moldova in due course, provided that the conditions for well-managed and secure mobility are in place;

CONFIRMING that the provisions of this Agreement that fall within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union bind the United Kingdom and Ireland as separate Contracting Parties, and not as part of the EU, unless the EU together with the United Kingdom and/or Ireland have jointly notified the Republic of Moldova that the United Kingdom or Ireland is bound as part of the EU in accordance with Protocol No 21 on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union. If the United Kingdom and/or Ireland ceases to be bound as part of the EU in accordance with Article 4a of that Protocol, the EU together with the United Kingdom and/or Ireland shall immediately inform the Republic of Moldova of any change in their position, in which case they shall remain bound by the provisions of this Agreement in their own right. The same applies to Denmark, in accordance with Protocol No 22 on the position of Denmark, annexed to those Treaties;

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COMMITTED to the principles of free market economy and confirming the readiness of the EU to contribute to the economic reforms in the Republic of Moldova;

COMMITTED to respecting environmental needs, including transboundary cooperation on, and implementation of, multilateral international agreements, and to respecting the principles of sustainable development;

DESIROUS to achieve gradual economic integration in the EU internal market as stipulated in this Agreement, *inter alia*, through a Deep and Comprehensive Free Trade Area (DCFTA), as an integral part of this Agreement;

WILLING to create a Deep and Comprehensive Free Trade Area, which will provide for far-reaching regulatory approximation and market access liberalisation, in compliance with the rights and obligations arising out of the World Trade Organisation (WTO) membership of the Parties and the transparent application of those rights and obligations;

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BELIEVING that this Agreement will create a new climate for economic relations between the Parties and above all for the development of trade and investment, and will stimulate competition, which are factors crucial to economic restructuring and modernisation;

COMMITTED to enhancing the security of energy supply, facilitating the development of appropriate infrastructure, increasing market integration and regulatory approximation towards key elements of the EU *acquis*, and promoting energy efficiency and the use of renewable energy sources;

ACKNOWLEDGING the need for enhanced energy cooperation, and the commitment of the Parties to implement the Treaty establishing the Energy Community ("the Energy Community Treaty");

WILLING to improve the level of public health safety and protection of human health as a precondition for sustainable development and economic growth;

COMMITTED to enhancing people-to-people contacts, including through cooperation and exchanges in the fields of research and development, education and culture;

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COMMITTED to promoting cross-border and inter-regional cooperation, in the spirit of good neighbourly relations;

RECOGNISING the commitment of the Republic of Moldova to progressively approximate its legislation in the relevant sectors with that of the EU, and to implement it effectively;

RECOGNISING the commitment of the Republic of Moldova to develop its administrative and institutional infrastructure to the extent necessary to enforce this Agreement;

TAKING account of the willingness of the EU to provide support for the implementation of reforms, and to use all available instruments of cooperation and technical, financial and economic assistance in that endeavour,

HAVE AGREED AS FOLLOWS:

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ARTICLE 1

Objectives

1. An association is hereby established between the Union and its Member States, of the one part, and the Republic of Moldova, of the other part.

2. The aims of that association are:

(a) to promote political association and economic integration between the Parties based on common values and close links, including by increasing the Republic of Moldova's participation in EU policies, programmes and agencies;

(b) to strengthen the framework for enhanced political dialogue in all areas of mutual interest, providing for the development of close political relations between the Parties;

(c) to contribute to the strengthening of democracy and to political, economic and institutional stability in the Republic of Moldova;

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(d) to promote, preserve and strengthen peace and stability in the regional and international dimensions, including through joining efforts to eliminate sources of tension, enhancing border security, promoting cross-border cooperation and good neighbourly relations;

(e) to support and enhance cooperation in the area of freedom, security and justice with the aim of reinforcing the rule of law and respect for human rights and fundamental freedoms as well as in the area of mobility and people-to-people contacts;

(f) to support the efforts of the Republic of Moldova to develop its economic potential via international cooperation, also through the approximation of its legislation to that of the EU;

(g) to establish conditions for enhanced economic and trade relations leading towards the Republic of Moldova's gradual integration in the EU internal market as stipulated in this Agreement, including by setting up a Deep and Comprehensive Free Trade Area, which will provide for far-reaching regulatory approximation and market access liberalisation, in compliance with the rights and obligations arising out of WTO membership and the transparent application of those rights and obligations; and

(h) to establish conditions for increasingly close cooperation in other areas of mutual interest.

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TITLE I

GENERAL PRINCIPLES

ARTICLE 2

1. Respect for the democratic principles, human rights and fundamental freedoms, as proclaimed in the Universal Declaration of Human Rights and as defined in the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Helsinki Final Act of 1975 of the Conference on Security and Cooperation in Europe, and the Charter of Paris for a New Europe of 1990, shall form the basis of the domestic and external policies of the Parties and constitute an essential element of this Agreement. Countering the proliferation of weapons of mass destruction, related materials and their means of delivery also constitutes an essential element of this Agreement.

2. The Parties reiterate their commitment to the principles of a free market economy, sustainable development and effective multilateralism.

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3. The Parties reaffirm their respect for the principles of the rule of law and good governance, as well as their international obligations, notably under the UN, the Council of Europe and the OSCE.

4. The Parties commit themselves to foster cooperation and good neighbourly relations, including cooperation on the development of projects of common interest, notably those related to preventing and combating corruption, criminal activities, organised or otherwise, including those of transnational character, and terrorism. That commitment constitutes a key factor in the development of the relations and cooperation between the Parties and contributes to regional peace and stability.

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TITLE II

POLITICAL DIALOGUE AND REFORM, COOPERATION IN THE FIELD OF FOREIGN AND SECURITY POLICY

ARTICLE 3

Aims of political dialogue

1. Political dialogue on all areas of mutual interest, including foreign and security matters as well as domestic reform, shall be further developed and strengthened between the Parties. That will increase the effectiveness of political cooperation and promote convergence on foreign and security matters.

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2. The aims of political dialogue shall be:

(a) to deepen political association and increase political and security policy convergence and effectiveness;
(b) to promote international stability and security based on effective multilateralism;
(c) to strengthen cooperation and dialogue between the Parties on international security and crisis management, particularly in order to address global and regional challenges and key threats;
(d) to foster result-oriented and practical cooperation between the Parties for achieving peace, security and stability on the European continent;
(e) to strengthen respect for democratic principles, the rule of law and good governance, human rights and fundamental freedoms, including the rights of persons belonging to minorities, and to contribute to consolidating domestic political reforms;
(f) to develop dialogue and to deepen cooperation of the Parties in the field of security and defence; and
(g) to respect and promote the principles of sovereignty and territorial integrity, inviolability of borders and independence.

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ARTICLE 4

Domestic reform

The Parties shall cooperate on the following areas:

(a) developing, consolidating and increasing the stability and effectiveness of democratic institutions and the rule of law;

(b) ensuring respect for human rights and fundamental freedoms;

(c) making further progress on judicial and legal reform, so as to secure the independence of the judiciary, strengthen its administrative capacity and guarantee impartiality and effectiveness of law enforcement bodies;

(d) further pursuing the public administration reform and building an accountable, efficient, transparent and professional civil service; and

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(e) ensuring effectiveness in the fight against corruption, particularly in view of enhancing international cooperation on combating corruption, and ensuring effective implementation of relevant international legal instruments, such as the United Nations Convention Against Corruption of 2003.

ARTICLE 5

Foreign and security policy

1. The Parties shall intensify their dialogue and cooperation and promote gradual convergence in the area of foreign and security policy, including the Common Security and Defence Policy (CSDP), and shall address in particular issues of conflict prevention and crisis management, regional stability, disarmament, non-proliferation, arms control and export control. Cooperation shall be based on common values and mutual interests, and shall aim at increasing policy convergence and effectiveness, making use of bilateral, international and regional fora.

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2. The Parties reaffirm their commitment to the principles of respect for sovereignty and territorial integrity, inviolability of borders and independence, as established in the Charter of the United Nations and the Helsinki Final Act of 1975 of the Conference on Security and Cooperation in Europe, and their commitment to promote those principles in their bilateral and multilateral relations.

ARTICLE 6

International Criminal Court

1. The Parties reaffirm that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national and international level, including the International Criminal Court (ICC).

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2. The Parties consider that the establishment and effective functioning of the ICC constitutes an important development for international peace and justice. The Parties agree to support the ICC by implementing the Rome Statute of the International Criminal Court and its related instruments, giving due regard to preserving its integrity.

ARTICLE 7

Conflict prevention and crisis management

The Parties shall enhance practical cooperation in conflict prevention and crisis management, in particular with a view to the possible participation of the Republic of Moldova in EU-led civilian and military crisis management operations as well as relevant exercises and training, on a case-by-case basis and following a possible invitation by the EU.

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ARTICLE 8

Regional stability

1. The Parties shall intensify their joint efforts to promote stability, security and democratic development in the region and, in particular, shall work together for the peaceful settlement of regional conflicts.

2. The Parties reiterate their commitment to a sustainable solution to the Transnistrian issue, in full respect of the sovereignty and territorial integrity of the Republic of Moldova, as well as to facilitating jointly post-conflict rehabilitation. Pending its resolution and without prejudice to the established negotiating format, the Transnistrian issue will constitute one of the central subjects on the agenda of political dialogue and cooperation between the Parties, as well as in the dialogue and cooperation with other interested international actors.

3. Those efforts shall follow commonly shared principles of maintaining international peace and security as established by the Charter of the United Nations, the Helsinki Final Act of 1975 of the Conference on Security and Cooperation in Europe and other relevant multilateral documents.

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ARTICLE 9

Weapons of mass destruction

1. The Parties consider that the proliferation of weapons of mass destruction (WMD) and their means of delivery, both to state and non-state actors, represents one of the most serious threats to international peace and stability. The Parties therefore agree to cooperate and contribute to countering the proliferation of WMD and their means of delivery through full compliance with, and national implementation of, their existing obligations under international disarmament and non-proliferation treaties and agreements, and other relevant international obligations. The Parties agree that this provision constitutes an essential element of this Agreement.

2. The Parties furthermore agree to cooperate and to contribute to countering the proliferation of WMD and their means of delivery by:

(a) taking steps to ratify, or accede to, as appropriate, and fully implement all other relevant international instruments; and

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(b) establishing an effective system of national export controls, controlling the export as well as transit of WMD-related goods, including a WMD end-use control on dual-use technologies, and containing effective sanctions for breaches of export controls.

3. The Parties agree to establish a regular political dialogue that will accompany and consolidate those elements.

ARTICLE 10

Small arms and light weapons and conventional arms export control

1. The Parties recognise that the illicit manufacture, transfer and circulation of small arms and light weapons (SALW), including their ammunition, and their excessive accumulation, poor management, inadequately secured stockpiles and uncontrolled spread continue to pose a serious threat to peace and international security.

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2. The Parties agree to observe and fully implement their respective obligations to deal with the illicit trade in SALW, including their ammunition, under existing international agreements and UN Security Council resolutions, as well as their commitments within the framework of other international instruments applicable in that area, such as the UN Programme of Action to prevent, combat and eradicate the illicit trade in SALW in all its aspects.

3. The Parties shall undertake to cooperate and to ensure coordination, complementarity and synergy in their efforts to deal with the illicit trade in SALW, including their ammunition, and the destruction of excessive stockpiles, at global, regional, sub-regional and national level.

4. Furthermore, the Parties agree to continue to cooperate in the area of conventional arms export control, in the light of the Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.

5. The Parties agree to establish a regular political dialogue that will accompany and consolidate those undertakings.

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ARTICLE 11

International cooperation in the fight against terrorism

1. The Parties agree to work together at bilateral, regional and international level to prevent and combat terrorism in accordance with international law, relevant UN resolutions, international human rights standards, and refugee and humanitarian law.

2. To that effect, they shall in particular cooperate so as to deepen international consensus on the fight against terrorism, including on the legal definition of terrorist acts and by working towards an agreement on the Comprehensive Convention on International Terrorism.

3. The Parties shall, in the framework of the full implementation of UN Security Council Resolution 1373 (2001) and other relevant UN instruments and of applicable international conventions and instruments, exchange information on terrorist organisations and groups and their activities and support networks in accordance with international law and the legislation of the Parties.

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TITLE III

FREEDOM, SECURITY AND JUSTICE

ARTICLE 12

Rule of law

1. In their cooperation in the area of freedom, security and justice the Parties shall attach particular importance to the promotion of the rule of law, including the independence of the judiciary, access to justice, and the right to a fair trial.

2. The Parties will cooperate fully on the effective functioning of institutions in the areas of law enforcement and the administration of justice.

3. Respect for human rights and fundamental freedoms will guide all cooperation on freedom, security and justice.

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ARTICLE 13

Protection of personal data

1. The Parties agree to cooperate in order to ensure a high level of protection of personal data in accordance with EU, Council of Europe and international legal instruments and standards.

2. Any processing of personal data shall be subject to the legal provisions referred to in Annex I to this Agreement. The transfer of personal data between the Parties shall only take place if such transfer is necessary for the implementation, by the competent authorities of the Parties, of this or other agreements concluded between the Parties.

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ARTICLE 14

Cooperation on migration, asylum and border management

1. The Parties reaffirm the importance of a joint management of migration flows between their territories and shall strengthen the existing comprehensive dialogue on all migration-related issues, including legal migration, international protection, illegal migration, smuggling and trafficking in human beings.

2. Cooperation will be based on a specific needs assessment, conducted in mutual consultation between the Parties, and implemented in accordance with their relevant legislation in force. It will, in particular, focus on:

(a) the root causes and the consequences of migration;

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(b) the development and implementation of national legislation and practices as regards international protection, with a view to satisfying the provisions of the Geneva Convention relating to the Status of Refugees of 1951 and of the Protocol relating to the Status of Refugees of 1967 and of other relevant international instruments, and to ensuring the respect of the principle of "non-refoulement";

(c) the admission rules and rights and status of persons admitted, fair treatment and integration of lawfully residing non-nationals, education and training, and measures against racism and xenophobia;

(d) the establishment of an effective and preventive policy against illegal immigration, smuggling of migrants and trafficking in human beings, including the issue of how to combat networks of smugglers and traffickers and how to protect the victims of such trafficking;

(e) the promotion and facilitation of the return of illegal migrants; and

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(f) in the area of border management and document security, on issues of organisation, training, best practices and other operational measures as well as strengthening cooperation between the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) and the Border Guard Service of the Republic of Moldova.

3. Cooperation may also facilitate circular migration for the benefit of development.

ARTICLE 15

Movement of persons

1. The Parties will ensure the full implementation of:

(a) the Agreement between the European Community and the Republic of Moldova on the readmission of persons residing without authorisation, which entered into force on 1 January 2008; and

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(b) the Agreement between the European Community and the Republic of Moldova on the facilitation of the issuance of visas, which entered into force on 1 January 2008, as amended on 27 June 2012.

2. The Parties shall endeavour to enhance mobility of citizens and shall take gradual steps towards the shared objective of a visa-free regime in due course, provided that the conditions for well-managed and secure mobility, set out in the Action Plan on Visa Liberalisation, are in place.

ARTICLE 16

Preventing and combating organised crime, corruption and other illegal activities

1. The Parties shall cooperate on preventing and combating all forms of criminal and illegal activities, organised or otherwise, including those of a transnational character, such as:

(a) smuggling and trafficking in human beings;

(b) smuggling and trafficking in goods, including in small arms and illicit drugs;

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(c) illegal economic and financial activities such as counterfeiting, fiscal fraud and public procurement fraud;

(d) fraud, as referred to in Title VI (Financial Assistance, and Anti-Fraud and Control Provisions) of this Agreement, in projects funded by international donors;

(e) active and passive corruption, both in the private and public sector, including the abuse of functions and trading in influence;

(f) forging documents and submitting false statements; and

(g) cyber crime.

2. The Parties shall enhance bilateral, regional and international cooperation among law enforcement bodies, including strengthening cooperation between the European Police Office (Europol) and the relevant authorities of the Republic of Moldova. The Parties are committed to implementing effectively the relevant international standards, and in particular those enshrined in the United Nations Convention against Transnational Organised Crime (UNTOC) of 2000 and its three Protocols, the United Nations Convention against Corruption of 2003, and relevant Council of Europe instruments on preventing and combating corruption.

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ARTICLE 17

Tackling illicit drugs

1. Within their respective powers and competencies, the Parties shall cooperate to ensure a balanced and integrated approach towards drug issues. Drug policies and actions shall be aimed at reinforcing structures for tackling illicit drugs, reducing the supply of, trafficking in and the demand for illicit drugs, coping with the health and social consequences of drug abuse, as well as at a more effective prevention of diversion of chemical precursors used for the illicit manufacture of narcotic drugs and psychotropic substances.

2. The Parties shall agree on the necessary methods of cooperation to attain those objectives. Actions shall be based on commonly agreed principles along the lines of the relevant international conventions, the EU Drugs Strategy (2013-20), the Political Declaration on the guiding principles of drug demand reduction, approved by the United Nations General Assembly Twentieth Special Session on Drugs in June 1998.

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ARTICLE 18

Money laundering and financing of terrorism

1. The Parties shall cooperate in order to prevent the use of their financial and relevant non-financial systems to launder the proceeds of criminal activities, as well as for the purpose of financing of terrorism. That cooperation extends to the recovery of assets or funds derived from the proceeds of crime.

2. Cooperation in this area shall allow exchanges of relevant information within the framework of respective legislations and the adoption of appropriate standards to combat money laundering and financing of terrorism, equivalent to those adopted by relevant international bodies active in this area, such as the Financial Action Task Force on Money Laundering (FATF).

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ARTICLE 19

Combating terrorism

The Parties agree to cooperate in the prevention and suppression of acts of terrorism in full respect for the rule of law, international human rights, and refugee and humanitarian law and in accordance with the UN Global Counter-Terrorism Strategy of 2006 as well as their respective laws and regulations. They shall do so, in particular in the framework of the full implementation of UN Security Council Resolutions 1267 (1999), 1373 (2001), 1540 (2004) and 1904 (2009) and other relevant UN instruments, and applicable international conventions and instruments:

(a) by exchanging information on terrorist groups and their support networks in accordance with international and national law;

(b) by exchanging views on terrorism trends and on means and methods of combating terrorism, including in technical areas and training, and by exchanging experiences in respect of the prevention of terrorism; and

(c) by sharing best practices in the area of protection of human rights in the fight against terrorism.

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ARTICLE 20

Legal cooperation

1. The Parties agree to develop judicial cooperation in civil and commercial matters as regards the negotiation, ratification and implementation of multilateral conventions on civil judicial cooperation and, in particular, the conventions of the Hague Conference on Private International Law in the field of international legal cooperation and litigation as well as the protection of children.

2. As regards judicial cooperation in criminal matters, the Parties will seek to enhance cooperation on mutual legal assistance. That would include, where appropriate, accession to, and implementation of, the relevant international instruments of the UN and the Council of Europe and closer cooperation with Eurojust.

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TITLE IV

ECONOMIC AND OTHER SECTORAL COOPERATION

CHAPTER 1

PUBLIC ADMINISTRATION REFORM

ARTICLE 21

Cooperation shall focus on the development of efficient and accountable public administration in the Republic of Moldova, with the aim of supporting implementation of the rule of law, ensuring that state institutions work for the benefit of the entire population of the Republic of Moldova, and promoting the smooth development of relations between the Republic of Moldova and its partners. Particular attention will be given to the modernisation and development of executive functions, with the goal of providing quality services to the citizens of the Republic of Moldova.

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ARTICLE 22

Cooperation shall cover the following areas:

(a) the institutional and functional development of public authorities, in order to increase the efficiency of their activity and to ensure an efficient, participatory and transparent decision-making and strategic planning process;

(b) modernisation of public services, including the introduction and implementation of e-Governance, with a view to increasing the efficiency of service delivery to citizens and reducing the costs of doing business;

(c) creation of a professional civil service based on the principle of managerial accountability and effective delegation of authority, as well as fair and transparent recruitment, training, assessment and remuneration;

(d) effective and professional human resource management and career development; and

(e) the promotion of ethical values in the civil service.

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ARTICLE 23

Cooperation shall cover all levels of public administration, including local administration.

CHAPTER 2

ECONOMIC DIALOGUE

ARTICLE 24

1. The EU and the Republic of Moldova shall facilitate the process of economic reform by improving the understanding of the fundamentals of their respective economies. Cooperation between the Parties shall aim to promote economic policies pertinent to functioning market economies as well as the formulation and implementation of those economic policies.

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2. The Republic of Moldova shall strive to establish a functioning market economy and to gradually approximate its policies to those of the EU, in accordance with the guiding principles of sound macroeconomic and fiscal policies, including central bank independence and price stability, sound public finances and a sustainable balance of payments.

ARTICLE 25

1. To those ends, the Parties agree to cooperate in the following areas:

(a) exchange of information on macroeconomic policies and structural reforms as well as on macroeconomic performance and prospects, and on strategies for economic development;

(b) joint analysis of economic issues of mutual interest, including economic policy measures and the instruments for implementing them, such as methods for economic forecasting and elaboration of strategic policy documents, with a view to strengthening the policy-making of the Republic of Moldova in line with EU principles and practices; and

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(c) exchange of expertise in the macroeconomic and macrofinancial sphere, including public finances, financial sector developments and regulation, monetary and exchange rate policies and frameworks, external financial assistance, and economic statistics.

2. Cooperation will also include exchange of information concerning the principles and functioning of the European economic and monetary union.

ARTICLE 26

A regular dialogue will take place on the issues covered by this Chapter.

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CHAPTER 3

COMPANY LAW, ACCOUNTING AND AUDITING AND CORPORATE GOVERNANCE

ARTICLE 27

1. Recognising the importance of an effective set of rules and practices in the areas of company law and corporate governance, as well as in accounting and auditing, for the creation of a fully-functioning market economy and for fostering trade, the Parties agree to cooperate:

(a) on the protection of shareholders, creditors and other stakeholders in line with EU rules in this area;

(b) on the introduction of relevant international standards at national level and gradual approximation of the rules of the Republic of Moldova with those of the EU in the field of accounting and auditing; and

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(c) on further development of corporate governance policy in line with international standards, as well as gradual approximation of the rules of the Republic of Moldova with the EU rules and recommendations in this area.

2. The relevant EU rules and recommendations are listed in Annex II to this Agreement.

ARTICLE 28

The Parties will aim at sharing information and expertise on both existing systems and relevant new developments in those areas. In addition, the Parties will seek to improve information exchange between the business registers of Member States and the national register of companies of the Republic of Moldova.

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ARTICLE 29

A regular dialogue will take place on the issues covered by this Chapter.

ARTICLE 30

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex II to this Agreement according to the provisions of that Annex.

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CHAPTER 4

EMPLOYMENT, SOCIAL POLICY AND EQUAL OPPORTUNITIES

ARTICLE 31

The Parties shall strengthen their dialogue and cooperation on promoting the International Labour Organisation (ILO) Decent Work Agenda, employment policy, health and safety at work, social dialogue, social protection, social inclusion, gender equality and anti-discrimination, and social rights, and thereby contribute to the promotion of more and better jobs, poverty reduction, enhanced social cohesion, sustainable development and improved quality of life.

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ARTICLE 32

Cooperation, based on exchange of information and best practices, may cover a selected number of issues to be identified among the following areas:

(a) poverty reduction and the enhancement of social cohesion;

(b) employment policy, aiming at more and better jobs with decent working conditions, including with a view to reducing the informal economy and informal employment;

(c) promoting active labour market measures and efficient employment services to modernise the labour markets and to adapt to labour market needs;

(d) fostering more inclusive labour markets and social safety systems that integrate disadvantaged people, including people with disabilities and people from minority groups;

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(e) efficient management of labour migration, aiming at strengthening its positive impact on development;

(f) equal opportunities, aiming at enhancing gender equality and ensuring equal opportunities between women and men, as well as combating discrimination on all grounds;

(g) social policy, aiming at enhancing the level of social protection, including social assistance and social insurance, and modernising social protection systems, in terms of quality, accessibility and financial sustainability;

(h) enhancing the participation of social partners and promoting social dialogue, including through strengthening the capacity of all relevant stakeholders; and

(i) promoting health and safety at work.

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ARTICLE 33

The Parties shall encourage the involvement of all relevant stakeholders, including civil society organisations and in particular social partners, in policy development and reforms in the Republic of Moldova and in the cooperation between the Parties under this Agreement.

ARTICLE 34

The Parties shall aim at enhancing cooperation on employment and social policy matters in all relevant regional, multilateral and international fora and organisations.

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ARTICLE 35

The Parties shall promote corporate social responsibility and accountability and encourage responsible business practices, such as those promoted by the UN Global Compact and the ILO tripartite declaration of principles concerning multinational enterprises and social policy.

ARTICLE 36

A regular dialogue will take place on the issues covered by this Chapter.

ARTICLE 37

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex III to this Agreement according to the provisions of that Annex.

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CHAPTER 5

CONSUMER PROTECTION

ARTICLE 38

The Parties shall cooperate in order to ensure a high level of consumer protection and to achieve compatibility between their systems of consumer protection.

ARTICLE 39

In order to achieve those objectives, the cooperation may comprise, when appropriate:

(a) aiming at the approximation of consumer legislation, based on the priorities in Annex IV to this Agreement, while avoiding barriers to trade for ensuring consumers' real choices;

(b) promoting exchange of information on consumer protection systems, including consumer legislation and its enforcement, consumer product safety, including market surveillance, consumer information systems and tools, consumer education, empowerment and consumer redress, and sales and service contracts concluded between traders and consumers;

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(c) promoting training activities for administration officials and other consumer interest representatives; and

(d) encouraging the development of independent consumer associations, including non-governmental consumer organisations (NGOs), and contacts between consumer representatives, as well as collaboration between authorities and NGOs in the field of consumer protection.

ARTICLE 40

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex IV to this Agreement according to the provisions of that Annex.

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CHAPTER 6

STATISTICS

ARTICLE 41

The Parties shall develop and strengthen their cooperation on statistical issues, thereby contributing to the long-term objective of providing timely, internationally comparable and reliable statistical data. It is expected that a sustainable, efficient and professionally independent national statistical system shall produce information relevant for citizens, businesses and decision makers in the EU and in the Republic of Moldova, enabling them to take informed decisions on that basis. The national statistical system should respect the UN Fundamental Principles of Official Statistics, taking into account the EU *acquis* in statistics, including the European Statistics Code of Practice, in order to align the national statistical system with the European norms and standards.

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ARTICLE 42

Cooperation shall aim at:

(a) further strengthening the capacity of the national statistical system, focusing on the sound legal basis, production of adequate data and metadata, dissemination policy and user-friendliness, taking into account various groups of users, including public and private sectors, the academic community and other users;

(b) progressive alignment of the statistical system of the Republic of Moldova with the European Statistical System;

(c) fine-tuning of data provision to the EU, taking into account the application of relevant international and European methodologies, including classifications;

(d) enhancing the professional and management capacity of the national statistical staff to facilitate the application of EU statistical standards and to contribute to the development of the statistical system of the Republic of Moldova;

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(e) exchanging experience between the Parties on the development of statistical know-how; and

(f) promoting total quality management of all statistical production processes and dissemination.

ARTICLE 43

The Parties shall cooperate within the framework of the European Statistical System in which Eurostat is the European statistical authority. The cooperation shall include a focus on:

(a) demographic statistics, including censuses, and social statistics;

(b) agricultural statistics, including agricultural censuses and environment statistics;

(c) business statistics, including business registers and use of administrative sources for statistical purposes;

(d) macroeconomic statistics, including national accounts, foreign trade statistics, and foreign direct investment statistics;

(e) energy statistics, including balances;

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(f) regional statistics; and

(g) horizontal activities, including statistical classifications, quality management, training, dissemination and use of modern information technologies.

ARTICLE 44

The Parties shall, *inter alia*, exchange information and expertise and shall develop their cooperation, taking into account the already accumulated experience in the reform of the statistical system launched within the framework of various assistance programmes. Efforts shall be directed towards further alignment with the EU *acquis* in statistics, on the basis of the national strategy for the development of the statistical system of the Republic of Moldova, and taking into account the development of the European Statistical System. The emphasis in the statistical data production process shall be the further development of sample surveys and usage of administrative records, while taking into account the need to reduce the response burden. The data shall be relevant for the designing and monitoring of policies in key areas of social and economic life.

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ARTICLE 45

A regular dialogue shall take place on the issues covered by this Chapter. To the extent possible, the activities undertaken within the European Statistical System, including training, should be open for the participation of the Republic of Moldova.

ARTICLE 46

1. The Parties undertake to establish and revise on a periodic basis a programme of gradual approximation of the legislation of the Republic of Moldova to the EU *acquis* in the field of statistics.

2. The EU *acquis* in the field of statistics is set out in the annually updated Statistical Requirements Compendium, which is considered by the Parties as annexed to this Agreement (Annex V).

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CHAPTER 7

MANAGEMENT OF PUBLIC FINANCES: BUDGET POLICY, INTERNAL CONTROL, FINANCIAL INSPECTION AND EXTERNAL AUDIT

ARTICLE 47

Cooperation in the field covered by this Chapter will focus on the implementation of international standards as well as EU good practice in this field, which will contribute to the development of a modern public finance management system in the Republic of Moldova, compatible with basic EU and international principles of transparency, accountability, economy, efficiency and effectiveness.

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ARTICLE 48

Budget and accounting systems

The Parties shall cooperate in relation to:

(a) improvement and systematisation of regulatory documents on the budgetary, treasury, accounting and reporting systems and their harmonisation on the basis of international standards, respecting also good practice in the EU public sector;

(b) continuous development of multi-annual budget planning and the alignment to EU good practice;

(c) studying the practices of the European countries in inter-budget relations, in order to improve this field in the Republic of Moldova;

(d) fostering approximation of procurement procedures with existing practices in the EU; and

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(e) exchange of information, experiences and good practice, including through personnel exchange and joint training in this field.

ARTICLE 49

Internal control, financial inspection and external audit

The Parties shall also cooperate in relation to:

(a) further improvement of the internal control system (including a functionally independent internal audit function) in state and local authorities by means of harmonisation with generally accepted international standards and methodologies and EU good practice;

(b) the development of an adequate financial inspection system that will complement but not duplicate the internal audit function and will ensure adequate control coverage of government income and expenditure during a transitional period and thereafter;

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(c) effective cooperation between the actors involved in financial management and control, audit and inspection with the actors for budget, treasury and accounting to foster the development of governance;

(d) strengthening the competences of the Central Harmonisation Unit for the Public Internal Financial Control (PIFC);

(e) the implementation of internationally accepted external audit standards by the International Organisation of Supreme Audit Institutions (INTOSAI); and

(f) exchange of information, experiences and good practice through *inter alia* personnel exchange and joint training in this field.

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ARTICLE 50

Fight against fraud and corruption

The Parties shall also cooperate in relation to:

(a) exchanging information, experience and good practice;

(b) improving methods to combat and prevent fraud and corruption in the areas covered by this Chapter, including cooperation between relevant administrative bodies; and

(c) ensuring effective cooperation with the relevant EU institutions and bodies, in the case of on-the-spot checks, inspections and audits related to the management and control of EU funds, according to relevant rules and procedures.

ARTICLE 51

A regular dialogue will take place on the issues covered by this Chapter.

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CHAPTER 8

TAXATION

ARTICLE 52

The Parties shall cooperate to enhance good governance in the tax area, with a view to the further improvement of economic relations, trade, investment and fair competition.

ARTICLE 53

With reference to Article 52 of this Agreement, the Parties recognise and commit themselves to implement the principles of good governance in the tax area, i.e. the principles of transparency, exchange of information and fair tax competition, as subscribed to by Member States at EU level. To that effect, without prejudice to EU and Member State competences, the Parties will improve international cooperation in the tax area, facilitate the collection of legitimate tax revenues, and develop measures for the effective implementation of the above mentioned principles.

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ARTICLE 54

The Parties shall enhance and strengthen their cooperation aimed at the improvement and development of the Republic of Moldova's tax system and administration, including the enhancement of collection and control capacity, with a specific focus on Value Added Tax (VAT) refund procedures, to avoid accumulation of arrears, ensure effective tax collection and reinforce the fight against tax fraud and tax avoidance. The Parties shall strive to enhance cooperation and sharing of experiences in combating tax fraud, and in particular carousel fraud.

ARTICLE 55

The Parties shall develop their cooperation and harmonise policies in counteracting and fighting fraud and the smuggling of excisable products. That cooperation will include, *inter alia*, the gradual approximation of excise rates on tobacco products, as far as possible, taking into account the constraints of the regional context, including through a dialogue at regional level and in line with the World Health Organisation Framework Convention on Tobacco Control of 2003 (WHO FCTC). To that end, the Parties will strive to strengthen their cooperation within the regional context.

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ARTICLE 56

A regular dialogue will take place on the issues covered by this Chapter.

ARTICLE 57

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex VI to this Agreement according to the provisions of that Annex.

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CHAPTER 9

FINANCIAL SERVICES

ARTICLE 58

Recognising the relevance of an effective set of rules and practices in the areas of financial services to establish a fully-functioning market economy and in order to foster trade exchanges among the Parties, the Parties agree to cooperate in the area of financial services in line with the following objectives:

(a) supporting the process of adapting financial services regulation to the needs of an open market economy;

(b) ensuring effective and adequate protection of investors and other consumers of financial services;

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(c) ensuring the stability and integrity of the financial system of the Republic of Moldova in its entirety;

(d) promoting cooperation between different actors of the financial system, including regulators and supervisors; and

(e) ensuring independent and effective supervision.

ARTICLE 59

1. The Parties shall encourage cooperation between relevant regulatory and supervisory authorities, including information exchange, sharing of expertise on financial markets and other such measures.

2. Special attention shall be paid to the development of administrative capacity of such authorities, including through personnel exchange and joint training.

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ARTICLE 60

A regular dialogue will take place on the issues covered by this Chapter.

ARTICLE 61

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XXVIII-A to this Agreement, according to the provisions of that Annex.

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CHAPTER 10

INDUSTRIAL AND ENTERPRISE POLICY

ARTICLE 62

The Parties shall develop and strengthen their cooperation on industrial and enterprise policy, thereby improving the business environment for all economic operators, but with particular emphasis on small and medium-sized enterprises (SMEs). Enhanced cooperation should improve the administrative and regulatory framework for both EU businesses and businesses of the Republic of Moldova operating in the EU and in the Republic of Moldova, and should be based on the EU's SME and industrial policies, taking into account internationally recognised principles and practices in this field.

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ARTICLE 63

To those ends, the Parties shall cooperate in order to:

(a) implement strategies for SME development, based on the principles of the Small Business Act for Europe, and monitoring of the implementation process through regular reporting and dialogue. That cooperation will also include a focus on micro enterprises, which are extremely important for both the economies of the EU and of the Republic of Moldova;

(b) create better framework conditions, via the exchange of information and good practice, thereby contributing to improving competitiveness. That cooperation will include the management of structural changes (restructuring), the development of public-private partnerships, and environmental and energy issues, such as energy efficiency and cleaner production;

(c) simplify and rationalise regulations and regulatory practice, with specific focus on exchange of good practice on regulatory techniques, including the EU's principles;

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(d) encourage the development of innovation policy, via the exchange of information and good practice regarding the commercialisation of research and development (including support instruments for technology-based business start-ups), cluster development and access to finance;

(e) encourage greater contacts between EU businesses and businesses of the Republic of Moldova and between those businesses and the authorities of the EU and the Republic of Moldova;

(f) support the establishment of export promotion activities in the Republic of Moldova; and

(g) facilitate the modernisation and restructuring of the industry of the Republic of Moldova in certain sectors.

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ARTICLE 64

A regular dialogue will take place on the issues covered by this Chapter. That will also involve representatives of EU businesses and businesses of the Republic of Moldova.

CHAPTER 11

MINING AND RAW MATERIALS

ARTICLE 65

The Parties shall develop and strengthen cooperation covering mining industries and trade in raw materials, with the objectives of promoting mutual understanding, improvement of the business environment, information exchange and cooperation on non-energy issues, relating in particular to the mining of metallic ores and industrial minerals.

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ARTICLE 66

To that end, the Parties shall cooperate in the following areas:

(a) exchange of information by the Parties on developments in their mining and raw material sectors;

(b) exchange of information on matters related to trade in raw materials, with the aim of promoting bilateral exchanges;

(c) exchange of information and best practices in relation to sustainable development aspects of the mining industries; and

(d) exchange of information and best practices in relation to training, skills and safety in the mining industries.

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CHAPTER 12

AGRICULTURE AND RURAL DEVELOPMENT

ARTICLE 67

The Parties shall cooperate to promote agricultural and rural development, in particular through progressive convergence of policies and legislation.

ARTICLE 68

Cooperation between the Parties in the field of agriculture and rural development shall cover, *inter alia*, the following areas:

(a) facilitating the mutual understanding of agricultural and rural development policies;

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(b) enhancing the administrative capacities at central and local level in the planning, evaluation and implementation of policies in accordance with EU regulations and best practices;

(c) promoting the modernisation and the sustainability of agricultural production;

(d) sharing knowledge and best practices of rural development policies to promote economic well-being for rural communities;

(e) improving the competitiveness of the agricultural sector and the efficiency and transparency of the markets;

(f) promoting quality policies and their control mechanisms, in particular geographical indications and organic farming;

(g) disseminating knowledge and promoting extension services to agricultural producers; and

(h) enhancing the harmonisation of issues dealt within the framework of international organisations of which the Parties are members.

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ARTICLE 69

A regular dialogue will take place on the issues covered by this Chapter.

ARTICLE 70

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex VII to this Agreement according to the provisions of that Annex.

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CHAPTER 13

FISHERIES & MARITIME POLICY

SECTION 1

FISHERIES POLICY

ARTICLE 71

The Parties shall develop and strengthen their cooperation on issues covering fisheries and maritime governance, thereby developing closer bilateral and multilateral cooperation in the fisheries sector. The Parties shall also encourage an integrated approach to fisheries issues and promote sustainable fisheries development.

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ARTICLE 72

The Parties shall take joint actions, exchange information and provide support to each other in order to promote:

(a) good governance and best practices in fisheries management with a view to ensuring conservation and management of fish stocks in a sustainable manner and based on the ecosystem approach;

(b) responsible fishing and fisheries management consistent with the principles of sustainable development, so as to conserve fish stocks and ecosystems in a healthy state; and

(c) cooperation through appropriate regional organisations responsible for management and conservation of living aquatic resources.

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ARTICLE 73

The Parties will support initiatives, such as mutual exchange of experience and providing support, in order to ensure the implementation of a sustainable fisheries policy, including:

(a) management of fisheries and aquaculture resources;

(b) inspection and control of fishing activities, as well as development of corresponding administrative and judicial structures capable of applying appropriate measures;

(c) collection of catch, landing, biological and economic data;

(d) improving the efficiency of the markets, in particular by promoting producer organisations, providing information to consumers, and through marketing standards and traceability; and

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(e) development of a structural policy for the fisheries sector, with particular attention to the sustainable development of fisheries areas which are defined as an area with lake shore or including ponds or a river estuary and with a significant level of employment in the fisheries sector.

SECTION 2

MARITIME POLICY

ARTICLE 74

Taking into account their cooperation in the spheres of fisheries, transport, environment and other sea-related policies, the Parties shall also develop cooperation and mutual support, when appropriate, on maritime issues, in particular by actively supporting an integrated approach to maritime affairs and good governance in the Black Sea in the relevant international maritime fora.

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ARTICLE 75

A regular dialogue will take place on the issues covered by this Chapter.

CHAPTER 14

ENERGY COOPERATION

ARTICLE 76

The Parties agree to continue their current cooperation on energy matters on the basis of the principles of partnership, mutual interest, transparency and predictability. The cooperation should aim at energy efficiency, market integration and regulatory convergence in the energy sector, taking into account the need to ensure competitiveness and access to secure, environmentally sustainable and affordable energy, including through the provisions of the Energy Community Treaty.

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ARTICLE 77

The cooperation shall cover, among others, the following areas and objectives:

(a) energy strategies and policies;

(b) the development of competitive, transparent and non-discriminatory energy markets in accordance with EU standards, including obligations under the Energy Community Treaty, through regulatory reforms and through the participation in regional energy cooperation;

(c) development of an attractive and stable investment climate by addressing institutional, legal, fiscal and other conditions;

(d) energy infrastructure, including projects of common interest, in order to diversify energy sources, suppliers and transportation routes in an efficient economic and environmentally sound manner, *inter alia*, through the facilitation of loan and grant funded investments;

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(e) enhancement and strengthening of long-term stability and security of energy supply and trade, transit and transport on a mutually beneficial and non-discriminatory basis in accordance with EU and international rules;

(f) promotion of energy efficiency and energy saving, *inter alia*, concerning energy performance of buildings, and the development and support of renewable energies in an economic and environmentally sound manner;

(g) reduction of emissions of greenhouse gases, including through energy efficiency and renewable energy projects;

(h) scientific and technical cooperation and exchange of information for the development and improvement of technologies in energy production, transportation, supply and end use, with particular attention to energy efficient and environmentally friendly technologies; and

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(i) cooperation may be pursued in the areas of nuclear safety, security and radiation protection, in accordance with the principles and standards of the International Atomic Energy Agency (IAEA) and the relevant international treaties and conventions concluded within the framework of the IAEA, as well as in accordance with the Treaty establishing the European Atomic Energy Community, where applicable.

ARTICLE 78

A regular dialogue will take place on the issues covered by this Chapter.

ARTICLE 79

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex VIII to this Agreement according to the provisions of that Annex.

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CHAPTER 15

TRANSPORT

ARTICLE 80

The Parties shall:

(a) expand and strengthen their transport cooperation in order to contribute to the development of sustainable transport systems;

(b) promote efficient, safe and secure transport operations as well as intermodality and interoperability of transport systems; and

(c) endeavour to enhance the main transport links between their territories.

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ARTICLE 81

That cooperation shall cover, among others, the following areas:

(a) development of a sustainable national transport policy covering all modes of transport, particularly with a view to ensuring efficient, safe and secure transport systems and promoting the integration of considerations in the sphere of transport into other policy areas;

(b) development of sector strategies in light of the national transport policy (including legal requirements for the upgrading of technical equipment and transport fleets to meet highest international standards) for road, rail, inland waterway, aviation, and intermodality, including timetables and milestones for implementation, administrative responsibilities as well as financing plans;

(c) improvement of the infrastructure policy in order to better identify and evaluate infrastructure projects in the various modes of transport;

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(d) development of funding strategies focusing on maintenance, capacity constraints and missing link infrastructure as well as activating and promoting the participation of the private sector in transport projects;

(e) accession to relevant international transport organisations and agreements, including procedures for ensuring strict implementation and effective enforcement of international transport agreements and conventions;

(f) scientific and technical cooperation and exchange of information for the development and improvement of technologies in transport, such as intelligent transport systems; and

(g) promotion of the use of intelligent transport systems and information technology in managing and operating all modes of transport as well as supporting intermodality and cooperation in the use of space systems and commercial applications facilitating transport.

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ARTICLE 82

1. Cooperation shall also aim at improving the movement of passengers and goods, increasing fluidity of transport flows between the Republic of Moldova, the EU and third countries in the region, by removing administrative, technical and other obstacles, improving transport networks and upgrading the infrastructure in particular on the main axes connecting the Parties. That cooperation shall include actions to facilitate border crossings.

2. Cooperation shall include information exchange and joint activities:

(a) at regional level, in particular taking into consideration and integrating progress achieved under various regional transport cooperation arrangements such as the Transport Corridor Europe-Caucasus-Asia (TRACECA), transport cooperation within the framework of the Eastern Partnership and other transport initiatives; and

(b) at international level, including with regard to international transport organisations and international agreements and conventions ratified by the Parties, and in the framework of the various transport agencies of the EU.

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ARTICLE 83

A regular dialogue will take place on the issues covered by this Chapter.

ARTICLE 84

The Parties will cooperate on improving transport connections according to the provisions referred to in Annex IX to this Agreement.

ARTICLE 85

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex X and in Annex XXVIII-D to this Agreement, according to the provisions of those Annexes.

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CHAPTER 16

ENVIRONMENT

ARTICLE 86

The Parties shall develop and strengthen their cooperation on environmental issues, thereby contributing to the long-term objective of sustainable development and greening the economy. It is expected that enhanced environment protection will bring benefits to citizens and businesses in the EU and in the Republic of Moldova, including through improved public health, preserved natural resources, increased economic and environmental efficiency, integration of the environment into other policy areas, as well as the use of modern, cleaner technologies contributing to more sustainable production patterns. Cooperation shall be conducted considering the interests of the Parties on the basis of equality and mutual benefit, as well as taking into account the interdependence existing between the Parties in the field of environment protection, and multilateral agreements in that field.

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ARTICLE 87

Cooperation shall aim at preserving, protecting, improving, and rehabilitating the quality of the environment, protecting human health, sustainable utilisation of natural resources and promoting measures at international level to deal with regional or global environmental problems, including in the areas of:

(a) environmental governance and horizontal issues, including Environmental Impact Assessment and Strategic Environmental Assessment, education and training, environmental liability, combating environmental crime, transboundary cooperation, access to environmental information, decision-making processes and effective administrative and judicial review procedures;

(b) air quality;

(c) water quality and resource management, including flood risk management, water scarcity and droughts;

(d) waste and resource management and shipment of waste;

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(e) nature protection, including conservation and protection of biological and landscape diversity;

(f) industrial pollution and industrial hazards;

(g) chemicals;

(h) noise pollution;

(i) soil protection;

(j) urban and rural environment;

(k) environmental fees and taxes;

(l) monitoring and environmental information systems;

(m) inspection and enforcement; and

(n) eco-innovation including best available technologies.

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ARTICLE 88

The Parties shall, *inter alia*:

(a) exchange information and expertise;

(b) implement joint research activities and exchange of information on cleaner technologies;

(c) plan the handling of industrial hazards and accidents;

(d) implement joint activities at regional and international level, including with regard to multilateral environment agreements ratified by the Parties, and joint activities in the framework of relevant agencies, as appropriate.

The Parties shall pay special attention to transboundary issues and regional cooperation.

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ARTICLE 89

The cooperation shall cover, *inter alia*, the following objectives:

(a) development of an overall strategy on the environment, covering planned institutional reforms (with timetables) for ensuring implementation and enforcement of environmental legislation; division of competence for the environmental administration at national, regional and municipal levels; procedures for decision making and the implementation of decisions; procedures for the promotion of the integration of the environment into other policy areas; promotion of green economy measures and eco-innovation, identification of the necessary human and financial resources and a review mechanism; and

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(b) development of sector strategies on air quality; water quality and resource management; waste and resource management; biodiversity and nature protection; industrial pollution and industrial hazards and chemicals, noise pollution, soil protection, urban and rural environment, eco-innovation including clearly defined timetables and milestones for implementation, administrative responsibilities, as well as financing strategies for investments for infrastructure and technology.

ARTICLE 90

A regular dialogue will take place on the issues covered by this Chapter.

ARTICLE 91

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XI to this Agreement according to the provisions of that Annex.

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CHAPTER 17

CLIMATE ACTION

ARTICLE 92

The Parties shall develop and strengthen their cooperation to combat climate change. Cooperation shall be conducted considering the interests of the Parties on the basis of equality and mutual benefit and taking into account the interdependence existing between bilateral and multilateral commitments in this field.

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ARTICLE 93

Cooperation shall promote measures at domestic, regional and international level, including in the areas of:

(a) mitigation of climate change;

(b) adaptation to climate change;

(c) carbon trading;

(d) research, development, demonstration, deployment and diffusion of safe and sustainable low-carbon and adaptation technologies;

(e) mainstreaming of climate considerations into sector policies; and

(f) awareness raising, education and training.

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ARTICLE 94

The Parties shall, *inter alia*:

(a) exchange information and expertise;

(b) implement joint research activities and exchanges of information on cleaner technologies;

(c) implement joint activities at regional and international level, including with regard to multilateral environment agreements ratified by the Parties, and joint activities in the framework of relevant agencies, as appropriate.

The Parties shall pay special attention to transboundary issues and regional cooperation.

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ARTICLE 95

The cooperation shall cover, among others, the development and implementation of:

(a) an overall climate strategy and action plan for the long-term mitigation of and adaptation to climate change;

(b) vulnerability and adaptation assessments;

(c) a National Strategy for Adaptation to Climate Change;

(d) a low-carbon development strategy;

(e) long-term measures to reduce emissions of greenhouse gases;

(f) measures to prepare for carbon trading;

(g) measures to promote technology transfer on the basis of a technology needs assessment;

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(h) measures to mainstream climate considerations into sector policies; and

(i) measures related to ozone-depleting substances.

ARTICLE 96

A regular dialogue will take place on the issues covered by this Chapter.

ARTICLE 97

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XII to this Agreement according to the provisions of that Annex.

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CHAPTER 18

INFORMATION SOCIETY

ARTICLE 98

The Parties shall strengthen cooperation on the development of the Information Society to benefit citizens and businesses through the widespread availability of Information and Communication Technology (ICT) and through better quality of services at affordable prices. That cooperation should aim at facilitating access to electronic communications markets, encouraging competition and investment in the sector, and promoting the development of public services online.

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ARTICLE 99

Cooperation may cover the following subjects:

(a) exchange of information and best practices on the implementation of national Information Society strategies, including, *inter alia*, initiatives aiming at promoting broadband access, improving network security and developing public services online;

(b) exchange of information, best practices and experience to promote the development of a comprehensive regulatory framework for electronic communications, and in particular to strengthen the administrative capacity of the national administration in Information and Communication Technologies, as well as of the independent regulator, to foster a better use of spectrum resources and to promote interoperability of networks in the Republic of Moldova and with the EU;

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(c) encouraging and promoting the implementation of ICT tools for a better governance, e-learning and research, public healthcare, digitisation of cultural heritage, development of e–content and electronic commerce; and

(d) enhancing the level of security of personal data and the protection of privacy in electronic communications.

ARTICLE 100

The Parties shall promote cooperation between EU regulators and the national regulatory authorities of the Republic of Moldova in the field of electronic communications. The Parties shall also consider cooperation in other relevant areas, including through regional initiatives.

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ARTICLE 101

A regular dialogue will take place on the issues covered by this Chapter.

ARTICLE 102

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XXVIII-B to this Agreement, according to the provisions of that Annex.

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CHAPTER 19

TOURISM

ARTICLE 103

The Parties shall cooperate in the field of tourism, with the aim of strengthening the development of a competitive and sustainable tourism industry as a generator of economic growth, empowerment, employment and foreign exchange.

ARTICLE 104

Cooperation at bilateral, regional and European level would be based on the following principles:

(a) respect for the integrity and interests of local communities, particularly in rural areas;

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(b) the importance of cultural heritage; and

(c) positive interaction between tourism and environmental preservation.

ARTICLE 105

Cooperation shall focus on the following topics:

(a) exchange of information, best practices, experience and "know-how" transfer, including on innovative technologies;

(b) establishment of a strategic partnership between public, private and community interests in order to ensure the sustainable development of tourism;

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(c) promotion and development of tourism products and markets, infrastructure, human resources and institutional structures as well as the identification and elimination of barriers to travel services;

(d) development and implementation of efficient policies and strategies including appropriate legal, administrative and financial aspects;

(e) tourism training and capacity building in order to improve service standards; and

(f) development and promotion of community-based tourism.

ARTICLE 106

A regular dialogue will take place on the issues covered by this Chapter.

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CHAPTER 20

REGIONAL DEVELOPMENT, CROSS-BORDER AND REGIONAL LEVEL COOPERATION

ARTICLE 107

1. The Parties shall promote mutual understanding and bilateral cooperation in the field of regional policy, including methods of formulation and implementation of regional policies, multi-level governance and partnership, with special emphasis on the development of disadvantaged areas and territorial cooperation, with the objective of establishing channels of communication and enhancing exchange of information and experience between national, regional and local authorities, socio-economic actors and civil society.

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2. In particular the Parties shall cooperate with a view to aligning the practice of the Republic of Moldova with the following principles:

(a) decentralisation of the decision-making process, from the central level to the level of regional communities;

(b) consolidation of the partnership between all the parties involved in regional development; and

(c) co-financing through the financial contribution of the Parties involved in the implementation of regional development programmes and projects.

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ARTICLE 108

1. The Parties shall support and strengthen the involvement of local and regional level authorities in cross-border and regional cooperation and the related management structures, enhance cooperation through the establishment of an enabling legislative framework, sustain and develop capacity building measures and promote the strengthening of cross-border and regional economic and business networks.

2. The Parties will cooperate to consolidate the institutional and operational capacities of national and regional institutions in the fields of regional development and land use planning by, *inter alia*:

(a) improving the mechanism of vertical and horizontal interaction of central and local public administration in the process of development and implementation of regional policies;

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(b) developing the capacity of local public authorities to promote cross-border cooperation in compliance with EU regulations and practices; and

(c) sharing knowledge, information and best practices on regional development policies to promote economic well-being for local communities and the uniform development of the regions.

ARTICLE 109

1. The Parties shall strengthen and encourage development of cross-border and regional elements of, *inter alia*, transport, energy, communication networks, culture, education, tourism, health and other areas covered by this Agreement which have a bearing on cross-border and regional cooperation.

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2. The Parties shall intensify cooperation between their regions in the form of transnational and cross-border programmes, encouraging the participation of regions of the Republic of Moldova in European regional structures and organisations and promoting their economic and institutional development by implementing projects of common interest.

Those activities will take place in the context of:

(a) continuing territorial cooperation with European regions, including through trans-national and cross-border cooperation programmes;

(b) cooperation within the framework of the Eastern Partnership, with EU bodies, including the Committee of the Regions, and participation in various European regional projects and initiatives; and

(c) cooperation with, *inter alia*, the European Economic and Social Committee, the European Association of Development Agencies (EURADA) and the European Spatial Planning Observation Network (ESPON).

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ARTICLE 110

1. The Parties shall intensify and ensure better coordination and cooperation between the countries and regions within the EU Strategy for the Danube Region, focusing, *inter alia*, on improving transport and energy connections, environment, economic and social development and security which will contribute to faster road and rail transportation, cheaper and more secure energy, a better environment with cleaner water, protected biodiversity, and more efficient cross-border flood prevention.

2. The Parties shall increase the cross-border cooperation aiming at restoring the navigation on Prut river which will lead to flood prevention in the basin of the river, improving the water quality and agricultural irrigation, intensifying economic activities, promoting tourism and cultural activities and contributing to capacity building.

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ARTICLE 111

The Parties shall facilitate the movement of citizens of the EU and of the Republic of Moldova who are called upon to cross the border on a frequent basis and over short distances.

ARTICLE 112

A regular dialogue will take place on the issues covered by this Chapter.

CHAPTER 21

PUBLIC HEALTH

ARTICLE 113

The Parties agree to develop their cooperation in the field of public health, with a view to raising the level of public health safety and protection of human health as a precondition for sustainable development and economic growth.

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ARTICLE 114

The cooperation shall cover, in particular, the following areas:

(a) strengthening of the public health system of the Republic of Moldova, in particular through implementing health sector reform, ensuring high-quality primary healthcare, and improving health governance and healthcare financing;

(b) epidemiological surveillance and control of communicable diseases, such as HIV/AIDS, viral hepatitis and tuberculosis, as well as increased preparedness for public health threats and emergencies;

(c) prevention and control of non-communicable diseases, mainly through exchange of information and best practices, promoting healthy lifestyles and addressing major health determinants, such as nutrition and addiction to alcohol, drugs and tobacco;

(d) quality and safety of substances of human origin;

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(e) health information and knowledge; and

(f) full and timely implementation of international health agreements, in particular the International Health Regulations and the World Health Organisation Framework Convention on Tobacco Control of 2003.

ARTICLE 115

The cooperation shall enable:

(a) the progressive integration of the Republic of Moldova into the EU's health related networks; and

(b) the progressive enhancement of interaction between the Republic of Moldova and the European Centre for Disease Prevention and Control.

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ARTICLE 116

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XIII to this Agreement according to the provisions of that Annex.

CHAPTER 22

CIVIL PROTECTION

ARTICLE 117

The Parties shall develop and strengthen their cooperation on natural and man-made disasters. Cooperation shall be conducted considering the interests of the Parties on the basis of equality and mutual benefit, as well as taking into account the interdependence existing between the Parties and multilateral activities in the field of civil protection.

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ARTICLE 118

Cooperation shall aim at improving the prevention of, preparation for and response to natural and man-made disasters.

ARTICLE 119

The Parties shall, *inter alia*, exchange information and expertise and implement joint activities at national, regional and international level. Cooperation shall include the implementation of specific agreements and administrative arrangements in this field, concluded between the Parties according to the respective powers and competences of the EU and its Member States and in accordance with the legal procedures of the Parties.

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ARTICLE 120

The cooperation shall cover, amongst others, the following objectives:

(a) facilitating mutual assistance in case of emergencies;

(b) exchanging on a 24-hour basis early warnings and updated information on large scale emergencies affecting the EU or the Republic of Moldova, including requests for and offers of assistance;

(c) assessment of the environmental impact of disasters;

(d) inviting experts to specific technical workshops and symposia on civil protection issues;

(e) inviting, on a case by case basis, observers to specific exercises and trainings organised by the EU and/or the Republic of Moldova; and

(f) strengthening cooperation on the most effective use of available civil protection capabilities.

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ARTICLE 121

A regular dialogue will take place on the issues covered by this Chapter.

CHAPTER 23

COOPERATION ON EDUCATION, TRAINING, MULTILINGUALISM, YOUTH AND SPORT

ARTICLE 122

The Parties shall cooperate to promote lifelong learning and encourage cooperation and transparency at all levels of education and training, with a special focus on higher education.

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ARTICLE 123

That cooperation shall focus, *inter alia*, on the following areas:

(a) promoting lifelong learning, which is a key to growth and jobs and can allow citizens to participate fully in society;

(b) modernising education and training systems, enhancing quality, relevance and access;

(c) promoting convergence in higher education, deriving from the Bologna process and the EU higher education modernisation agenda;

(d) reinforcing international academic cooperation and participation in EU cooperation programmes, increasing student and teacher mobility;

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(e) establishing a national qualification framework to improve the transparency and recognition of qualifications and competences; and

(f) promoting the aims set in the Copenhagen process on enhanced European cooperation in vocational education and training.

ARTICLE 124

The Parties shall promote cooperation and exchanges in areas of mutual interest, such as linguistic diversity and lifelong language learning, through an exchange of information and best practices.

ARTICLE 125

The Parties agree to cooperate in the field of youth to:

(a) reinforce cooperation and exchanges in the field of youth policy and non-formal education for young people and youth workers;

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(b) facilitate active participation of all young people in society;

(c) support young people and youth workers' mobility as a means to promote intercultural dialogue and the acquisition of knowledge, skills and competences outside the formal educational systems, including through volunteering; and

(d) promote cooperation between youth organisations to support civil society.

ARTICLE 126

The Parties shall promote cooperation in the field of sport and physical activity through the exchange of information and good practices in order to promote a healthy lifestyle, the social and educational values of sport and good governance in sport within the societies of the EU and the Republic of Moldova.

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CHAPTER 24

COOPERATION IN RESEARCH, TECHNOLOGICAL DEVELOPMENT AND DEMONSTRATION

ARTICLE 127

The Parties shall promote cooperation in all areas of civil scientific research and technological development and demonstration (RTD) on the basis of mutual benefit and subject to appropriate and effective protection of intellectual property rights.

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ARTICLE 128

Cooperation in RTD shall cover:

(a) policy dialogue and the exchange of scientific and technological information;

(b) facilitating adequate access to the respective programmes of the Parties;

(c) increasing research capacity and the participation of research entities of the Republic of Moldova in the research framework programmes of the EU;

(d) the promotion of joint projects for research in all areas of RTD;

(e) training activities and mobility programmes for scientists, researchers and other research staff engaged in RTD activities on both sides;

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(f) facilitating, within the framework of applicable legislation, the free movement of research workers participating in the activities covered by this Agreement and the cross-border movement of goods intended for use in such activities; and

(g) other forms of cooperation in RTD (including through regional approaches and initiatives), on the basis of the Parties' mutual agreement.

ARTICLE 129

In carrying out cooperation activities in RTD, synergies should be sought with activities funded by the Science and Technology Centre (STCU) and other activities carried out within the framework of financial cooperation between the EU and the Republic of Moldova.

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CHAPTER 25

COOPERATION ON CULTURE, AUDIO-VISUAL POLICY AND MEDIA

ARTICLE 130

The Parties will promote cultural cooperation in accordance with the principles enshrined in the United Nations Educational, Scientific and Cultural Organisation (UNESCO) Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 2005. The Parties will seek a regular policy dialogue in areas of mutual interest, including the development of cultural industries in the EU and the Republic of Moldova. Cooperation between the Parties will foster intercultural dialogue, including through the participation of the culture sector and civil society of the EU and of the Republic of Moldova.

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ARTICLE 131

1. The Parties shall develop a regular dialogue and cooperate to promote the audio-visual industry in Europe and encourage co-production in the fields of cinema and television.

2. Cooperation could include, *inter alia*, the issue of the training of journalists and other media professionals, as well as support to the media, so as to reinforce their independence, professionalism and links with EU media in compliance with European standards, including standards of the Council of Europe and the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

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ARTICLE 132

The Parties shall concentrate their cooperation on a number of fields:

(a) cultural cooperation and cultural exchanges, as well as the mobility of art and artists;

(b) intercultural dialogue;

(c) policy dialogue on cultural policy and audio-visual policy;

(d) cooperation in international fora such as UNESCO and the Council of Europe, in order to, *inter alia*, develop cultural diversity and preserve and valorise cultural and historical heritage; and

(e) cooperation in the field of media.

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ARTICLE 133

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XIV to this Agreement according to the provisions of that Annex.

CHAPTER 26

CIVIL SOCIETY COOPERATION

ARTICLE 134

The Parties shall establish a dialogue on civil society cooperation, with the following objectives:

(a) to strengthen contacts and the exchange of information and experience between all sectors of civil society in the EU and in the Republic of Moldova;

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(b) to ensure a better knowledge and understanding of the Republic of Moldova, including its history and culture, in the EU and in particular among civil society organisations based in the Member States, thus allowing for a better awareness of the opportunities and challenges for future relations; and

(c) to ensure, reciprocally, a better knowledge and understanding of the EU in the Republic of Moldova and in particular among civil society organisations of the Republic of Moldova, with a non-exclusive focus on the values on which the EU is founded, its policies and its functioning.

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ARTICLE 135

The Parties shall promote dialogue and cooperation between civil society stakeholders from both sides as an integral part of the relations between the EU and the Republic of Moldova. The aims of such a dialogue and such cooperation are:

(a) to ensure the involvement of civil society in EU-Republic of Moldova relations, in particular in the implementation of this Agreement;

(b) to enhance civil society participation in the public decision-making process, particularly by establishing an open, transparent and regular dialogue between the public institutions and representative associations and civil society;

(c) to facilitate a process of institution-building and consolidation of civil society organisations in various ways, including advocacy support, informal and formal networking, mutual visits and workshops, in particular with a view to improving the legal framework for civil society; and

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(d) to enable civil society representatives from each side to become acquainted with the processes of consultation and dialogue between civil and social partners on the other side, in particular with a view to further integrating civil society in the public policy-making process in the Republic of Moldova.

ARTICLE 136

A regular dialogue will take place between the Parties on the issues covered by this Chapter.

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CHAPTER 27

COOPERATION IN THE PROTECTION AND PROMOTION OF THE RIGHTS OF THE CHILD

ARTICLE 137

The Parties agree to cooperate in ensuring the promotion of the rights of the child according to international laws and standards, in particular the United Nations Convention on the Rights of the Child of 1989, taking into account the priorities identified in the specific context of the Republic of Moldova, in particular for vulnerable groups.

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ARTICLE 138

Such cooperation shall include, in particular:

(a) the prevention and combating of all forms of exploitation (including child labour), abuse, negligence and violence against children, including by developing and strengthening the legal and institutional framework as well as through awareness-raising campaigns in that domain;

(b) the improvement of the system of identification and assistance of children in vulnerable situations, including increased participation by children in decision-making processes and the implementation of efficient mechanisms to handle individual complaints made by children;

(c) exchange of information and best practices on the alleviation of poverty among children, including on measures to focus social policies on children's wellbeing, and to promote and facilitate children's access to education;

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(d) the implementation of measures aimed at promoting children's rights within the family and institutions, and strengthening the capacity of parents and carers in order to ensure child development; and

(e) accession to, ratification and implementation of the relevant international documents, including those developed within the United Nations, the Council of Europe and the Hague Conference on Private International Law, with the purpose of promoting and protecting of children's rights in line with the highest standards in the field.

ARTICLE 139

A regular dialogue will take place on the issues covered by this Chapter.

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CHAPTER 28

PARTICIPATION IN UNION AGENCIES AND PROGRAMMES

ARTICLE 140

The Republic of Moldova shall be allowed to participate in all agencies of the Union open to the participation of the Republic of Moldova in accordance with the relevant provisions establishing those agencies. The Republic of Moldova shall enter into separate agreements with the EU to enable its participation in each such agency, including the amount of financial contribution.

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ARTICLE 141

The Republic of Moldova shall be allowed to participate in all current and future programmes of the Union open to the participation of the Republic of Moldova in accordance with the relevant provisions establishing those programmes. The participation of the Republic of Moldova in the programmes of the Union shall be in accordance with the provisions laid down in Protocol I to this Agreement 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.

ARTICLE 142

The Parties will conduct a regular dialogue on the participation of the Republic of Moldova in Union programmes and agencies. In particular, the EU shall inform the Republic of Moldova in the case of establishment of new Union agencies and programmes, as well as regarding changes in terms of participation in Union programmes and agencies, referred to in Articles 140 and 141 of this Agreement.

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TITLE V

TRADE AND TRADE-RELATED MATTERS

CHAPTER 1

NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

SECTION 1

COMMON PROVISIONS

ARTICLE 143

Objective

The Parties shall progressively establish a free trade area over a transitional period of a maximum of ten years starting from the entry into force of this Agreement, in accordance with the provisions of this Agreement and in accordance with Article XXIV of the General Agreement on Tariffs and Trade 1994 (GATT 1994).

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ARTICLE 144

Scope and coverage

1. The provisions of this Chapter shall apply to trade in goods[1] between the Parties.

2. For the purposes of this Chapter, "originating" means qualifying under the rules of origin set out in Protocol II to this Agreement.

[1] For the purposes of this Agreement, "goods" means products as understood in GATT 1994 unless otherwise provided in this Agreement.

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SECTION 2

ELIMINATION OF CUSTOMS DUTIES, FEES AND OTHER CHARGES

ARTICLE 145

Definition of customs duties

For the purposes of this Chapter, a "customs duty" includes any duty or charge of any kind imposed on, or in connection with, the import or export of a good, including any form of surtax or surcharge imposed on, or in connection with, such import or export. A "customs duty" does not include any of the following:

(a) a charge equivalent to an internal tax imposed in accordance with Article 152 of this Agreement;

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(b) duties imposed in accordance with Chapter 2 (Trade Remedies) of Title V (Trade and Trade-related Matters) of this Agreement; or

(c) fees or other charges imposed in accordance with Article 151 of this Agreement.

ARTICLE 146

Classification of goods

The classification of goods in trade between the Parties shall be that set out in accordance with the Harmonised Commodity Description and Coding System of 1983 (HS) in the Republic of Moldova's tariff nomenclature based on HS 2007 and the Union's tariff nomenclature based on HS 2012 and in subsequent amendments to those nomenclatures.

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ARTICLE 147

Elimination of customs duties on imports

1. Each Party shall reduce or eliminate customs duties on goods originating in the other Party in accordance with Annex XV to this Agreement.

2. For each good the base rate of customs duties to which the successive reductions and eliminations are to be applied under paragraph 1 of this Article are specified in Annex XV to this Agreement.

3. If, at any moment following the date of entry into force of this Agreement, a Party reduces its applied most-favoured-nation (MFN) customs duty rate, such duty rate shall apply as base rate if and for as long as it is lower than the customs duty rate calculated in accordance with Annex XV to this Agreement.

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4. After the entry into force of this Agreement, the Parties may agree to consider accelerating and broadening the scope of the elimination of customs duties on trade between the Parties. A decision of the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, on the acceleration or elimination of a customs duty on a good shall supersede any duty rate or staging category determined pursuant to Annex XV to this Agreement.

5. During the third year after the entry into force of this Agreement, the Parties shall assess the situation, taking account of the pattern of trade in agricultural products between the Parties, the particular sensitivities of such products and the development of agricultural policy on both sides.

6. The Parties shall examine, in the Association Committee in Trade configuration, on an appropriate reciprocal basis, the opportunities for granting each other further concessions with a view to improving liberalisation of trade in agricultural products, in particular those subject to tariff-rate quotas (TRQs).

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ARTICLE 148

Anti-circumvention mechanism for agricultural products and processed agricultural products

1. The products listed in Annex XV-C to this Agreement are subject to the anti-circumvention mechanism. The average annual volume of imports from the Republic of Moldova into the Union for each category of those products is provided in Annex XV-C to this Agreement.

2. When the volume of imports of one or more categories of products referred to in paragraph 1 of this Article reaches 70 % of the volume indicated in Annex XV-C in any given year starting on 1 January, the Union shall notify the Republic of Moldova about the volume of imports of the product(s) concerned. Following that notification and within 14 calendar days from the date on which the volume of imports of one or more categories of products referred to in paragraph 1 of this Article reaches 80 % of the volume indicated in Annex XV-C to this Agreement, the Republic of Moldova shall provide the Union with a sound justification for the increase of imports. If those imports reach 100 % of the volume indicated in Annex XV-C to this Agreement, and in the absence of a sound justification by the Republic of Moldova, the Union may temporarily suspend the preferential treatment for the products concerned.

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The suspension shall be applicable for a period of six months and shall take effect on the date of publication of the decision to suspend preferential treatment in the *Official Journal of the European Union*.

3. All temporary suspensions adopted pursuant to paragraph 2 shall be notified by the Union to the Republic of Moldova without undue delay.

4. A temporary suspension may be lifted before the expiry of six months from its entry into force by the Union if the Republic of Moldova provides evidence within the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, that the volume of the relevant category of products imported in excess of the volume referred to in Annex XV-C to this Agreement results from a change in the level of production and export capacity of the Republic of Moldova for the product(s) concerned.

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5. Annex XV-C to this Agreement may be amended and the volume modified by mutual consent of the Union and the Republic of Moldova in the Association Committee in Trade configuration at the request of the Republic of Moldova, in order to reflect changes in the level of production and export capacity of the Republic of Moldova for the product(s) concerned.

ARTICLE 149

Standstill

Neither Party may increase any existing customs duty, or adopt any new customs duty, on a good originating in the other Party. That shall not preclude either Party from:

(a) raising a customs duty to the level established in Annex XV following a unilateral reduction; or

(b) maintaining or increasing a customs duty as authorized by the Dispute Settlement Body (DSB) of the WTO.

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ARTICLE 150

Customs duties on exports

Neither Party shall adopt or maintain any duty or tax, other than internal charges applied in accordance with Article 152 of this Agreement, on or in connection with the export of goods to the territory of the other Party.

ARTICLE 151

Fees and other charges

Each Party shall ensure, in accordance with Article VIII of GATT 1994 and the interpretative notes thereon, that all fees and charges of whatever character other than customs duties or other measures referred to in Article 147 of this Agreement, imposed on, or in connection with, the import or export of goods are limited in amount to the approximate cost of services rendered and do not represent an indirect protection of domestic goods or a taxation of imports or exports for fiscal purposes.

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SECTION 3

NON-TARIFF MEASURES

ARTICLE 152

National treatment

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including the interpretative notes thereon. To that end, Article III of GATT 1994 and the interpretative notes thereon are incorporated into this Agreement and made an integral part thereof.

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ARTICLE 153

Import and export restrictions

Neither Party shall adopt or maintain any prohibition or restriction on the import of any good of the other Party or on the export or sale for export of any good destined for the territory of the other Party, except as otherwise provided in this Agreement or in accordance with Article XI of GATT 1994 and the interpretative notes thereon. To that end, Article XI of GATT 1994 and the interpretative notes thereon are incorporated into this Agreement and made an integral part thereof.

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SECTION 4

SPECIFIC PROVISIONS RELATED TO GOODS

ARTICLE 154

General exceptions

1. Nothing in this Chapter shall be construed to prevent the adoption or enforcement by any Party of measures in accordance with Articles XX and XXI of GATT 1994 and any relevant interpretative notes to those Articles under GATT 1994, which are hereby incorporated into this Agreement and made an integral part thereof.

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2. The Parties understand that before taking any measures for which justification could be sought under subparagraphs (i) and (j) of Article XX of GATT 1994, the Party intending to take the measures shall provide the other Party with all relevant information and seek a solution acceptable to the Parties. If no agreement is reached within 30 days of providing such information, the Party may apply measures under this paragraph on the good concerned. Where exceptional and critical circumstances require immediate action and make prior information or examination impossible, the Party intending to take the measures may apply forthwith the precautionary measures necessary to deal with the situation and shall inform the other Party immediately thereof.

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SECTION 5

ADMINISTRATIVE COOPERATION AND COORDINATION WITH OTHER COUNTRIES

ARTICLE 155

Special provisions on administrative cooperation

1 The Parties agree that administrative cooperation and assistance are essential for the implementation and the control of the preferential treatment granted under this Chapter and underline their commitment to combat irregularities and fraud in customs and related matters.

2. Where a Party has made a finding, on the basis of objective information, of a failure of the other Party to provide administrative cooperation or assistance and/or of irregularities or fraud under this Chapter, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned in accordance with this Article and, in particular, the procedure provided for under paragraph 5.

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3. For the purposes of this Article, failure to provide administrative cooperation or assistance shall mean, *inter alia*:

(a) a repeated failure to respect the obligations to verify the originating status of the good(s) concerned;

(b) a repeated refusal or undue delay in carrying out and/or communicating the results of a subsequent verification of the proof of origin;

(c) repeated refusal or undue delay in obtaining authorisation to conduct enquiry visits to determine the authenticity of documents or accuracy of information relevant to the granting of the preferential treatment in question.

4. For the purposes of this Article a finding of irregularities or fraud may be made, *inter alia*, where there is a rapid increase, without satisfactory explanation, in the volume of imports of goods exceeding the usual level of production and export capacity of the other Party that is linked to objective information concerning irregularities or fraud.

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5. The application of a temporary suspension shall be subject to the following conditions:

(a) the Party which has made a finding, on the basis of objective information, of a failure to provide administrative cooperation or assistance and/or of irregularities or fraud shall, without undue delay, notify the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, of its finding together with the objective information and enter into consultations within that Committee, on the basis of all relevant information and objective findings, with a view to reaching a solution acceptable to both Parties;

(b) where the Parties have entered into consultations within the aforementioned Committee and have failed to agree on an acceptable solution within three months following the notification, the Party concerned may temporarily suspend the relevant preferential treatment of the good(s) concerned. A temporary suspension shall be notified to the Association Committee in Trade configuration without undue delay;

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(c) temporary suspensions under this Article shall be limited to what is necessary to protect the financial interests of the Party concerned. They shall not exceed a period of six months, which may be renewed if at the date of expiry nothing has changed with respect to the conditions that gave rise to the initial suspension. They shall be subject to periodic consultations within the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, in particular with a view to their termination as soon as the conditions for their application no longer apply.

6. Each Party shall publish all notices to importers concerning any notification referred to in paragraph 5(a), any decision referred to in paragraph 5(b), and any extension or termination as referred to in paragraph 5(c), according to its internal procedures.

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ARTICLE 156

Management of administrative errors

In case of an error by the competent authorities in the proper management of the preferential system at export, and in particular in the application of the provisions of Protocol II to this Agreement concerning the definition of originating products and methods of administrative cooperation, where that error leads to consequences in terms of import duties, the Party facing such consequences may request that the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, examines the possibility of adopting all appropriate measures with a view to resolving the situation.

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ARTICLE 157

Agreements with other countries

1. This Agreement shall not preclude the maintenance or establishment of customs unions, other free trade areas or arrangements for frontier traffic except in so far as they conflict with the trade arrangements provided for in this Agreement.

2. Consultations between the Parties shall take place within the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, concerning agreements establishing customs unions, other free trade areas or arrangements for frontier traffic and, where requested, on other major issues related to their respective trade policies with third countries. In particular, in the event of a third country acceding to the EU, such consultations shall take place so as to ensure that account is taken of the mutual interests of the Union and the Republic of Moldova as stated in this Agreement.

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CHAPTER 2

TRADE REMEDIES

SECTION 1

GLOBAL SAFEGUARD MEASURES

ARTICLE 158

General provisions

1. The Parties confirm their rights and obligations under Article XIX of GATT 1994 and the Agreement on Safeguards contained in Annex 1A to the Agreement Establishing the World Trade Organisation ("WTO Agreement") ("Agreement on Safeguards") and Article 5 of the Agreement on Agriculture, contained in Annex 1A to the WTO Agreement ("Agreement on Agriculture").

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2. The preferential rules of origin established under Chapter 1 (National Treatment and Market Access for Goods) of Title V (Trade and Trade-related Matters) of this Agreement shall not apply to this Section.

3. The provisions of this Section shall not be subject to Chapter 14 (Dispute Settlement) of Title V (Trade and Trade-related Matters) of this Agreement.

ARTICLE 159

Transparency

1. The Party initiating a safeguard investigation shall notify the other Party of such initiation, provided the latter has a substantial economic interest.

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2. Notwithstanding Article 158 of this Agreement, at the request of the other Party, the Party initiating a safeguard investigation and intending to apply safeguard measures shall provide immediately *ad hoc* written notification of all the pertinent information leading to the initiation of a safeguard investigation and the imposition of safeguard measures, including, where relevant, information on the initiation of a safeguard investigation, on the provisional findings and on the final findings of the investigation, as well as offer the possibility for consultations to the other Party.

3. For the purposes of this Article, a Party shall be considered as having a substantial economic interest when it is among the five largest suppliers of the imported product during the most recent three-year period, measured in terms of either absolute volume or value.

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ARTICLE 160

Application of measures

1. When imposing safeguard measures, the Parties shall endeavour to impose them in a way that affects their bilateral trade the least.

2. For the purposes of paragraph 1, if a Party considers that the legal requirements for the imposition of definitive safeguard measures are met and intends to apply such measures, that Party shall notify the other Party and give the latter the possibility to hold bilateral consultations. If no satisfactory solution has been reached within 30 days of the notification, the importing Party may take the appropriate measures to remedy the problem.

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SECTION 2

ANTI-DUMPING AND COUNTERVAILING MEASURES

ARTICLE 161

General provisions

1. The Parties confirm their rights and obligations under Article VI of GATT 1994, the Agreement on Implementation of Article VI of GATT 1994, contained in Annex 1A to the WTO Agreement ("Anti-Dumping Agreement"), and the Agreement on Subsidies and Countervailing Measures, contained in Annex 1A to the WTO Agreement ("SCM Agreement").

2. The preferential rules of origin established under Chapter 1 (National Treatment and Market Access for Goods) of Title V (Trade and Trade-related Matters) of this Agreement shall not apply to this Section.

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3. The provisions of this Section shall not be subject to Chapter 14 (Dispute Settlement) of Title V (Trade and Trade-related Matters) of this Agreement.

ARTICLE 162

Transparency

1. The Parties agree that antidumping and countervailing measures should be used in full compliance with the requirements of the Anti-Dumping Agreement and the SCM Agreement, respectively, and should be based on a fair and transparent system.

2. The Parties shall ensure, immediately after the imposition of provisional measures and before the final determination is made, full and meaningful disclosure of all essential facts and considerations which form the basis for the decision to apply measures, without prejudice to Article 6(5) of the Anti-Dumping Agreement and Article 12(4) of the SCM Agreement. Disclosures shall be made in writing and allow interested parties sufficient time to make their comments.

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3. Provided it does not unnecessarily delay the conduct of the investigation, each interested party shall be granted the possibility to be heard in order to express its views during anti-dumping and anti-subsidy investigations.

ARTICLE 163

Consideration of public interest

Anti-dumping or countervailing measures may not be applied by a Party where, on the basis of the information made available during the investigation, it can clearly be concluded that it is not in the public interest to apply such measures. The public interest determination shall be based on an appreciation of all the various interests taken as a whole, including the interests of the domestic industry, users, consumers and importers to the extent that they have provided relevant information to the investigating authorities.

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ARTICLE 164

Lesser duty rule

Should a Party decide to impose a provisional or a definitive anti-dumping or countervailing duty, the amount of such duty shall not exceed the margin of dumping or the total amount of countervailable subsidies, but it should be less than the margin of dumping or the total amount of countervailable subsidies if such a lesser duty would be adequate to remove the injury to the domestic industry.

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SECTION 3

BILATERAL SAFEGUARD MEASURES

ARTICLE 165

Application of a bilateral safeguard measure

1. If, as a result of the reduction or elimination of a customs duty under this Agreement, goods originating in a Party are being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry producing like or directly competitive goods, the importing Party may adopt the measures provided for in paragraph 2 in accordance with the conditions and procedures laid down in this Section.

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2. The importing Party may take a bilateral safeguard measure which:

(a) suspends further reduction of the rate of customs duty on the good concerned provided for under this Agreement; or

(b) increases the rate of customs duty on the good to a level which does not exceed the lesser of:

(i) the MFN applied rate of customs duty on the good in effect at the time the measure is taken; or

(ii) the base rate of customs duty specified in the Schedules included in Annex XV pursuant to Article 147 of this Agreement.

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ARTICLE 166

Conditions and limitations

1. A Party shall notify the other Party in writing of the initiation of an investigation described in paragraph 2 and consult with the other Party, as far in advance of applying a bilateral safeguard measure as practicable, with a view to reviewing the information arising from the investigation and exchanging views on the measure.

2. A Party shall apply a bilateral safeguard measure only following an investigation by its competent authorities in accordance with Articles 3 and 4.2(c) of the Agreement on Safeguards. To that end, Articles 3 and 4.2(c) of the Agreement on Safeguards are incorporated into this Agreement and made part thereof, *mutatis mutandis*.

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3. When conducting the investigation described in paragraph 2 of this Article, the Party shall comply with the requirements of Article 4.2(a) of the Agreement on Safeguards. To that end, Article 4.2(a) of the Agreement on Safeguards is incorporated into this Agreement and made part thereof, *mutatis mutandis*.

4. Each Party shall ensure that its competent authorities complete any investigation described in paragraph 2 within one year of the date of its initiation.

5. Neither Party may apply a bilateral safeguard measure:

(a) except to the extent, and for such time, as may be necessary to prevent or remedy serious injury and to facilitate the adjustment of the domestic industry;

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(b) for a period exceeding two years. However, that period may be extended by up to two years if the competent authorities of the importing Party determine, in accordance with the procedures specified in this Article, that the measure continues to be necessary to prevent or remedy serious injury and to facilitate the adjustment of the domestic industry and that there is evidence that the industry is adjusting, provided that the total period of application of a safeguard measure, including the period of initial application and any extension thereof, shall not exceed four years;

(c) beyond the expiration of the transitional period; or

(d) with respect to the same product, at the same time as a measure under Article XIX of GATT 1994 and the Agreement on Safeguards is applied.

6. When a Party terminates a bilateral safeguard measure, the rate of customs duty shall be the rate that, according to its Schedule included in Annex XV to this Agreement, would have been in effect but for the measure.

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ARTICLE 167

Provisional measures

In critical circumstances where delay would cause damage that would be difficult to repair, a Party may apply a bilateral safeguard measure on a provisional basis pursuant to a preliminary determination that there is clear evidence that the imports of a good originating in the other Party have increased as the result of the reduction or elimination of a customs duty under this Agreement, and such imports cause serious injury, or a threat thereof, to the domestic industry. The duration of any provisional measure shall not exceed 200 days, during which time the Party shall comply with the requirements of Articles 166(2) and 166(3) of this Agreement. The Party shall promptly refund any duty paid in excess of the customs duty set out in Annex XV to this Agreement if the investigation described in Article 166(2) of this Agreement does not result in a finding that the requirements of Article 165 of this Agreement have been met. The duration of any provisional measure shall be counted as part of the period prescribed in Article 166(5)(b) of this Agreement.

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ARTICLE 168

Compensation

1. A Party applying a bilateral safeguard measure shall consult with the other Party in order to arrive at a mutually agreed appropriate trade-liberalising compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the safeguard measure. The Party shall provide an opportunity for such consultations no later than 30 days after the application of the bilateral safeguard measure.

2. If the consultations under paragraph 1 do not result in an agreement on trade-liberalising compensation within 30 days after the consultations begin, the Party whose goods are subject to the safeguard measure may suspend the application of substantially equivalent concessions to the Party applying the safeguard measure.

3. The right of suspension referred to in paragraph 2 shall not be exercised for the first 24 months during which a bilateral safeguard measure is in effect, provided that the safeguard measure conforms to the provisions of this Agreement.

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ARTICLE 169

Definitions

For the purposes of this Section:

(a) "serious injury" and "threat of serious injury" shall be understood in accordance with Article 4.1(a) and (b) of the Agreement on Safeguards. To that end, Article 4.1(a) and (b) of the Agreement on Safeguards is incorporated into this Agreement and made part thereof, *mutatis mutandis*; and

(b) transitional period means a period of ten years from the date of entry into force of this Agreement.

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CHAPTER 3

TECHNICAL BARRIERS TO TRADE, STANDARDISATION, METROLOGY, ACCREDITATION AND CONFORMITY ASSESSMENT

ARTICLE 170

Scope and definitions

1. This Chapter applies to the preparation, adoption and application of standards, technical regulations, and conformity assessment procedures as defined in the Agreement on Technical Barriers to Trade, contained in Annex 1A to the WTO Agreement ("TBT Agreement"), that may affect trade in goods between the Parties.

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2. Notwithstanding paragraph 1 of this Article, this Chapter does not apply to sanitary and phytosanitary measures as defined in Annex A to the Agreement on the Application of Sanitary and Phytosanitary Measures, contained in Annex 1A to the WTO Agreement ("SPS Agreement"), nor to purchasing specifications prepared by public authorities for their own production or consumption requirements.

3. For the purposes of this Chapter, the definitions of Annex 1 to the TBT Agreement shall apply.

ARTICLE 171

Affirmation of the TBT Agreement

The Parties affirm their existing rights and obligations with respect to each other under the TBT Agreement which is hereby incorporated into this Agreement and made part thereof.

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ARTICLE 172

Technical cooperation

1. The Parties shall strengthen their cooperation in the field of standards, technical regulations, metrology, market surveillance, accreditation and conformity assessment systems with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets. To that end, they may establish regulatory dialogues at both horizontal and sectoral levels.

2. In their cooperation, the Parties shall seek to identify, develop and promote trade facilitating initiatives which may include, but are not limited to:

(a) reinforcing regulatory cooperation through the exchange of data and experience and through scientific and technical cooperation, with a view to improving the quality of their technical regulations, standards, market surveillance, conformity assessment and accreditation, and making efficient use of regulatory resources;

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(b) promoting and encouraging cooperation between their respective organisations, public or private, responsible for metrology, standardisation, market surveillance, conformity assessment and accreditation;

(c) fostering the development of the quality infrastructure for standardisation, metrology, accreditation, conformity assessment and the market surveillance system in the Republic of Moldova;

(d) promoting the participation of the Republic of Moldova in the work of related European organisations;

(e) seeking solutions to technical barriers to trade that may arise; and

(f) coordinating their positions in international trade and regulatory organisations such as the WTO and the United Nations Economic Commission for Europe (UNECE).

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ARTICLE 173

Approximation of technical regulations, standards, and conformity assessment

1. The Republic of Moldova shall take the necessary measures in order to gradually achieve conformity with the Union's technical regulations, standards, metrology, accreditation, conformity assessment, corresponding systems and market surveillance system, and undertakes to follow the principles and the practice laid down in the relevant Union *acquis*.

2. With a view to reaching the objectives set out in paragraph 1, the Republic of Moldova shall:

(a) progressively incorporate the relevant Union *acquis* into its legislation in accordance with the provisions of Annex XVI to this Agreement; and

(b) carry out the administrative and institutional reforms that are necessary to provide the effective and transparent system that is required for the implementation of this Chapter.

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3. The Republic of Moldova shall refrain from amending its horizontal and sectoral legislation, except for aligning such legislation progressively with the corresponding Union *acquis* and for maintaining such alignment, and it shall notify the Union of changes to its domestic legislation.

4. The Republic of Moldova shall ensure the participation of its relevant national bodies in European and international organisations for standardisation, legal and fundamental metrology, and conformity assessment, including accreditation, in accordance with the respective areas of activity of those bodies and the membership status available to them.

5. With a view to integrating its standardisation system, the Republic of Moldova shall:

(a) progressively transpose the corpus of European Standards (EN) as national standards, including the harmonised European standards, the voluntary use of which shall give a presumption of conformity with Union legislation transposed into the legislation of the Republic of Moldova;

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(b) simultaneously with such transposition, withdraw conflicting national standards; and

(c) progressively fulfil the conditions for full membership of the European Standards Organisations.

6. After the entry into force of this Agreement, the Republic of Moldova shall provide the Union with reports on the measures taken in accordance with Annex XVI to this Agreement once a year. Where actions listed in Annex XVI to this Agreement have not been executed by the time set therein, the Republic of Moldova shall indicate a new schedule for the completion of such actions. Annex XVI to this Agreement may be adapted by the Parties.

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ARTICLE 174

Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA)

1. The Parties shall ultimately agree to add an Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA) as a Protocol to this Agreement, covering sectors from the list in Annex XVI to this Agreement that are considered to be aligned after they have been agreed upon, following verification by the Union, that the relevant sectoral and horizontal legislation, institutions and standards of the Republic of Moldova have been fully aligned with those of the Union. It is intended to ultimately extend the ACAA to cover all the sectors listed in Annex XVI to this Agreement.

2. The ACAA will provide that trade between the Parties in products in the sectors that it covers shall take place under the same conditions as those applying to trade in such products between the Member States.

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ARTICLE 175

Marking and labelling

1. Without prejudice to Articles 173 and 174 of this Agreement, and with respect to technical regulations relating to labelling or marking requirements, the Parties reaffirm the principles of Chapter 2.2 of the TBT Agreement that such requirements are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For that purpose, such labelling or marking requirements shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks that non-fulfilment would create.

2. Regarding obligatory marking or labelling in particular, the Parties agree that:

(a) they will endeavour to minimise their needs for marking or labelling, except as required for the adoption of the Union *acquis* in this area and for the protection of health, safety or the environment, or for other reasonable public policy purposes; and

(b) they retain the right to require the information on the label or marking to be in a specified language.

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CHAPTER 4

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 176

Objective

1. The objective of this Chapter is to facilitate trade in commodities covered by sanitary and phytosanitary measures (SPS measures) between the Parties, whilst safeguarding human, animal or plant life or health, by:

(a) ensuring full transparency as regards measures applicable to trade, listed in Annex XVII to this Agreement;

(b) approximating the regulatory system of the Republic of Moldova to that of the Union;

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(c) recognising the animal and plant health status of the Parties and applying the principle of regionalisation;

(d) establishing a mechanism for the recognition of equivalence of measures, maintained by a Party and listed in Annex XVII to this Agreement;

(e) continuing to implement the SPS Agreement;

(f) establishing mechanisms and procedures for trade facilitation; and

(g) improving communication and cooperation between the Parties on measures listed in Annex XVII to this Agreement.

2. This Chapter aims at reaching a common understanding between the Parties concerning animal welfare standards.

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ARTICLE 177

Multilateral obligations

The Parties re-affirm their rights and obligations under the WTO Agreements, and in particular the SPS Agreement.

ARTICLE 178

Scope

This Chapter shall apply to all sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect trade between the Parties, including all measures listed in Annex XVII to this Agreement.

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ARTICLE 179

Definitions

For the purposes of this Chapter, the following definitions shall apply:

(1) "sanitary and phytosanitary measures" (SPS measures) means measures, as defined in paragraph 1 of Annex A to the SPS Agreement;

(2) "animals" means animals, as defined in the Terrestrial Animal Health Code or the Aquatic Animal Health Code of the World Organisation for Animal Health (OIE);

(3) "animal products" means products of animal origin, including aquatic animal products, as defined in the Aquatic Animal Health Code of the OIE;

(4) "animal by-products not intended for human consumption" means animal products as listed in Part 2 (II) of Annex XVII-A to this Agreement;

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(5) "plants" means living plants and specified living parts thereof, including seeds:

(a) fruit, in the botanical sense, other than those preserved by deep freezing;

(b) vegetables, other than those preserved by deep freezing;

(c) tubers, corms, bulbs, rhizomes;

(d) cut flowers;

(e) branches with foliage;

(f) cut trees retaining foliage;

(g) plant tissue cultures;

(h) leaves, foliage;

(i) live pollen; and

(j) bud-wood, cuttings, scions;

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(6) "plant products" means products of plant origin, unprocessed or having undergone simple preparation insofar as they are not plants, set out in Part 3 of Annex XVII-A to this Agreement;

(7) "seeds" means seeds in the botanical sense, intended for planting;

(8) "pests" or "harmful organisms" means any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products;

(9) "protected zone" for a specified regulated harmful organism means an officially defined geographical area in the Union in which that organism is not established in spite of favourable conditions and its presence in other parts of the Union;

(10) "animal disease" means a clinical or pathological manifestation in animals of an infection;

(11) "aquaculture disease" means clinical or non-clinical infection with one or more of the aetiological agents of the diseases referred to in the Aquatic Animal Health Code of the OIE;

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(12) "infection in animals" means the situation where animals maintain an infectious agent with or without the presence of clinical or pathological manifestation of an infection;

(13) "animal welfare standards" means standards for the protection of animals, developed and applied by the Parties and, as appropriate, in line with the OIE standards;

(14) "appropriate level" of sanitary and phytosanitary protection means the appropriate level of sanitary and phytosanitary protection as defined in paragraph 5 of Annex A to the SPS Agreement;

(15) "region" means, with regard to animal health, a zone or a region as defined in the Terrestrial Animal Health Code of the OIE and, with regard, to aquaculture a zone as defined in the Aquatic Animal Health Code of the OIE. For the Union the term "territory" or "country" means the territory of the Union;

(16) "pest free area" (PFA) means an area in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, that condition is being officially maintained;

(17) "regionalisation" means the concept of regionalisation as described in Article 6 of the SPS Agreement;

(18) "consignment" means a number of live animals or quantity of animal products of the same type, covered by the same certificate or document, conveyed by the same means of transport, consigned by a single consignor and originating in the same exporting Party or region(s) of the Party. A consignment of animals may be composed of one or more lots. A consignment of animal products may be composed of one or more commodities or lots;

(19) "consignment of plants or plant products" means a quantity of plants, plant products and/or other objects being moved from a Party to another Party and covered, when required, by a single phytosanitary certificate. A consignment may be composed of one or more commodities or lots;

(20) "lot" means a number or units of a single commodity, identifiable by its homogeneity of composition and origin, and forming part of a consignment;

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(21) "equivalence for trade purposes" (equivalence) means the situation where the importing Party shall accept the measures listed in Annex XVII to this Agreement of the exporting Party as equivalent, even if those measures differ from its own, if the exporting party objectively demonstrates to the importing Party that its measures achieve the importing Party's appropriate level of sanitary and phytosanitary protection or acceptable level of risk;

(22) "sector" means the production and trade structure for a product or category of products in a Party;

(23) "sub-sector" means a well-defined and controlled part of a sector;

(24) "commodity" means the products or objects being moved for trade purpose, including those referred to in points 2 to 7;

(25) "specific import authorisation" means a formal prior authorisation by the competent authorities of the importing Party addressed to an individual importer as a condition for import of a single consignment or multiple consignments of a commodity from the exporting Party, within the scope of this Chapter;

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(26) "working days" means week days except Sunday, Saturday and public holidays in one of the Parties;

(27) "inspection" means the examination of any aspect of feed, food, animal health and animal welfare in order to verify that such aspect(s) comply with the legal requirements of feed and food law and animal health and animal welfare rules;

(28) "plant health inspection" means official visual examination of plants, plant products or other regulated objects to determine if pests are present and/or to determine compliance with phytosanitary regulations;

(29) "verification" means checking, by examination and consideration of objective evidence, whether specified requirements have been fulfilled.

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ARTICLE 180

Competent authorities

The Parties shall inform each other about the structure, organisation and division of competences of their competent authorities during the first meeting of the Sanitary and Phytosanitary Sub-Committee (SPS Sub-Committee) referred to in Article 191 of this Agreement. The Parties shall inform each other of any change of the structure, organisation and division of competences, including of the contact points, concerning such competent authorities.

ARTICLE 181

Gradual approximation

1. The Republic of Moldova shall gradually approximate its sanitary and phytosanitary and animal welfare law to that of the Union as set out in Annex XXIV to this Agreement.

2. The Parties shall cooperate on gradual approximation and capacity-building.

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3. The SPS Sub-Committee shall regularly monitor the implementation of the approximation process set out in Annex XXIV to this Agreement in order to provide necessary recommendations on approximation.

4. No later than three months after the entry into force of this Agreement, the Republic of Moldova shall submit a list of the EU sanitary and phytosanitary, animal welfare and other legislative measures which the Republic of Moldova will approximate. The list shall be divided into priority areas that relate to the measures, defined in Annex XVII to this Agreement, specifying the commodity or the group of commodities covered by the approximated measures. That approximation list shall serve as a reference document for the implementation of this Chapter.

5. The approximation list and the principles for the evaluation of the progress in the approximation process will be added to Annex XXIV to this Agreement and will be based on the technical and financial resources of the Republic of Moldova.

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ARTICLE 182

Recognition for trade purposes of animal health and pest status and regional conditions

Recognition of status for animal diseases, infections in animals or pests

1. As regards animal diseases and infections in animals (including zoonosis), the following shall apply:

(a) the importing Party shall recognise for trade purposes the animal health status of the exporting Party or its regions determined in accordance with the procedure set out in Annex XIX Part A to this Agreement, with respect to animal diseases specified in Annex XVIII-A to this Agreement;

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(b) where a Party considers that it has, for its territory or a region within its territory, a special status with respect to a specific animal disease other than a disease listed in in Annex XVIII-A to this Agreement, it may request recognition of that status in accordance with the procedure laid down in Annex XIX Part C to this Agreement. The importing Party may request guarantees in respect of imports of live animals and animal products, which are appropriate to the agreed status of the Parties;

(c) the Parties recognise as the basis for trade between them the status of the territories or the regions, or the status in a sector or a sub-sector of the Parties related to the prevalence or the incidence of an animal disease other than a disease listed in Annex XVIII-A to this Agreement, or related to infections in animals and/or the associated risk, as appropriate, as determined by the OIE. The importing Party may request guarantees in respect of imports of live animals and animal products, which are appropriate to the defined status in accordance with the recommendations of the OIE; and

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(d) without prejudice to Articles 184, 186 and 190 of this Agreement, and unless the importing Party raises an explicit objection and requests supporting or additional information, consultations and/or verification, each Party shall take without undue delay the necessary legislative and administrative measures to allow trade on the basis of points (a), (b) and (c) of this paragraph.

2. As regards pests, the following shall apply:

(a) the Parties recognise for trade purposes the pest status in respect of pests specified in Annex XVIII-B to this Agreement as determined in Annex XIX-B to this Agreement; and

(b) without prejudice to Articles 184, 186 and 190 of this Agreement, and unless the importing Party raises an explicit objection and requests supporting or additional information, consultations and/or verification, each Party shall take without undue delay the necessary legislative and administrative measures to allow trade on the basis of point (a) of this paragraph.

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Recognition of regionalisation/zoning, pest free areas (PFAs) and protected zones (PZs)

3. The Parties recognise the concept of regionalisation and PFAs, as specified in the International Plant Protection Convention (IPPC) of 1997 and the International Standards for Phytosanitary Measures (ISPMs) of the Food and Agriculture Organisation of the United Nations (FAO), and of protected zones, as defined in Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community, which they agree to apply to trade between them.

4. The Parties agree that regionalisation decisions for animal and fish diseases listed in Annex XVIII-A to this Agreement and for pests listed in Annex XVIII-B to this Agreement shall be taken in accordance with the provisions of Annex XIX Part A and B to this Agreement.

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5. As regards animal diseases in accordance with the provisions of Article 184 of this Agreement, the exporting Party seeking recognition of its regionalisation decision by the importing Party shall notify its measures with full explanations and supporting data for its determinations and decisions. Without prejudice to Article 185 of this Agreement, and unless the importing Party raises an explicit objection and requests additional information, consultations and/or verification within 15 working days following receipt of the notification, the regionalisation decision so notified shall be deemed accepted.

The consultations referred to in the first subparagraph of this paragraph shall take place in accordance with Article 185(3) of this Agreement. The importing Party shall assess the additional information within 15 working days following receipt of the additional information. The verification referred to in the first subparagraph of this paragraph shall be carried out in accordance with Article 188 of this Agreement within 25 working days following receipt of the request for verification.

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6. As regards pests, each Party shall ensure that trade in plants, plant products and other objects takes account, as appropriate, of the pest status in an area recognised as a protected zone or as a PFA by the other Party. A Party seeking recognition of its PFA by the other Party shall notify its measures and, upon request, provide full explanation and supporting data for its establishment and maintenance, as guided by the FAO or IPPC, including ISPMs. Without prejudice to Article 190 of this Agreement, and unless a Party raises an explicit objection and requests additional information, consultations and/or verification within three months following the notification, the regionalisation decision for PFA so notified shall be deemed accepted.

The consultations referred to in the first subparagraph of this paragraph shall take place in accordance with Article 185(3) of this Agreement. The importing Party shall assess the additional information within three months following receipt of the additional information. The verification referred to in the first subparagraph of this paragraph shall be carried out in accordance with Article 188 of this Agreement within 12 months following receipt of the request for verification, taking into account the biology of the pest and the crop concerned.

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7. After finalisation of the procedures referred to in paragraphs 4 to 6 of this Article, and without prejudice to Article 190 of this Agreement, each Party shall take, without undue delay, the necessary legislative and administrative measures to allow trade on that basis.

Compartmentalisation

8. The Parties commit to engaging in further discussions with a view to implementing the principle of compartmentalisation.

ARTICLE 183

Recognition of equivalence

1. Equivalence may be recognised in relation to:

(a) an individual measure;

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(b) a group of measures; or

(c) a system applicable to a sector, sub-sector, commodities or a group of commodities.

2. With regard to recognition of equivalence, the Parties shall follow the process set out in paragraph 3. That process shall include an objective demonstration of equivalence by the exporting Party and an objective assessment of the request by the importing Party. That assessment may include inspections or verifications.

3. Upon request of the exporting Party concerning recognition of equivalence as set out in paragraph 1 of this Article, the Parties shall without delay and no later than three months following the receipt of such request by the importing Party, initiate the consultation process which includes the steps set out in Annex XXI to this Agreement. In case of multiple requests from the exporting Party, the Parties, upon request of the importing Party, shall agree within the SPS Sub-Committee referred to in Article 191 of this Agreement on a time schedule during which they shall initiate and conduct the process referred to in this paragraph.

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4. The Republic of Moldova shall notify the Union as soon as approximation is achieved as a result of the monitoring provided for in Article 181(3) of this Agreement. That notification shall be considered to be a request of the Republic of Moldova to initiate the process for recognition of equivalence of the measures concerned, as set out in paragraph 3 of this Article.

5. Unless otherwise agreed, the importing Party shall finalise the process for recognition of equivalence referred to in paragraph 3 of this Article within 12 months after the receipt of the request of the exporting Party, including a dossier demonstrating the equivalence. That time-limit may be extended with regard to seasonal crops when it is justifiable to delay the assessment to permit verification during a suitable period of growth of a crop.

6. The importing Party determines equivalence as regards plants, plant products and other objects in accordance with the relevant ISPMs.

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7. The importing Party may withdraw or suspend equivalence on the basis of any amendment by one of the Parties of measures affecting equivalence, provided that the following procedure is followed:

(a) in accordance with the provisions of Article 184(2) of this Agreement, the exporting Party shall inform the importing Party of any proposal for amendment of its measures for which equivalence of measures is recognised and the likely effect of the proposed measures on the equivalence which has been recognised. Within one month following the receipt of that information, the importing Party shall inform the exporting Party whether or not equivalence would continue to be recognised on the basis of the proposed measures;

(b) in accordance with the provisions of Article 184(2) of this Agreement, the importing Party shall inform the exporting Party of any proposal for amendment of its measures on which recognition of equivalence has been based and the likely effect of the proposed measures on the equivalence which has been recognised. Should the importing Party not continue to recognise equivalence, the Parties may agree on the conditions to re-initiate the process referred to in paragraph 3 of this Article on the basis of the proposed measures.

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8. The recognition, suspension or withdrawal of equivalence rests solely with the importing Party acting in accordance with its administrative and legislative framework. That Party shall provide to the exporting Party, in writing, a full explanation and supporting data used for the determinations and decisions covered by this Article. In case of non-recognition, suspension or withdrawal of equivalence, the importing Party shall indicate to the exporting Party the required conditions on the basis of which the process referred to in paragraph 3 may be reinitiated.

9. Without prejudice to Article 190 of this Agreement, the importing Party may not withdraw or suspend equivalence before the proposed new measures of either Party enter into force.

10. In case equivalence is formally recognised by the importing Party, on the basis of the consultation process as set out in Annex XXI to this Agreement, the SPS Sub-Committee shall, in accordance with the procedure set out in Article 191(5) of this Agreement, endorse the recognition of equivalence in trade between the Parties. That endorsement decision may also provide for the reduction of physical checks at the frontiers, simplification of certificates and pre-listing procedures for the establishments, as applicable.

The status of the equivalence shall be listed in Annex XXV to this Agreement.

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ARTICLE 184

Transparency and exchange of information

1. Without prejudice to Article 185 of this Agreement, the Parties shall cooperate to enhance mutual understanding of the other Party's official control structure and mechanisms tasked with the application of the measures listed in Annex XVII to this Agreement and of the effectiveness of such a structure and mechanism. That can be achieved, amongst others, through reports of international audits when they are made public by the Parties. The Parties can exchange information on the results of such audits or other information, as appropriate.

2. In the framework of approximation of legislation as referred to in Article 181 of this Agreement or of recognition of equivalence as referred to in Article 183 of this Agreement, the Parties shall keep each other informed of legislative and procedural changes adopted in the concerned areas.

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3. In that context, the Union shall inform the Republic of Moldova well in advance of changes to Union legislation to allow the Republic of Moldova to consider modification of its legislation accordingly.

The necessary level of cooperation should be reached in order to facilitate transmission of legislative documents upon request of one of the Parties.

To that effect, each Party shall notify, without delay, the other Party of its contact points, including any changes to those contact points.

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ARTICLE 185

Notification, consultation and facilitation of communication

1. Each Party shall notify the other Party in writing within two working days of any serious or significant human, animal or plant health risk, including any food control emergencies or situations where there is a clearly identified risk of serious health effects associated with the consumption of animal or plant products, in particular:

(a) any measures affecting the regionalisation decisions referred to in Article 182 of this Agreement;

(b) the presence or evolution of any animal disease listed in Annex XVIII-A to this Agreement or of the regulated pests listed in Annex XVIII-B to this Agreement;

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(c) findings of epidemiological importance or important associated risks with respect to animal diseases and pests which are not listed in Annexes XVIII-A and XVIII-B to this Agreement or which are new animal diseases or pests; and

(d) any additional measures beyond the basic requirements to their respective measures taken by the Parties to control or eradicate animal diseases or pests or protect public or plant health and any changes in prophylactic policies, including vaccination policies.

2. Notifications shall be made in writing to the contact points referred to in Article 184(3) of this Agreement.

Notification in writing means notification by mail, fax or e-mail. Notifications shall only be sent between the contact points referred to in Article 184(3) of this Agreement.

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3. Where a Party has serious concerns regarding a risk to human, animal or plant health, consultations regarding the situation shall, upon request of that Party, take place as soon as possible and, in any case, within 15 working days of that request. In such situations, each Party shall endeavour to provide all the information necessary to avoid a disruption in trade, and to reach a mutually acceptable solution consistent with the protection of human, animal or plant health.

4. Upon request of a Party, consultations regarding animal welfare shall take place as soon as possible and, in any case, within 20 working days from the date of notification. In such situations, each Party shall endeavour to provide all the requested information.

5. Upon request of a Party, consultations as referred to in paragraphs 3 and 4 of this Article shall be held by video or audio conference. The requesting Party shall ensure the preparation of the minutes of the consultation, which shall be formally approved by the Parties. For the purposes of that approval, the provisions of Article 184(3) of this Agreement shall apply.

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6. The Republic of Moldova will develop and implement a national Rapid Alert System for Food and Feed (NRASFF) and National Early Warning Mechanism (NEWM) compatible with those of the EU. After the Republic of Moldova implements the necessary legislation in this field and creates conditions for the proper functioning of the NRASFF and the NEWM on the spot, and within an appropriate period of time to be agreed between the Parties, the NRASFF and the NEWM will be connected to the corresponding EU systems.

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ARTICLE 186

Trade conditions

1. General import conditions:

(a) The Parties agree to subject imports of any commodity covered by Annexes XVII-A and XVII-C(2) and (3) to this Agreement to general import conditions. Without prejudice to the decisions taken in accordance with Article 182 of this Agreement, the import conditions of the importing Party shall be applicable to the total territory of the exporting Party. Upon entry into force of this Agreement and in accordance with the provisions of Article 184 of this Agreement, the importing Party shall inform the exporting Party of its sanitary and/or phytosanitary import requirements for commodities referred to in Annexes XVII-A and XVII-C to this Agreement. That information shall include, as appropriate, the models for the official certificates or declarations or commercial documents, as prescribed by the importing Party.

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(b) (i) Any amendment or proposed amendment of the conditions referred to in paragraph 1(a) of this Article shall comply with the relevant notification procedures of the SPS Agreement whether or not they refer to measures covered by the SPS Agreement.

(ii) Without prejudice to the provisions of Article 190 of this Agreement, the importing Party shall take into account the transport time between the Parties to establish the date of entry into force of the amended conditions referred to in paragraph 1(a) of this Article; and

(iii) If the importing Party fails to comply with those notification requirements, it shall continue to accept the certificate or the attestation guaranteeing the previously applicable conditions until 30 days after the amended import conditions enter into force.

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2. Import conditions after recognition of equivalence:

(a) Within 90 days following the date of adoption of the decision on recognition of equivalence, the Parties shall take the necessary legislative and administrative measures to implement the recognition of equivalence in order to allow, on that basis, trade between them of the commodities referred to in Annexes XVII-A and XVII-C(2) and (3) to this Agreement. For those commodities, the model for the official certificate or official document required by the importing Party may, then, be replaced by a certificate drawn up as provided for in Annex XXIII-B to this Agreement.

(b) For commodities in sectors or sub-sectors for which not all measures are recognised as equivalent, trade shall continue on the basis of compliance with the conditions referred to in paragraph 1(a) of this Article. Upon request of the exporting Party, the provisions of paragraph 5 of this Article shall apply.

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3. From the date of entry into force of this Agreement, the commodities referred to in Annexes XVII-A and XVII-C(2) to this Agreement shall not be subject to a specific import authorisation.

4. For conditions affecting trade of the commodities referred to in paragraph 1(a) of this Article, upon request of the exporting Party, the Parties shall enter into consultations within the SPS Sub-Committee in accordance with the provisions of Article 191 of this Agreement, in order to agree on alternative or additional import conditions of the importing Party. Such alternative or additional import conditions may, when appropriate, be based on measures of the exporting Party recognised as equivalent by the importing Party. If agreed, the importing Party shall within 90 days take the necessary legislative and/or administrative measures to allow import on the basis of the agreed import conditions.

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5. List of establishments, conditional approval:

(a) For the import of animal products referred to in Part 2 of Annex XVII-A to this Agreement, upon request of the exporting Party accompanied by the appropriate guarantees, the importing Party shall provisionally approve the processing establishments referred to in paragraph 2 of Annex XX to this Agreement which are situated in the territory of the exporting Party, without prior inspection of individual establishments. Such approval shall be consistent with the conditions and provisions set out in Annex XX to this Agreement. Except when additional information is requested, the importing Party shall take the necessary legislative and/or administrative measures to allow import on that basis within one month following the date of receipt of the request and the relevant guarantees by the importing Party.

The initial list of establishments shall be approved in accordance with the provisions of Annex XX to this Agreement.

(b) For the import of animal products referred to in paragraph 2(a) of this Article, the exporting Party shall inform the importing Party of its list of establishments meeting the importing Party's requirements.

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6. Upon request of a Party, the other Party shall provide the explanation and the supporting data for the determinations and decisions covered by this Article.

ARTICLE 187

Certification procedure

1. For the purposes of certification procedures and issuing of certificates and official documents, the Parties agree on the principles set out in Annex XXIII to this Agreement.

2. The SPS Sub-Committee referred to in Article 191 of this Agreement may agree on the rules to be followed in the case of electronic certification, withdrawal or replacement of certificates.

3. In the framework of approximated legislation as referred to in Article 181 of this Agreement, the Parties shall agree on common models of certificates, where applicable.

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ARTICLE 188

Verification

1. In order to maintain confidence in the effective implementation of the provisions of this Chapter each Party has the right:

(a) to carry out verification of all or part of the inspection and certification system of the other Party's authorities, and/or of other measures, where applicable, in accordance with the relevant international standards, guidelines and recommendations of Codex Alimentarius, OIE and IPPC; and

(b) to receive information from the other Party about its control system and be informed of the results of the controls carried out under that system.

2. Either Party may share the results of the verifications referred to in paragraph 1(a) with third parties and make the results publicly available as may be required by provisions applicable to either Party. Confidentiality provisions applicable to either Party shall be respected in such sharing and/or publication of results, where appropriate.

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3. If the importing Party decides to carry out a verification visit to the exporting Party, the importing Party shall notify the exporting Party of that verification visit at least three months before the verification visit is to be carried out, except in emergency cases or if the Parties agree otherwise. Any modification to that visit shall be agreed by the Parties.

4. The costs incurred in undertaking a verification of all or part of the other Party's competent authorities' inspection and certification systems, or other measures, where applicable, shall be borne by the Party carrying out the verification or the inspection.

5. The draft written communication of verifications shall be forwarded to the exporting Party within three months after the end of verification. The exporting Party shall have 45 working days to comment on the draft written communication. Comments made by the exporting Party shall be attached to and, where appropriate, included in the final outcome. However, where a significant human, animal or plant health risk has been identified during the verification, the exporting Party shall be informed as quickly as possible and in any case within 10 working days following the end of the verification.

6. For clarity the results of a verification may contribute to the procedures referred to in Articles 181, 183 and 189 of this Agreement conducted by the Parties or one of the Parties.

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ARTICLE 189

Import checks and inspection fees

1. The Parties agree that import checks by the importing Party of consignments from the exporting Party shall respect the principles set out in Annex XXII Part A to this Agreement. The results of those checks may contribute to the verification process referred to in Article 188 of this Agreement.

2. The frequencies of physical import checks applied by each Party are set out in Annex XXII Part B to this Agreement. A Party may amend those frequencies, within its competence and in accordance with its internal legislation, as a result of progress made in accordance with Articles 181, 183 and 186 of this Agreement, or as a result of verifications, consultations or other measures provided for in this Agreement. The SPS Sub-Committee referred to Article 191 of this Agreement shall accordingly modify Annex XXII Part B to this Agreement by decision.

3. Inspection fees may only cover the costs incurred by the competent authority for performing import checks. The fee shall be calculated on the same basis as the fees charged for the inspection of similar domestic products.

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4. The importing Party shall upon request of the exporting Party inform the exporting Party of any amendment, including the reasons for such an amendment, concerning the measures affecting import checks and inspection fees, and of any significant changes in the administrative conduct for such checks.

5. The Parties may agree on the conditions to approve, as from a date to be determined by the SPS Sub-Committee referred to in Article 191 of this Agreement, each other's controls as referred to in Article 188(1)(b) of this Agreement with a view to adapting and reciprocally reducing, where applicable, the frequency of physical import checks for the commodities referred to in Article 186(2)(a) of this Agreement.

From that date onwards, the Parties may reciprocally approve each other's controls for certain commodities and consequently reduce or replace the import checks for those commodities.

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ARTICLE 190

Safeguard measures

1. Should the exporting Party take within its territory measures to control any cause likely to constitute a serious hazard or risk to human, animal or plant health, the exporting Party, without prejudice to the provisions of paragraph 2, shall take equivalent measures to prevent the introduction of the hazard or risk into the territory of the importing Party.

2. On grounds of serious human, animal or plant health, the importing Party may take provisional measures necessary for the protection of human, animal or plant health. For consignments en route between the Parties, the importing Party shall consider the most suitable and proportionate solution in order to avoid unnecessary disruptions to trade.

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3. The Party adopting measures under paragraph 2 of this Article shall inform the other Party no later than one working day following the date of the adoption of the measures. Upon request of either Party, and in accordance with the provisions of Article 185(3) of this Agreement, the Parties shall hold consultations regarding the situation within 15 working days of the notification. The Parties shall take due account of any information provided through such consultations and shall endeavour to avoid unnecessary disruption to trade, taking into account, where applicable, the outcome of the consultations provided for in Article 185(3) of this Agreement.

ARTICLE 191

Sanitary and Phytosanitary Sub-Committee

1. The Sanitary and Phytosanitary Sub-Committee ("the SPS Sub-Committee") is hereby established. It shall meet within three months, after the entry into force of this Agreement, upon request of either Party, or at least once every year. Subject to agreement by the Parties, a meeting of the SPS Sub-Committee may be held by video or audio-conference. The SPS Sub-Committee may also address issues out of session, by correspondence.

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2. The SPS Sub-Committee shall have the following functions:

(a) to consider any matter relating to this Chapter;

(b) to monitor the implementation of this Chapter and examine all matters which may arise in relation to its implementation;

(c) to review Annexes XVII to XXV to this Agreement, notably in the light of progress made under the consultations and procedures provided for under this Chapter;

(d) to modify, by means of a decision, Annexes XVII to XXV to this Agreement in the light of the review provided for in point (c) of this paragraph, or as otherwise provided in this Chapter; and

(e) to give opinions and make recommendations to other bodies as defined in Title VII (Institutional, General and Final Provisions) of this Agreement in the light of the review provided for in point (c) of this paragraph.

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3. The Parties agree to establish technical working groups, when appropriate, consisting of expert-level representatives of the Parties, which shall identify and address technical and scientific issues arising from the application of this Chapter. When additional expertise is required, the Parties may establish *ad hoc* groups, including scientific and expert groups. Membership of such *ad hoc* groups need not be restricted to representatives of the Parties.

4. The SPS Sub-Committee shall regularly inform, by means of a report, the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, on its activities and the decisions taken within its competence.

5. The SPS Sub-Committee shall adopt its working procedures at its first meeting.

6. Any decision, recommendation, report or other action by the SPS Sub-Committee or any group established by the SPS Sub-Committee shall be adopted by consensus between the Parties.

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CHAPTER 5

CUSTOMS AND TRADE FACILITATION

ARTICLE 192

Objectives

1. The Parties acknowledge the importance of customs and trade facilitation in the evolving bilateral trade environment. The Parties agree to reinforce cooperation in this area with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives of effective control and support facilitation of legitimate trade, as a matter of principle.

2. The Parties recognise that utmost importance shall be given to legitimate public policy objectives, including trade facilitation, security and prevention of fraud, and a balanced approach to them.

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ARTICLE 193

Legislation and procedures

1. The Parties agree that their respective trade and customs legislation, as a matter of principle, shall be stable and comprehensive, and that the provisions and the procedures shall be proportionate, transparent, predictable, non-discriminatory, impartial and applied uniformly and effectively and shall *inter alia*:

(a) protect and facilitate legitimate trade through effective enforcement of, and compliance with, legislative requirements;

(b) avoid unnecessary or discriminatory burdens on economic operators, prevent fraud and provide further facilitation for economic operators having a high level of compliance;

(c) apply a Single Administrative Document (SAD) for the purposes of customs declarations;

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(d) take measures which lead to greater efficiency, transparency and simplification of customs procedures and practices at the border;

(e) apply modern customs techniques, including risk assessment, post clearance controls and company audit methods, in order to simplify and facilitate the entry and the release of goods;

(f) aim at reducing costs and increasing predictability for economic operators, including small and medium-sized enterprises;

(g) without prejudice to the application of objective risk-assessment criteria, ensure the non-discriminatory administration of requirements and procedures applicable to imports, exports and goods in transit;

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(h) apply the international instruments applicable in the field of customs and trade, including those developed by the World Customs Organisation (WCO) (the Framework of Standards to Secure and Facilitate Global Trade), the WTO (the Agreement on Customs Valuation), the Istanbul Convention on Temporary Admission of 1990, the International Convention on the Harmonised Commodity Description and Coding System of 1983, the UN TIR Convention of 1975, the 1982 International Convention on the Harmonisation of Frontier Controls of Goods, as well as European Commission guidelines such as the customs blueprints;

(i) take the necessary measures to reflect and implement the provisions of the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures of 1973;

(j) provide for advance binding rulings on tariff classification and rules of origin. The Parties ensure that a ruling may be revoked or annulled only after notification to the affected operator and without retroactive effect, unless the rulings have been made on the basis of incorrect or incomplete information;

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(k) introduce and apply simplified procedures for authorised traders according to objective and non-discriminatory criteria;

(l) set rules that ensure that any penalties imposed for the breaches of customs regulations or procedural requirements be proportionate and non-discriminatory and that their application does not result in unwarranted and unjustified delays; and

(m) apply transparent, non-discriminatory and proportionate rules in respect of the licensing of customs brokers.

2. In order to improve working methods, as well as to ensure non-discrimination, transparency, efficiency, integrity and accountability of operations, the Parties shall:

(a) take further steps towards the reduction, the simplification and the standardisation of data and documentation required by customs and other authorities;

(b) simplify requirements and formalities, wherever possible, with respect to the rapid release and clearance of goods;

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(c) provide effective, prompt and non-discriminatory procedures guaranteeing the right of appeal against customs and other authorities' administrative actions, rulings and decisions affecting the goods submitted to customs. Such procedures for appeal shall be easily accessible, including to small or medium-sized enterprises, and any costs shall be reasonable and commensurate with the costs incurred by the authorities to ensure the right of appeal;

(d) take steps to ensure that where a disputed administrative action, ruling or decision is the subject of an appeal, goods should normally be released and duty payments may be left pending, subject to any safeguard measures judged necessary. Where required, the release of the goods should be subject to the provision of a guarantee, such as a surety or a deposit; and

(e) ensure that the highest standards of integrity be maintained, in particular at the border, through the application of measures reflecting the principles of the relevant international conventions and instruments in this field, in particular the WCO Revised Arusha Declaration of 2003 and the European Commission blueprint of 2007.

3. The Parties will not apply:

(a) any requirements for the mandatory use of customs brokers; and

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(b) any requirements for the mandatory use of pre-shipment or destination inspections.

4. For the purposes of this Agreement, the transit rules and definitions set out in the WTO provisions, in particular Article V of GATT 1994, and related provisions, including any clarifications and amendments resulting from the Doha Round negotiations on trade facilitation, shall apply. Those provisions also apply when the transit of goods begins or ends in the territory of a Party (inland transit).

The Parties shall pursue the progressive interconnectivity of their respective customs transit systems, with a view to the future accession of the Republic of Moldova to the Convention on a common transit procedure of 1987.

The Parties shall ensure cooperation and coordination between all authorities concerned in their territories in order to facilitate traffic in transit. Parties shall also promote cooperation between the authorities and the private sector in relation to transit.

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ARTICLE 194

Relations with the business community

The Parties agree:

(a) to ensure that their respective legislation and procedures are transparent and publicly available, as far as possible through electronic means, and contain a justification for their adoption. There should be a reasonable time period between the publication of new or amended provisions and their entry into force;

(b) on the need for timely and regular consultations with trade representatives on legislative proposals and procedures related to customs and trade issues. To that end, appropriate and regular consultation mechanisms between the administration and the business community shall be established by each Party;

(c) to make publicly available, as far as possible through electronic means, relevant notices of an administrative nature, including authorities' requirements and entry or exit procedures, hours of operation and operating procedures for customs offices at ports and border crossing points, and points of contact for information enquiries;

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(d) to foster cooperation between operators and relevant administrations using non-arbitrary and publicly accessible procedures such as Memoranda of Understanding, based, in particular, on those promulgated by the WCO; and

(e) to ensure that their respective customs and customs-related requirements and procedures continue to meet the legitimate needs of the trading community, follow best practices, and remain the least trade-restrictive possible.

ARTICLE 195

Fees and charges

1. As of 1 January of the year following the entry into force of this Agreement, the Parties shall prohibit administrative fees having an equivalent effect to import or export duties and charges.

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2. With regard to all fees and charges of whatever character imposed by the customs authorities of each Party, including fees and charges for tasks undertaken on behalf of the said authorities, upon or in connection with import or export and without prejudice to the relevant Articles in Chapter 1 (National Treatment and Market Access for Goods) of Title V (Trade and Trade-related Matters) of this Agreement, the Parties agree that:

(a) fees and charges may only be imposed for services provided at the request of the declarant outside normal working conditions, hours of operation and in places other than those referred to in the customs regulations, as well as for any formality related to such services and required for undertaking such import or export;

(b) fees and charges shall not exceed the cost of the service provided;

(c) fees and charges shall not be calculated on an *ad valorem* basis;

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(d) the information on the fees and charges shall be published via an officially designated medium and, where feasible and possible, on an official website. That information shall include the reason for the fee or charge for the service provided, the responsible authority, the fees and charges that will be applied, and when and how payment is to be made; and

(e) new or amended fees and charges shall not be imposed until information on them is published and made readily available.

ARTICLE 196

Customs valuation

1. The provisions of the Agreement on the Implementation of Article VII of GATT 1994 contained in Annex 1A to the WTO Agreement, including any subsequent amendments, shall govern the customs valuation of goods in the trade between the Parties. Those provisions are hereby incorporated into this Agreement and made part thereof. Minimum customs values shall not be used.

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2. The Parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.

ARTICLE 197

Customs cooperation

The Parties shall strengthen cooperation in the area of customs to ensure implementation of the objectives of this Chapter in order to further trade facilitation, while ensuring effective control, security and prevention of fraud. To that end, the Parties will use, where appropriate, the European Commission Customs Blueprints of 2007 as a benchmarking tool.

In order to ensure compliance with the provisions of this Chapter the Parties shall, *inter alia*:

(a) exchange information concerning customs legislation and procedures;

(b) develop joint initiatives relating to import, export and transit procedures, as well as work towards ensuring that an effective service is provided to the business community;

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(c) cooperate on the automation of customs and other trade procedures;

(d) exchange, where appropriate, information and data subject to respect of the confidentiality of data and standards and regulations on protection of personal data;

(e) cooperate in preventing and combating illicit cross-border traffic in goods, including in tobacco products;

(f) exchange information or enter into consultations with a view to establishing, where possible, common positions in international organisations in the field of customs such as the WTO, the WCO, the UN, the United Nations Conference on Trade and Development (UNCTAD) and the UNECE;

(g) cooperate in the planning and delivery of technical assistance, notably to facilitate customs and trade facilitation reforms in line with the relevant provisions of this Agreement;

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(h) exchange best practices in customs operations, in particular on intellectual property rights enforcement, especially in relation to counterfeit products;

(i) promote coordination between all border authorities of the Parties to facilitate the border crossing process and enhance control, taking into account joint border controls, where feasible and appropriate; and

(j) establish, where relevant and appropriate, mutual recognition of trade partnership programmes and customs controls, including equivalent trade facilitation measures.

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ARTICLE 198

Mutual administrative assistance in customs matters

Without prejudice to other forms of cooperation envisaged in this Agreement, in particular in Article 197 of this Agreement, the Parties shall provide each other with mutual administrative assistance in customs matters in accordance with the provisions of Protocol III on Mutual Administrative Assistance in Customs Matters to this Agreement.

ARTICLE 199

Technical assistance and capacity building

The Parties shall cooperate with a view to providing technical assistance and capacity building for the implementation of trade facilitation and customs reforms.

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ARTICLE 200

Customs Sub-Committee

1. The Customs Sub-Committee is hereby established. It shall report to the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement.

2. The function of the Sub-Committee shall include regular consultations and monitoring of the implementation and the administration of this Chapter, including the matters of customs cooperation, cross-border customs cooperation and management, technical assistance, rules of origin, trade facilitation, as well as mutual administrative assistance in customs matters.

3. The Customs Sub-Committee shall inter-alia:

(a) see to the proper functioning of this Chapter and of Protocols II and III to this Agreement;

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(b) adopt practical arrangements, measures and decisions to implement this Chapter and Protocols II and III to this Agreement, including on exchange of information and data, mutual recognition of customs controls and trade partnership programmes, and mutually agreed benefits;

(c) exchange views on any points of common interest, including future measures and the resources needed for their implementation and application;

(d) make recommendations where appropriate; and

(e) adopt its internal rules of procedure.

ARTICLE 201

Approximation of customs legislation

Gradual approximation to the Union's customs law and certain international law shall be carried out as set out in Annex XXVI to this Agreement.

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CHAPTER 6

ESTABLISHMENT, TRADE IN SERVICES AND ELECTRONIC COMMERCE

SECTION 1

GENERAL PROVISIONS

ARTICLE 202

Objective, scope and coverage

1. The Parties, reaffirming their respective commitments under the WTO Agreement, hereby lay down the necessary arrangements for the progressive reciprocal liberalisation of establishment and trade in services and for cooperation on electronic commerce.

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2. Government procurement is covered in Chapter 8 (Public Procurement) of Title V (Trade and Trade-related Matters) of this Agreement. Nothing in this Chapter shall be construed to impose any obligation with respect to government procurement.

3. Subsidies are covered in Chapter 10 (Competition) of Title V (Trade and Trade-related Matters) of this Agreement. The provisions of this Chapter shall not apply to subsidies granted by the Parties.

4. In accordance with the provisions of this Chapter, each Party retains the right to regulate and to introduce new regulations to meet legitimate policy objectives.

5. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

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6. Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that those measures are not applied in such a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific commitment in this Chapter and Annexes XXVII and XXVIII to this Agreement[1].

ARTICLE 203

Definitions

For the purposes of this Chapter:

(1) "measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

[1] The sole fact of requiring a visa for natural persons of certain countries and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment.

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(2) "measures adopted or maintained by a Party" means measures taken by:

(a) central, regional or local governments and authorities; and

(b) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;

(3) "natural person of a Party" means a national of an EU Member State or a national of the Republic of Moldova according to respective legislation;

(4) "juridical person" means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

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(5) "juridical person of the Union" or "juridical person of the Republic of Moldova" means a juridical person as defined in point 4 set up in accordance with the law of a Member State or of the Republic of Moldova, respectively, and having its registered office, central administration, or principal place of business in the territory to which the Treaty on the Functioning of the European Union applies[1] or in the territory of the Republic of Moldova, respectively.

Should that juridical person have only its registered office or central administration in the territory to which the Treaty on the Functioning of the European Union applies or in the territory of the Republic of Moldova, respectively, it shall not be considered as a juridical person of the Union or a juridical person of the Republic of Moldova respectively, unless its operations possess a real and continuous link with the economy of the Union or of the Republic of Moldova, respectively.

[1] For greater certainty, that territory shall include the exclusive economic zone and continental shelf, as provided in the United Nations Convention on the Law of the Sea (UNCLOS).

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Notwithstanding the preceding paragraph, shipping companies established outside the Union or the Republic of Moldova and controlled by nationals of a Member State or of the Republic of Moldova, respectively, shall also be beneficiaries of the provisions of this Agreement if their vessels are registered in accordance with their respective legislation in that Member State or in the Republic of Moldova and fly the flag of a Member State or of the Republic of Moldova;

(6) "subsidiary" of a juridical person of a Party means a legal person which is effectively controlled by another juridical person of that Party[1];

(7) "branch" of a juridical person means a place of business not having legal personality which has the appearance of permanency, such as the extension of a parent body, has a management structure and is materially equipped to negotiate business with third parties so that the latter, although knowing that there will if necessary be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of business constituting the extension;

[1] A juridical person is controlled by another juridical person if the latter has the power to name a majority of its directors or otherwise to legally direct its actions.

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(8) "establishment" means:

(a) as regards juridical persons of the Union or of the Republic of Moldova, the right to take up and pursue economic activities by means of setting up, including the acquisition of, a juridical person and/or to create a branch or a representative office in the Union or in the Republic of Moldova respectively;

(b) as regards natural persons, the right of natural persons of the Union or of the Republic of Moldova to take up and pursue economic activities as self-employed persons and to set up undertakings, in particular companies, which they effectively control;

(9) "economic activities" shall include activities of an industrial, commercial and professional character and activities of craftsmen and do not include activities performed in the exercise of governmental authority;

(10) "operations" means the pursuit of economic activities;

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(11) "services" includes any service in any sector except services supplied in the exercise of governmental authority;

(12) "services and other activities performed in the exercise of governmental authority" means services or activities which are performed neither on a commercial basis nor in competition with one or more economic operators;

(13) "cross-border supply of services" means the supply of a service:

(a) from the territory of a Party into the territory of the other Party (Mode 1); or

(b) in the territory of a Party to the service consumer of the other Party (Mode 2);

(14) "service supplier" of a Party means any natural or juridical person of a Party that seeks to supply or supplies a service;

(15) "entrepreneur" means any natural or juridical person of a Party that seeks to perform or performs an economic activity through setting up an establishment.

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SECTION 2

ESTABLISHMENT

ARTICLE 204

Scope

This Section applies to measures adopted or maintained by the Parties affecting establishment in all economic activities with the exception of:

(a) mining, manufacturing and processing[1] of nuclear materials;

(b) production of, or trade in, arms, munitions and war materiel;

(c) audio-visual services;

[1] For greater certainty, processing of nuclear materials includes all the activities contained in UN ISIC Rev.3.1 code 2330.

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(d) national maritime cabotage[1]; and

(e) domestic and international air transport services[2], whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than:

(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;

(ii) the selling and marketing of air transport services;

(iii) computer reservation system (CRS) services;

(iv) ground-handling services;

(v) airport operation services.

1 Without prejudice to the scope of activities which may be considered as cabotage under the relevant domestic legislation, national maritime cabotage under this chapter covers transportation of passengers or goods between a port or point located in a Member State or in the Republic of Moldova and another port or point located in a Member State or in the Republic of Moldova, including on its continental shelf, as provided in the UNCLOS, and traffic originating and terminating in the same port or point located in a Member State or in the Republic of Moldova.

2 The conditions of mutual market access in air transport shall be dealt with by the Agreement between the EU and its Member States and the Republic of Moldova on the establishment of a Common Aviation Area.

ARTICLE 205

National treatment and most-favoured-nation treatment

1. Subject to reservations listed in Annex XXVII-E to this Agreement, the Republic of Moldova shall grant, upon entry into force of this Agreement:

(a) as regards the establishment of subsidiaries, branches and representative offices of juridical persons of the Union, treatment no less favourable than that accorded by the Republic of Moldova to its own juridical persons, their branches and representative offices, or to subsidiaries, branches and representative offices of any third country's juridical persons, whichever is better;

(b) as regards the operation of subsidiaries, branches and representative offices of juridical persons of the Union in the Republic of Moldova, once established, treatment no less favourable than that accorded by the Republic of Moldova to its own juridical persons, their branches and representative offices, or to subsidiaries, branches and representative offices of any third country's juridical persons, whichever is better.[1]

[1] This obligation does not extend to the investment protection provisions not covered by this Chapter, including provisions relating to investor-state dispute settlement procedures, as found in other agreements.

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2. Subject to reservations listed in Annex XXVII-A to this Agreement, the Union shall grant, upon entry into force of this Agreement:

a) as regards the establishment of subsidiaries, branches and representative offices of juridical persons of the Republic of Moldova, treatment no less favourable than that accorded by the Union to its own juridical persons, their branches and representative offices, or to subsidiaries, branches and representative offices of any third country's juridical persons, whichever is better;

(b) as regards the operation of subsidiaries, branches and representative offices of juridical persons of the Republic of Moldova in the Union, once established, treatment no less favourable than that accorded by the Union to its own juridical persons, their branches and representative offices, or to subsidiaries, branches and representative offices of any third country's juridical persons, whichever is better.[1]

[1] This obligation does not extend to the investment protection provisions not covered by this Chapter, including provisions relating to investor-state dispute settlement procedures, as found in other agreements.

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3. Subject to reservations listed in Annexes XXVII-A and XXVII-E to this Agreement, the Parties shall not adopt any new regulations or measures which introduce discrimination as regards the establishment of juridical persons of the Union or of the Republic of Moldova on their territory or in respect of their operation, once established, by comparison with their own juridical persons.

ARTICLE 206

Review

1. With a view to progressively liberalising the establishment conditions, the Parties shall regularly review the establishment legal framework[1] and the establishment environment, consistent with their commitments in international agreements.

[1] This includes this Chapter and Annexes XXVII-A and XXVII-E to this Agreement.

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2. In the context of the review referred to in paragraph 1, the Parties shall assess any obstacles to establishment that have been encountered. With a view to deepening the provisions of this Chapter, the Parties shall find appropriate ways to address such obstacles, which could include further negotiations, including with respect to investment protection and to investor-to-state dispute settlement procedures.

ARTICLE 207

Other agreements

Nothing in this Chapter shall be construed to limit the rights of entrepreneurs of the Parties to benefit from any more favourable treatment provided for in any existing or future international agreement relating to investment to which a Member State and the Republic of Moldova are parties.

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ARTICLE 208

Standard of treatment for branches and representative offices

1. The provisions of Article 205 of this Agreement do not preclude the application by a Party of particular rules concerning the establishment and operation in its territory of branches and representative offices of juridical persons of another Party not incorporated in the territory of the first Party, which are justified by legal or technical differences between such branches and representative offices as compared to branches and representative offices of juridical persons incorporated in its territory or, as regards financial services, for prudential reasons.

2. The difference in treatment shall not go beyond what is strictly necessary as a result of such legal or technical differences or, as regards financial services, for prudential reasons.

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SECTION 3

CROSS-BORDER SUPPLY OF SERVICES

ARTICLE 209

Scope

This Section applies to measures of the Parties affecting the cross-border supply of all services sectors with the exception of:

(a) audio-visual services;

(b) national maritime cabotage[1]; and

[1] Without prejudice to the scope of activities which may be considered as cabotage under the relevant domestic legislation, national maritime cabotage under this Chapter covers transportation of passengers or goods between a port or point located in a Member State or in the Republic of Moldova and another port or point located in a Member State or in the Republic of Moldova, including on its continental shelf, as provided in the UNCLOS, and traffic originating and terminating in the same port or point located in a Member State or in the Republic of Moldova.

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(c) domestic and international air transport services[1], whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights other than:

(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;

(ii) the selling and marketing of air transport services;

(iii) computer reservation system (CRS) services;

(iv) ground-handling services;

(v) airport operation services.

[1] The conditions of mutual market access in air transport shall be dealt with by the Agreement between the EU and its Member States and the Republic of Moldova on the establishment of a Common Aviation Area.

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ARTICLE 210

Market access

1. With respect to market access through the cross-border supply of services, each Party shall accord services and service suppliers of the other Party a treatment not less favourable than that provided for in the specific commitments contained in Annexes XXVII-B and XXVII-F to this Agreement.

2. In sectors where market access commitments are undertaken, the measures which a Party shall not maintain or adopt, either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in Annexes XXVII-B and XXVII-F to this Agreement, are defined as:

(a) limitations on the number of services suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;

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(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(c) limitations on the total number of service operations or on the total quantity of service output expressed in the terms of designated numerical units in the form of quotas or the requirement of an economic needs test.

ARTICLE 211

National treatment

1. In the sectors where market access commitments are inscribed in Annexes XXVII-B and XXVII-F to this Agreement, and subject to any conditions and qualifications set out therein, each Party shall grant to services and service suppliers of the other Party, in respect of all measures affecting the cross-border supply of services, treatment no less favourable than that it accords to its own like services and services suppliers.

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2. A Party may meet the requirement provided for in paragraph 1 by according to services and service suppliers of the other Party either formally identical treatment or formally different treatment to that which it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Party compared to like services or service suppliers of the other Party.

4. Specific commitments entered into under this Article shall not be construed to require any Party to compensate for inherent competitive disadvantages which result from the foreign character of the relevant services or services suppliers.

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ARTICLE 212

Lists of commitments

1. The sectors liberalised by each of the Parties pursuant to this Section and, by means of reservations, the market access and national treatment limitations applicable to services and services suppliers of the other Party in those sectors are set out in lists of commitments included in Annexes XXVII-B and XXVII-F to this Agreement.

2. Without prejudice to Parties' rights and obligations as they exist or may arise under the European Convention on Transfrontier Television and the European Convention on Cinematographic Co-production, lists of commitments in Annexes XXVII-B and XXVII-F to this Agreement do not include commitments on audio-visual services.

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ARTICLE 213

Review

With a view to the progressive liberalisation of the cross-border supply of services between the Parties, the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, shall regularly review the list of commitments referred to in Article 212 of this Agreement. This review shall take into account, *inter alia*, the process of gradual approximation, referred to in Articles 230, 240, 249 and 253 of this Agreement, and its impact on the elimination of remaining obstacles to cross-border supply of services between the Parties.

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SECTION 4

TEMPORARY PRESENCE OF NATURAL PERSONS FOR BUSINESS PURPOSES

ARTICLE 214

Scope and definitions

1. This Section applies to measures of the Parties concerning the entry and temporary stay in their territories of key personnel, graduate trainees and business sellers, contractual service suppliers and independent professionals, without prejudice to Article 202(5) of this Agreement.

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2. For the purposes of this Section:

(a) "key personnel" means natural persons employed within a juridical person of one Party other than a non-profit organisation[1] and who are responsible for the setting up or the proper control, administration and operation of an establishment. "Key personnel" comprises "business visitors" for establishment purposes and "intra-corporate transferees":

(i) "business visitors" for establishment purposes means natural persons working in a senior position who are responsible for setting up an establishment. They do not offer or provide services or engage in any economic activity other than that required for establishment purposes. They do not receive remuneration from a source located within the host Party;

[1] The reference to "other than a non-profit organisation" only applies for Belgium, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia, Finland and United Kingdom.

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(ii) "intra-corporate transferees" means natural persons who have been employed by a juridical person or have been partners in it for at least one year and who are temporarily transferred to an establishment that may be a subsidiary, branch or head company of the enterprise/juridical person in the territory of the other Party. The natural person concerned shall belong to one of the following categories:

(1) managers: persons working in a senior position within a juridical person, who primarily direct the management of the establishment, receiving general supervision or direction principally from the board of directors or from stockholders of the business or their equivalent, including at least:

- directing the establishment or a department or sub-division thereof;

- supervising and controlling the work of other supervisory, professional or managerial employees; and

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- having the authority personally to recruit and dismiss or recommend recruiting, dismissing or other personnel actions;

(2) specialists: persons working within a juridical person who possess uncommon knowledge essential to the establishment's production, research equipment, techniques, processes, procedures or management. In assessing such knowledge, account will be taken not only of knowledge specific to the establishment, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession;

(b) "graduate trainees" means natural persons who have been employed by a juridical person of one Party or its branch for at least one year, possess a university degree and are temporarily transferred to an establishment of the juridical person in the territory of the other Party, for career development purposes or to obtain training in business techniques or methods[1];

[1] The recipient establishment may be required to submit a training programme covering the duration of the stay for prior approval, demonstrating that the purpose of the stay is for training. For Czech Republic, Germany, Spain, France, Hungary and Austria, training is required to be linked to the university degree which has been obtained.

(c) "business sellers"[1] means natural persons who are representatives of a services or goods supplier of one Party seeking entry and temporary stay in the territory of the other Party for the purpose of negotiating the sale of services or goods, or entering into agreements to sell services or goods for that supplier. They do not engage in making direct sales to the general public and do not receive remuneration from a source located within the host Party, nor are they commission agents;

(d) "contractual services suppliers" means natural persons employed by a juridical person of one Party which itself is not an agency for placement and supply services of personnel nor acting through such an agency, has no establishment in the territory of the other Party and has concluded a bona fide contract to supply services with a final consumer in the latter Party, requiring the presence on a temporary basis of its employees in that Party, in order to fulfil the contract to provide services[2];

1 United Kingdom: The category of business sellers is only recognised for services sellers.

2 The service contract referred to under points (d) and (e) shall comply with the requirements of the laws, and regulations and requirements of the Party where the contract is executed.

(e) "independent professionals" means natural persons engaged in the supply of a service and established as self-employed in the territory of a Party who have no establishment in the territory of the other Party and who have concluded a bona fide contract (other than through an agency for placement and supply services of personnel) to supply services with a final consumer in the latter Party, requiring their presence on a temporary basis in that Party in order to fulfil the contract to provide services[1];

(f) "qualifications" means diplomas, certificates and other evidence (of formal qualification) issued by an authority designated pursuant to legislative, regulatory or administrative provisions and certifying successful completion of professional training.

[1] The service contract referred to under points (d) and (e) shall comply with the requirements of the laws, and regulations and requirements of the Party where the contract is executed.

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ARTICLE 215

Key personnel and graduate trainees

1. For every sector committed in accordance with Section 2 (Establishment) of this Chapter and subject to any reservations listed in Annexes XXVII-A and XXVII-E or in Annexes XXVII-C and XXVII-G to this Agreement, each Party shall allow entrepreneurs of the other Party to employ in their establishment natural persons of that other Party provided that such employees are key personnel or graduate trainees as defined in Article 214 of this Agreement. The temporary entry and temporary stay of key personnel and graduate trainees shall be for a period of up to three years for intra-corporate transferees, 90 days in any 12 month period for business visitors for establishment purposes, and one year for graduate trainees.

2. For every sector committed in accordance with Section 2 (Establishment) of this Chapter, the measures which a Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in Annexes XXVII-C and XXVII-G to this Agreement, are defined as limitations on the total number of natural persons that an entrepreneur may employ as key personnel and graduate trainees in a specific sector, in the form of numerical quotas or of a requirement of an economic needs test, and as discriminatory limitations.

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ARTICLE 216

Business sellers

For every sector committed in accordance with Section 2 (Establishment) or Section 3 (Cross-border Supply of Services) of this Chapter and subject to any reservations listed in Annexes XXVII-A and XXVII-E, and XXVII-B and XXVII-F to this Agreement, each Party shall allow the entry and temporary stay of business sellers for a period of up to 90 days in any 12 month period.

ARTICLE 217

Contractual service suppliers

1. The Parties reaffirm their respective obligations arising from their commitments under the General Agreement on Trade in Services (GATS) as regards the entry and temporary stay of contractual services suppliers.

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In accordance with Annexes XXVII-D and XXVII-H to this Agreement, each Party shall allow the supply of services into their territory by contractual services suppliers of the other Party, subject to the conditions specified in paragraph 3 of this Article.

2. The commitments undertaken by the Parties are subject to the following conditions:

(a) the natural persons must be engaged in the supply of a service on a temporary basis as employees of a juridical person, which has obtained a service contract not exceeding 12 months;

(b) the natural persons entering the other Party should be offering such services as employees of the juridical person supplying the services for at least the year immediately preceding the date of submission of an application for entry into the other Party. In addition, the natural persons shall possess, at the date of submission of an application for entry into the other Party, at least three years professional experience[1] in the sector of activity which is the subject of the contract;

[1] Obtained after having reached the age of majority.

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(c) the natural persons entering the other Party shall possess:

(i) a university degree or a qualification demonstrating knowledge of an equivalent level[1]; and

(ii) professional qualifications where this is required to exercise an activity pursuant to the laws, regulations or legal requirements of the Party where the service is supplied;

(d) the natural person shall not receive remuneration for the provision of services in the territory of the other Party other than the remuneration paid by the juridical person employing the natural person;

(e) the entry and temporary stay of natural persons within the Party concerned shall be for a cumulative period of not more than six months or, in the case of Luxembourg, 25 weeks in any 12 month period or for the duration of the contract, whichever is less;

[1] Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory.

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(f) access accorded under the provisions of this Article relates only to the service activity which is the subject of the contract and does not confer entitlement to exercise the professional title of the Party where the service is provided; and

(g) the number of persons covered by the service contract shall not be larger than necessary to fulfil the contract, as it may be requested by the laws, regulations or other legal requirements of the Party where the service is supplied.

ARTICLE 218

Independent professionals

1. In accordance with Annexes XXVII-D and XXVII-H to this Agreement, the Parties shall allow the supply of services into their territory by independent professionals of the other Party, subject to the conditions specified in paragraph 2 of this Article.

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2. The commitments undertaken by the Parties are subject to the following conditions:

(a) the natural persons must be engaged in the supply of a service on a temporary basis as self-employed persons established in the other Party and must have obtained a service contract for a period not exceeding 12 months;

(b) the natural persons entering the other Party must possess, at the date of submission of an application for entry into the other Party, at least six years professional experience in the sector of activity which is the subject of the contract;

(c) the natural persons entering the other Party must possess:

(i) a university degree or a qualification demonstrating knowledge of an equivalent level[1]; and

[1] Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory.

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(ii) professional qualifications where this is required to exercise an activity pursuant to the law, regulations or other legal requirements of the Party where the service is supplied;

(d) the entry and temporary stay of natural persons within the Party concerned shall be for a cumulative period of not more than six months or, in the case of Luxembourg, twenty-five weeks in any 12 month period or for the duration of the contract, whichever is less; and

(e) access accorded under the provisions of this Article relates only to the service activity which is the subject of the contract and does not confer entitlement to exercise the professional title of the Party where the service is provided.

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SECTION 5

REGULATORY FRAMEWORK

SUB-SECTION 1

DOMESTIC REGULATION

ARTICLE 219

Scope and Definitions

1. The following disciplines apply to measures by the Parties relating to licencing requirements and procedures, qualification requirements and procedures that affect:

(a) cross-border supply of services;

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(b) establishment in their territory of juridical and natural persons defined in Article 203(8) of this Agreement;

(c) temporary stay in their territory of categories of natural persons as defined in Article 214(2)(a) to (e) of this Agreement.

2. In the case of cross-border supply of services, those disciplines shall only apply to sectors for which the Party has undertaken specific commitments and to the extent that those specific commitments apply. In the case of establishment, those disciplines shall not apply to sectors to the extent that a reservation is listed in accordance with Annexes XXVII-A and XXVII-E to this Agreement. In the case of temporary stay of natural persons, those disciplines shall not apply to sectors to the extent that a reservation is listed in accordance with Annexes XXVII-C and XXVII-D and XXVII-G and XXVII-H to this Agreement.

3. Those disciplines do not apply to measures to the extent that they constitute limitations subject to scheduling.

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4. For the purposes of this Section:

(a) "licencing requirements" means substantive requirements, other than qualification requirements, with which a natural or a juridical person is required to comply in order to obtain, amend or renew authorisation to carry out the activities as defined in paragraph 1(a) to (c);

(b) "licencing procedures" means administrative or procedural rules that a natural or a juridical person, seeking authorisation to carry out the activities as defined in paragraph 1(a) to (c), including the amendment or renewal of a licence, is required to adhere to in order to demonstrate compliance with licencing requirements;

(c) "qualification requirements" means substantive requirements relating to the competence of a natural person to supply a service, and which are required to be demonstrated for the purpose of obtaining authorisation to supply a service;

(d) "qualification procedures" means administrative or procedural rules that a natural person must adhere to in order to demonstrate compliance with qualification requirements, for the purpose of obtaining authorisation to supply a service; and

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(e) "competent authority" means any central, regional or local government or authority or non-governmental body in the exercise of powers delegated by central, regional or local governments or authorities, which takes a decision concerning the authorisation to supply a service, including through establishment or concerning the authorisation to establish in an economic activity other than services.

ARTICLE 220

Conditions for licencing and qualification

1. Each Party shall ensure that measures relating to licencing requirements and procedures, qualification requirements and procedures are based on criteria which preclude the competent authorities from exercising their power of assessment in an arbitrary manner.

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2. The criteria referred to in paragraph 1 shall be:

(a) proportionate to a public policy objective;

(b) clear and unambiguous;

(c) objective;

(d) pre-established;

(e) made public in advance; and

(f) transparent and accessible.

3. An authorisation or a licence shall be granted as soon as it is established, in the light of an appropriate examination, that the conditions for obtaining an authorisation or licence have been met.

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4. Each Party shall maintain or institute judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected entrepreneur or service supplier, for a prompt review of, and where justified, appropriate remedies for, administrative decisions affecting establishment, cross-border supply of services or temporary presence of natural persons for business purposes. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, each Party shall ensure that the procedures in fact provide for an objective and impartial review.

5. Where the number of licences available for a given activity is limited because of the scarcity of available natural resources or technical capacity, each Party shall apply a selection procedure to potential candidates which provides full guarantees of impartiality and transparency, including, in particular, adequate publicity about the launch, conduct and completion of the procedure.

6. Subject to the provisions of this Article, in establishing the rules for the selection procedure, each Party may take into account public policy objectives, including considerations of health, safety, the protection of the environment and the preservation of cultural heritage.

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ARTICLE 221

Licencing and qualification procedures

1. Licencing and qualification procedures and formalities shall be clear, made public in advance and be such as to provide the applicants with a guarantee that their application will be dealt with objectively and impartially.

2. Licencing and qualification procedures and formalities shall be as simple as possible and shall not unduly complicate or delay the provision of the service. Any licencing fees[1] which the applicants may incur from their application should be reasonable and proportionate to the cost of the authorisation procedures in question.

3. Each party shall ensure that the decisions of and the procedures used by the competent authority in the licencing or authorisation process are impartial with respect to all applicants. The competent authority should reach its decision in an independent manner and not be accountable to any supplier of the services for which the licence or authorisation is required.

[1] Licencing fees do not include payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

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4. Where specific time periods for applications exist, an applicant shall be allowed a reasonable period for the submission of an application. The competent authority shall initiate the processing of an application without undue delay. Where possible, applications should be accepted in electronic format under the same conditions of authenticity as paper submissions.

5. Each Party shall ensure that the processing of an application, including reaching a final decision, is completed within a reasonable timeframe from the submission of a complete application. Each Party shall endeavour to establish the normal timeframe for processing of an application.

6. The competent authority shall, within a reasonable period of time after receipt of an application which it considers incomplete, inform the applicant, to the extent feasible, identify the additional information required to complete the application, and provide the opportunity to correct deficiencies.

7. Authenticated copies should be accepted, where possible, in place of original documents.

8. If an application is rejected by the competent authority, the applicant shall be informed in writing and without undue delay. In principle, the applicant shall, upon request, also be informed of the reasons for rejection of the application and of the timeframe for an appeal against the decision.

9. Each Party shall ensure that a licence or an authorisation, once granted, enters into effect without undue delay in accordance with the terms and conditions specified therein.

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SUB-SECTION 2

PROVISIONS OF GENERAL APPLICATION

ARTICLE 222

Mutual recognition

1. Nothing in this Chapter shall prevent a Party from requiring that natural persons possess the necessary qualifications and/or professional experience specified in the territory where the service is supplied, for the sector of activity concerned.

2. Each Party shall encourage the relevant professional bodies to provide recommendations on mutual recognition to the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, for the purpose of the fulfilment, in whole or in part, by entrepreneurs and service suppliers of the criteria applied by each Party for the authorisation, licensing, operation and certification of entrepreneurs and service suppliers and, in particular, professional services.

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3. On receipt of a recommendation referred to in paragraph 2, the Association Committee in Trade configuration shall, within a reasonable time, review that recommendation with a view to determining whether it is consistent with this Agreement and, on the basis of the information in the recommendation, assess in particular:

(a) the extent to which the standards and criteria applied by each Party for the authorisation, licences, operation and certification of services providers and entrepreneurs are converging; and

(b) the potential economic value of a Mutual Recognition Agreement.

4. Where those requirements are satisfied, the Association Committee in Trade configuration shall establish the necessary steps to negotiate. Thereafter, the Parties shall engage into negotiations, through their competent authorities, of a Mutual Recognition Agreement.

5. Any Mutual Recognition Agreement referred to in paragraph 4 of this Article shall be in accordance with the relevant provisions of the WTO Agreement and, in particular, with Article VII of GATS.

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ARTICLE 223

Transparency and disclosure of confidential information

1. Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application or international agreements which pertain to or affect this Agreement. Each Party shall also establish one or more enquiry points to provide specific information to entrepreneurs and services suppliers of the other Party, upon request, on all such matters. The Parties shall notify each other their enquiry points within three months after the entry into force of this Agreement. Enquiry points need not be depositories of laws and regulations.

2. Nothing in this Agreement shall require any Party to provide confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or prejudice legitimate commercial interests of particular enterprises, public or private.

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SUB-SECTION 3

COMPUTER SERVICES

ARTICLE 224

Understanding on computer services

1. To the extent that trade in computer services is liberalised in accordance with Section 2 (Establishment), Section 3 (Cross-border Supply of Services) and Section 4 (Temporary Presence of Natural Persons for Business Purposes) of this Chapter, the Parties shall comply with the provisions of this Article.

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2. CPC[1] 84, the UN code used for describing computer and related services, covers the basic functions used to provide all computer and related services:

(a) computer programmes defined as the sets of instructions required to make computers work and communicate (including their development and implementation);

(b) data processing and storage; and

(c) related services, such as consultancy and training services for staff of clients.

Technological developments have led to the increased offering of those services as a bundle or package of related services that can include some or all of those basic functions. For example, services such as web or domain hosting, data mining services and grid computing each consist of a combination of basic computer services functions.

[1] CPC means the Central Products Classification as set out in Statistical Office of the UN, Statistical Papers, Series M, N° 77, CPC prov, 1991.

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3. Computer and related services, regardless of whether they are delivered via a network, including the Internet, include all services that provide:

(a) consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance, or management of or for computers or computer systems;

(b) computer programmes, defined as the sets of instructions required to make computers work and communicate (in and of themselves), and consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management or use of or for computer programmes;

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(c) data processing, data storage, data hosting or database services;

(d) maintenance and repair services for office machinery and equipment, including computers; or

(e) training services for staff of clients, related to computer programmes, computers or computer systems, and not elsewhere classified.

4. Computer and related services enable the provision of other services (e.g. banking) by both electronic and other means. However, there is an important distinction between the enabling service (e.g. web-hosting or application hosting) and the content or core service that is being delivered electronically (e.g. banking). In such cases, the content or core service is not covered by CPC 84.

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SUB-SECTION 4

POSTAL AND COURIER SERVICES

ARTICLE 225

Scope and definitions

1. This Sub-Section sets out the principles of the regulatory framework for all postal and courier service liberalised in accordance with Section 2 (Establishment), Section 3 (Cross-border Supply of Services) and Section 4 (Temporary Presence of Natural Persons for Business Purposes) of this Chapter.

2. For the purposes of this Sub-Section and of Section 2 (Establishment), Section 3 (Cross-border Supply of Services) and Section 4 (Temporary Presence of Natural Persons for Business Purposes) of this Chapter:

(a) a "licence" means an authorisation, granted to an individual supplier by a regulatory authority, which is required before supplying a given service;

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(b) "universal service" means the permanent provision of a postal service of specified quality at all points in the territory of a Party at affordable prices for all users.

ARTICLE 226

Prevention of anti-competitive practices in the postal and courier sector

Appropriate measures shall be maintained or introduced for the purpose of preventing suppliers who, alone or together, have the ability to affect materially the terms of participation (having regard to price and supply) in the relevant market for postal and courier services as a result of use of their position in the market, from engaging in or continuing anti-competitive practices.

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ARTICLE 227

Universal service

Each Party has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Party.

ARTICLE 228

Licences

1 A licence may only be required for services which are within the scope of the universal service.

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2. Where a licence is required, the following shall be made publicly available:

(a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence; and

(b) the terms and conditions of licences.

3. The reasons for the denial of a licence shall be made known to the applicant upon request. An appeal procedure through an independent body will be established by each Party. Such a procedure will be transparent, non-discriminatory, and based on objective criteria.

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ARTICLE 229

Independence of the regulatory body

The regulatory body shall be legally separate from, and not accountable to, any supplier of postal and courier services. The decisions of and the procedures used by the regulatory body shall be impartial with respect to all market participants.

ARTICLE 230

Gradual approximation

Each Party recognises the importance of the gradual approximation of the Republic of Moldova's existing and future legislation to the list of the Union *acquis* set out in Annex XXVIII-C to this Agreement.

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SUB-SECTION 5

ELECTRONIC COMMUNICATION NETWORKS AND SERVICES

ARTICLE 231

Scope and definitions

1 This Sub-Section sets out the principles of the regulatory framework for all electronic communication services liberalised pursuant to Section 2 (Establishment), Section 3 (Cross-border Supply of Services), and Section 4 (Temporary Presence of Natural Persons for Business Purposes) of this Chapter.

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2. For the purposes of this Sub-Section and Section 2 (Establishment), Section 3 (Cross-border Supply of Services), and Section 4 (Temporary Presence of Natural Persons for Business Purposes) of this Chapter:

(a) "electronic communication services" means all services which consist wholly or mainly in the conveyance of signals on electronic communication networks, including telecommunication services and transmission services in networks used for broadcasting. Those services exclude services providing, or exercising editorial control over, content transmitted using electronic communication networks and services;

(b) "public communication network" means an electronic communication network used wholly or mainly for the provision of publicly available electronic communication services;

(c) "electronic communication network" means transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire, by radio or by optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile terrestrial networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed;

(d) a "regulatory authority" in the electronic communication sector means the body or bodies charged with the regulation of electronic communication referred to in this Chapter;

(e) a services supplier shall be deemed to have "significant market power" if, either individually or jointly with others, it enjoys a position equivalent to dominance, that is, a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers;

(f) "interconnection" means the physical and logical linking of public communication networks used by the same or a different supplier in order to allow the users of one services supplier to communicate with users of the same or another services supplier, or to access services provided by another services supplier. Services may be provided by the Parties involved or other parties who have access to the network. Interconnection is a specific type of access implemented between public network operators;

(g) "universal service" means the set of services of specified quality that is made available to all users in the territory of a Party regardless of their geographical location and at an affordable price. Its scope and implementation are decided by each Party;

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(h) "access" means the making available of facilities and/or services to another services supplier under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communication services. It covers, *inter alia*, access to network elements and associated facilities, which may involve the connection of equipment, by fixed or non-fixed means (this includes, in particular, access to the local loop and to facilities and services necessary to provide services over the local loop); access to physical infrastructure including buildings, ducts, and masts; access to relevant software systems including operational support systems; access to numbering translation or systems offering equivalent functionality; access to fixed and mobile networks, in particular for roaming; access to conditional access systems for digital televisions services; and access to virtual network services;

(i) "end-user" means a user not providing public communication networks or publicly available electronic communication services;

(j) "local loop" means the physical circuit connecting the network termination point at the subscriber's premises to the main distribution frame or equivalent facility in the fixed public communication network.

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ARTICLE 232

Regulatory authority

1. Each Party shall ensure that regulatory authorities for electronic communication services shall be legally distinct and functionally independent from any supplier of electronic communication services. If a Party retains ownership or control of a supplier providing electronic communication networks or services, such Party shall ensure the effective structural separation of the regulatory function from activities associated with ownership or control.

2. Each Party shall ensure that the regulatory authority shall be sufficiently empowered to regulate the sector. The tasks to be undertaken by a regulatory authority shall be made public in an easily accessible and clear form, in particular where those tasks are assigned to more than one body.

3. Each Party shall ensure that the decisions of and the procedures used by the regulatory authorities are impartial with respect to all market participants and transparent.

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4. The regulatory authority shall have the power to carry out an analysis of relevant product and service markets susceptible to an ex ante regulation. Where the regulatory authority is required to determine under Article 234 of this Agreement whether to impose, maintain, amend or withdraw obligations it shall determine on the basis of a market analysis whether the relevant market is effectively competitive.

5. Where the regulatory authority determines that a relevant market is not effectively competitive, it shall identify and designate services suppliers with significant market power on that market and shall impose, maintain or amend specific regulatory obligations referred to in Article 234 of this Agreement, as appropriate. Where the regulatory authority concludes that the market is effectively competitive it shall not impose or maintain any of the regulatory obligations referred to in Article 234 of this Agreement.

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6. Each Party shall ensure that a services supplier affected by the decision of a regulatory authority shall have a right to appeal against that decision to an appeal body that is independent of the parties involved in the decision. Each Party shall ensure that the merits of the case are duly taken into account. Pending the outcome of any such appeal, the decision of the regulatory authority shall stand, unless the appeal body decides otherwise. Where the appeal body is not judicial in character, written reasons for its decision shall always be given and its decisions shall also be subject to review by an impartial and independent judicial authority. Decisions taken by appeal bodies shall be effectively enforced.

7. Each Party shall ensure that where the regulatory authorities intend to take measures related to any of the provisions of this Sub-Section and which have a significant impact to the relevant market, they give the interested parties the opportunity to comment on the draft measure within a reasonable period of time. Regulatory authorities shall publish their consultation procedures. The results of the consultation procedure shall be made publicly available except in the case of confidential information.

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8. Each Party shall ensure that suppliers providing electronic communication networks and services provide all the information, including financial information, necessary for regulatory authorities to ensure conformity with the provisions of this Sub-Section or decisions made in accordance with this Sub-Section. Those suppliers shall provide that information promptly, on request and in accordance with the timelines and level of detail required by the regulatory authority. The information requested by the regulatory authority shall be proportionate to the performance of that task. The regulatory authority shall give the reasons justifying its request for information.

ARTICLE 233

Authorisation to provide electronic communication services

1. Each Party shall ensure that the provision of services shall, as much as possible, be authorised following mere notification.

2. Each Party shall ensure that a licence can be required to address issues of attributions of numbers and frequencies. The terms and conditions for such licences shall be made publicly available.

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3. Each Party shall ensure that where a licence is required:

(a) all the licensing criteria and a reasonable period of time normally required to reach a decision concerning an application for a licence shall be made publicly available;

(b) the reasons for the denial of a licence shall be made known in writing to the applicant upon request;

(c) the applicant shall be able to seek recourse before an appeal body in case a licence is unduly denied; and

(d) licence fees[1] required by any Party for granting a licence shall not exceed the administrative costs normally incurred in the management, control and enforcement of the applicable licences. Licence fees for the use of radio spectrum and numbering resources are not subject to the requirements of this paragraph.

[1] Licence fees do not include payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

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ARTICLE 234

Access and interconnection

1. Each Party shall ensure that any services suppliers authorised to provide electronic communication services shall have the right and obligation to negotiate access and interconnection with suppliers of publicly available electronic communication networks and services. Access and interconnection should, in principle, be agreed on the basis of commercial negotiation between the services suppliers concerned.

2. Each Party shall ensure that services suppliers that acquire information from another supplier during the process of negotiating interconnection arrangements use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored.

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3. Each Party shall ensure that upon the finding in accordance with Article 232 of this Agreement that a relevant market is not effectively competitive, the regulatory authority shall have the power to impose on the supplier designated as having significant market power one or more of the following obligations in relation to interconnection and/or access:

(a) obligation on non-discrimination to ensure that the operator applies equivalent conditions in equivalent circumstances to other suppliers providing equivalent services, and provides services and information to others under the same conditions and of the same quality as it provides for its own services or those of its subsidiaries or partners;

(b) obligation of a vertically integrated company to make transparent its wholesale prices and its internal transfer prices, where there is a requirement for non-discrimination or for prevention of unfair cross-subsidy. The regulatory authority may specify the format and accounting methodology to be used;

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(c) obligations to meet reasonable requests for access to, and use of, specific network elements and associated facilities, including unbundled access to the local loop, *inter alia* in situations where the regulatory authority considers that denial of access or unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market at the retail level or would not be in the end user's interest.

Regulatory authorities may attach conditions covering fairness, reasonableness and timeliness to the obligations included under this point;

(d) to provide specified services on a wholesale basis for resale by third parties; to grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or virtual network services; to provide co-location or other forms of facility sharing, including duct, building or mast sharing; to provide specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services; to provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services; and to interconnect networks or network facilities.

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Regulatory authorities may attach conditions covering fairness, reasonableness and timeliness to the obligations included under this point;

(e) obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that a lack of effective competition means that the operator concerned might sustain prices at an excessively high level, or apply a price squeeze, to the detriment of end-users.

Regulatory authorities shall take into account the investment made by the operator and allow him a reasonable rate of return on adequate capital employed, taking into account the risks involved;

(f) to publish the specific obligations imposed on services suppliers by the regulatory authority identifying the specific product/service and geographical markets. Up-to-date information, provided that it is not confidential and it does not comprise business secrets is made publicly available in a manner that guarantees all interested parties easy access to that information;

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(g) obligations for transparency requiring operators to make public specified information; in particular, where an operator has obligations of non-discrimination, the regulatory authority may require that operator to publish a reference offer, which shall be sufficiently unbundled to ensure that services suppliers are not required to pay for facilities which are not necessary for the service requested, giving a description of the relevant offerings broken down into components according to market needs, and the associated terms and conditions, including prices.

4. Each Party shall ensure that a service supplier requesting interconnection with a supplier designated as having significant market power shall have recourse, either at any time or after a reasonable period of time which has been made publicly known, to an independent domestic body, which may be a regulatory body as referred to in Article 231(2)(d) of this Agreement to resolve disputes regarding terms and conditions for interconnection and/or access.

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ARTICLE 235

Scarce resources

1. Each Party shall ensure that any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, shall be carried out in an objective, proportionate, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands shall be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

2. Each Party shall ensure the effective management of radio frequencies for electronic communication services in their territory with a view to ensuring effective and efficient use of the spectrum. Where demand for specific frequencies exceeds their availability, appropriate and transparent procedures shall be followed for the assignment of those frequencies in order to optimise their use and facilitate the development of competition.

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3. Each Party shall ensure that the assignment of national numbering resources and the management of the national numbering plans are entrusted to the regulatory authority.

4. Where public or local authorities retain ownership or control of suppliers operating public communication networks and/or services, effective structural separation needs to be ensured between the function responsible for granting the rights of way from activities associated with ownership or control.

ARTICLE 236

Universal service

1. Each Party has the right to define the kind of universal service obligations it wishes to maintain.

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2. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, objective and non-discriminatory way. The administration of such obligations shall also be neutral with respect to competition and shall not be more burdensome than necessary for the kind of universal service defined by the Party.

3. Each Party shall ensure that all suppliers are eligible to ensure universal service and no services supplier is excluded *a priori*. The designation shall be made through an efficient, transparent, objective and non-discriminatory mechanism. Where necessary, each Party shall assess whether the provision of universal service represents an unfair burden on organisation(s) designated to provide universal service. Where justified on the basis of such calculation, and taking into account the market benefit, if any, which accrues to an organisation that offers universal service, regulatory authorities shall determine whether a mechanism is required to compensate the services supplier(s) concerned or to share the net cost of universal service obligations.

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4. Each Party shall ensure that:

(a) directories of all subscribers are available to users, whether printed or electronic, or both, and are updated on a regular basis, and at least once a year; and

(b) organisations that provide the services referred to in point (a) apply the principle of non-discrimination to the treatment of information that has been provided to them by other organisations.

ARTICLE 237

Cross-border provision of electronic communication services

Neither Party may require a service supplier of the other Party to set up an establishment, to establish any form of presence, or to be resident in its territory as a condition for the cross-border supply of a service.

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ARTICLE 238

Confidentiality of information

Each Party shall ensure the confidentiality of electronic communications and related traffic data by means of a public communication network and publicly available electronic communication services without restricting trade in services.

ARTICLE 239

Disputes between services suppliers

1. Each Party shall ensure that in the event of a dispute arising between suppliers of electronic communication networks or services in connection with rights and obligations referred to in this Chapter, the regulatory authority concerned shall, at the request of either party, issue a binding decision to resolve the dispute in the shortest possible timeframe and in any case within four months.

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2. The decision of the regulatory authority shall be made available to the public, having regard to the requirements of business confidentiality. The service suppliers concerned shall be given a full statement of the reasons on which it is based.

3. When such a dispute concerns the cross-border provision of services, the regulatory authorities concerned shall coordinate their efforts in order to bring about a resolution of the dispute.

ARTICLE 240

Gradual approximation

Each Party recognises the importance of the gradual approximation of the Republic of Moldova's existing and future legislation to the list of the Union *acquis* set out in Annex XXVIII-B to this Agreement.

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SUB-SECTION 6

FINANCIAL SERVICES

ARTICLE 241

Scope and definition

1. This section sets out the principles of the regulatory framework for all financial services liberalised pursuant to Section 2 (Establishment), Section 3 (Cross-border Supply of Services) and Section 4 (Temporary Presence of Natural Persons for Business Purposes) of this Chapter.

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2. For the purposes of this Sub-Section and of Section 2 (Establishment), Section 3 (Cross-border Supply of Services) and Section 4 (Temporary Presence of Natural Persons for Business Purposes) of this Chapter:

(a) "financial service" means any service of a financial nature offered by a financial service supplier of a Party. Financial services comprise the following activities:

(i) insurance and insurance-related services:

(1) direct insurance (including co-insurance):

(a) life;

(b) non-life;

(2) reinsurance and retrocession;

(3) insurance inter-mediation, such as brokerage and agency; and

(4) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;

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(ii) banking and other financial services (excluding insurance):

(1) acceptance of deposits and other repayable funds from the public;

(2) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

(3) financial leasing;

(4) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;

(5) guarantees and commitments;

(6) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(a) money market instruments (including cheques, bills, certificates of deposits);

(b) foreign exchange;

(c) derivative products including, but not limited to, futures and options;

(d) exchange rate and interest rate instruments, including products such as swaps and forward rate agreements;

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(e) transferable securities;

(f) other negotiable instruments and financial assets, including bullion;

(7) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

(8) money broking;

(9) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

(10) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(11) provision and transfer of financial information, and financial data processing and related software;

(12) advisory, intermediation and other auxiliary financial services on all the activities listed in points (1) to (11), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

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(b) "financial service supplier" means any natural or juridical person of a Party that seeks to provide or provides financial services. The term "financial service supplier" does not include a public entity;

(c) "public entity" means:

(i) a government, a central bank or a monetary and financial authority, of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or
(ii) a private entity, performing functions normally performed by a central bank or monetary and financial authority, when exercising those functions;

(d) "new financial service" means a service of a financial nature, including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of a Party but which is supplied in the territory of the other Party.

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ARTICLE 242

Prudential carve-out

1. Each Party may adopt or maintain measures for prudential reasons, such as:

(a) the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; and

(b) ensuring the integrity and stability of a Party's financial system.

2. Those measures shall not be more burdensome than necessary to achieve their aim, and shall not discriminate against financial service suppliers of the other Party in comparison to its own like financial service suppliers.

3. Nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual consumers or any confidential or proprietary information in the possession of public entities.

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ARTICLE 243

Effective and transparent regulation

1. Each Party shall make its best endeavours to provide in advance to all interested persons any measure of general application that the Party proposes to adopt in order to allow an opportunity for such persons to comment on the measure. Such measure shall be provided:

(a) by means of an official publication; or

(b) in other written or electronic form.

2. Each Party shall make available to interested persons its requirements for completing applications relating to the supply of financial services.

On the request of an applicant, the concerned Party shall inform the applicant of the status of its application. If the concerned Party requires additional information from the applicant, it shall notify the applicant without undue delay.

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3. Each Party shall make its best endeavours to ensure that internationally agreed standards for regulation and supervision in the financial services sector and for the fight against tax evasion and avoidance are implemented and applied in its territory. Such internationally agreed standards are, *inter alia*, the "Core Principles for Effective Banking Supervision" of the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors' "Insurance Core Principles", the International Organisation of Securities Commissions' "Objectives and Principles of Securities Regulation", the "Agreement on Exchange of Information on Tax Matters" of the Organisation for Economic Co-operation and Development (OECD), the G20 "Statement on Transparency and Exchange of Information for Tax Purposes" and the Financial Action Task Force's "Forty Recommendations" on money laundering and "Nine Special Recommendations" on terrorist financing.

The Parties also take note of the "Ten Key Principles for Information Exchange", promulgated by the G7 Finance Ministers, and will take all steps necessary to try to apply them in their bilateral contacts.

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ARTICLE 244

New financial services

Each Party shall permit a financial service supplier of the other Party to provide any new financial service of a type similar to those services that the Party would permit its own financial service suppliers to provide under its domestic law in like circumstances. A Party may determine the juridical form through which the service may be provided and may require authorisation for the provision of the service. Where such authorisation is required, a decision shall be made within a reasonable time and the authorisation may only be refused for prudential reasons.

ARTICLE 245

Data processing

1. Each Party shall permit a financial service supplier of the other Party to transfer information in electronic or other form, into and out of its territory, for data processing where such processing is required in the ordinary course of business of such financial service supplier.

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2. Each Party shall adopt adequate safeguards for the protection of privacy and fundamental rights and freedoms of individuals, in particular with regard to the transfer of personal data.

ARTICLE 246

Specific exceptions

1. Nothing in this Chapter shall be construed to prevent a Party, including its public entities, from exclusively conducting or providing in its territory activities or services forming part of a public retirement plan or statutory system of social security, except when those activities may be carried out, as provided by the Party's domestic regulation, by financial service suppliers in competition with public entities or private institutions.

2. Nothing in this Agreement applies to activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies.

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3. Nothing in this Chapter shall be construed to prevent a Party, including its public entities, from exclusively conducting or providing in its territory activities or services for the account, or with the guarantee, or using the financial resources, of the Party or its public entities.

ARTICLE 247

Self-regulatory organisations

When a Party requires membership or participation in, or access to, any self-regulatory body, securities or futures exchange or market, clearing agency, or any other organisation or association, in order for financial service suppliers of the other Party to supply financial services on an equal basis with financial service suppliers of the Party, or when the Party provides such entities, directly or indirectly, with privileges or advantages in supplying financial services, the Party shall ensure observance of the obligations of Article 205(1) and Article 211 of this Agreement.

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ARTICLE 248

Clearing and payment systems

Under the terms and conditions that accord national treatment, each Party shall grant to financial service suppliers of the other Party established in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This Article does not confer access to the Party's lender to last resort facilities.

ARTICLE 249

Gradual approximation

Each Party recognises the importance of the gradual approximation of the Republic of Moldova's existing and future legislation to the international best practice standards listed under Article 243(3) of this Agreement as well as to the list of the Union *acquis* set out in Annex XXVIII-A to this Agreement.

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SUB-SECTION 7

TRANSPORT SERVICES

ARTICLE 250

Scope

This Section sets out the principles regarding the liberalisation of international transport services pursuant to Section 2 (Establishment), Section 3 (Cross-border Supply of Services) and Section 4 (Temporary Presence of Natural Persons for Business Purposes) of this Chapter.

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ARTICLE 251

International maritime transport

1. For the purposes of this Sub-Section and Section 2 (Establishment), Section 3 (Cross-border supply of services) and Section 4 (Temporary presence of natural persons for business purposes) of this Chapter:

(a) "international maritime transport" includes door to door and multi-modal transport operations, which is the carriage of goods using more than one mode of transport, involving a sea-leg, under a single transport document, and to that effect the right to directly contract with providers of other modes of transport;

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(b) "maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when that workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:

(i) the loading/discharging of cargo to/from a ship;

(ii) the lashing/unlashing of cargo; and

(iii) the reception/delivery and safekeeping of cargoes before shipment or after discharge;

(c) "customs clearance services" (alternatively 'customs house brokers' services') means activities consisting in carrying out on behalf of another Party customs formalities concerning import, export or through transport of cargoes, whether that service is the main activity of the service provider or a usual complement of its main activity;

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(d) "container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments;

(e) "maritime agency services" means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

(i) marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;

(ii) acting on behalf of the companies organising the call of the ship or taking over cargoes when required;

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(f) "freight forwarding services" means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information;

(g) "feeder services" means the pre- and onward transportation of international cargoes by sea, notably containerised, between ports located in a Party.

2. As regards international maritime transport, each Party agrees to ensure effective application of the principle of unrestricted access to cargoes on a commercial basis, the freedom to provide international maritime services, as well as national treatment in the framework of the provision of such services.

In view of the existing levels of liberalisation between the Parties in international maritime transport:

(a) each Party shall apply effectively the principle of unrestricted access to the international maritime markets and trades on a commercial and non-discriminatory basis;

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(b) each Party shall grant to ships flying the flag of the other Party, or operated by service suppliers of the other Party, treatment no less favourable than that accorded to its own ships or those of any third country, whichever is the better, with regard to, *inter alia*, access to ports, the use of infrastructure and services of ports, and the use of maritime auxiliary services, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.

3. In applying those principles, the Parties shall:

(a) not introduce cargo-sharing arrangements in future agreements with third countries concerning maritime transport services, including dry and liquid bulk and liner trade, and terminate, within a reasonable period of time, such cargo-sharing arrangements in case they exist in previous agreements; and

(b) upon the entry into force of this Agreement, abolish and abstain from introducing any unilateral measures and administrative, technical and other obstacles which could constitute a disguised restriction or have discriminatory effects on the free supply of services in international maritime transport.

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4. Each Party shall permit international maritime transport service suppliers of the other Party to have an establishment in its territory under conditions of establishment and operation no less favourable than those accorded to its own service suppliers or those of any third country, whichever are the better.

5. Each Party shall make available to maritime transport service suppliers of the other Party on reasonable and non-discriminatory terms and conditions the following services at the port: pilotage, towing and tug assistance, provisioning, fuelling and watering, garbage collecting and ballast waste disposal, port captain's services, navigation aids, shore-based operational services essential to ship operations, including communications, water and electrical supplies, emergency repair facilities, anchorage, berth and berthing services.

6. Each Party shall permit the movement of equipment such as empty containers, not being carried as cargo against payment, between ports of a Member State or between ports of the Republic of Moldova.

7. Each Party, subject to the authorisation of the competent authority, shall permit international maritime transport service suppliers of the other Party to provide feeder services between their national ports.

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ARTICLE 252

Air transport

A progressive liberalisation of air transport between the Parties, adapted to their reciprocal commercial needs and the conditions of mutual market access, is dealt with by the Common Aviation Area Agreement between the EU and its Member States and the Republic of Moldova.

ARTICLE 253

Gradual approximation

Each Party recognises the importance of the gradual approximation of the Republic of Moldova's existing and future legislation to the list of the Union *acquis* set out in Annex XXVIII-D to this Agreement.

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SECTION 6

ELECTRONIC COMMERCE

SUB-SECTION 1

GENERAL PROVISIONS

ARTICLE 254

Objective and principles

1. The Parties, recognising that electronic commerce increases trade opportunities in many sectors, agree to promote the development of electronic commerce between them, in particular by cooperating on the issues raised by electronic commerce under the provisions of this Chapter.

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2. The Parties agree that the development of electronic commerce must be fully compatible with the highest international standards of data protection, in order to ensure the confidence of users of electronic commerce.

3. The Parties agree that electronic transmissions shall be considered as the provision of services, within the meaning of Section 3 (Cross-border Supply of Services) of this Chapter, which cannot be subject to customs duties.

ARTICLE 255

Cooperation in electronic commerce

1. The Parties shall maintain a dialogue on regulatory issues raised by electronic commerce, which will address, *inter alia*, the following issues:

(a) the recognition of certificates of electronic signatures issued to the public and the facilitation of cross-border certification services;

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(b) the liability of intermediary service providers with respect to the transmission or storage of information;

(c) the treatment of unsolicited electronic commercial communications;

(d) the protection of consumers in the ambit of electronic commerce; and

(e) any other issue relevant for the development of electronic commerce.

2. Such cooperation can take the form of exchange of information on the Parties' respective legislation on those issues as well as on the implementation of such legislation.

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SUB-SECTION 2

LIABILITY OF INTERMEDIARY SERVICE PROVIDERS

ARTICLE 256

Use of intermediaries' services

1. The Parties recognise that the services of intermediaries can be used by third parties for infringing activities and shall provide the measures set out in this Sub-Section in respect of intermediary service providers.

2. For the purposes of Article 257 of this Agreement, "service provider" means a provider of transmission, routing, or connections for digital online communication between or among points specified by the user, of material of the user's choice without modifying its content. For the purposes of Articles 258 and 259 of this Agreement, "service provider" means a provider or operator of facilities for online services or network access.

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ARTICLE 257

Liability of intermediary service providers: "mere conduit"

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network, each Party shall ensure that the service provider is not liable for the information transmitted, on condition that the provider:

(a) does not initiate the transmission;

(b) does not select the receiver of the transmission; and

(c) does not select or modify the information contained in the transmission.

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2. The acts of transmission and of provision of access referred to in paragraph 1 include the automatic, intermediate and transient storage of the information transmitted in so far as it takes place for the sole purpose of carrying out the transmission in the communication network, and provided that the information is not stored for any period longer than is reasonably necessary for the transmission.

3. This Article shall not affect the possibility for a court or administrative authority, in accordance with the Parties' legal systems, of requiring the service provider to terminate or prevent an infringement.

ARTICLE 258

Liability of intermediary service providers: "caching"

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, each Party shall ensure that the service provider is not liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the onward transmission of the information to other recipients of the service upon their request, on condition that:

(a) the provider does not modify the information;

(b) the provider complies with conditions on access to the information;

(c) the provider complies with rules regarding the updating of the information, specified in a manner widely recognised and used by industry;

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(d) the provider does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information; and

(e) the provider acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement.

2 This Article shall not affect the possibility for a court or administrative authority, in accordance with the Parties' legal systems, of requiring the service provider to terminate or prevent an infringement.

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ARTICLE 259

Liability of intermediary service providers: "hosting"

1. Where an information society service is provided that consists of the storage of information provided by a recipient of the service, each Party shall ensure that the service provider is not liable for the information stored at the request of a recipient of the service, on condition that:

(a) the provider does not have actual knowledge of illegal activity or information and, as regards claims for damages, is not aware of facts or circumstances from which the illegal activity or information is apparent; or

(b) the provider, upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the information.

2. Paragraph 1 shall not apply when the recipient of the service is acting under the authority or the control of the provider.

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3. This Article shall not affect the possibility for a court or administrative authority, in accordance with the Parties' legal systems, of requiring the service provider to terminate or prevent an infringement, nor does it affect the possibility for the Parties of establishing procedures governing the removal or disabling of access to information.

ARTICLE 260

No general obligation to monitor

1. The Parties shall not impose a general obligation on providers, when providing the services covered by Articles 257, 258 and 259 of this Agreement, to monitor the information which they transmit or store, nor shall they impose a general obligation to actively seek facts or circumstances indicating illegal activity.

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2. A Party may establish obligations for information society service providers to promptly inform the competent public authorities of alleged illegal activities undertaken or information provided by recipients of their service or obligations to communicate to the competent authorities, at their request, information enabling the identification of recipients of their service with whom they have storage agreements.

SECTION 7

EXCEPTIONS

ARTICLE 261

General exceptions

1. Without prejudice to general exceptions set in Articles 446 of this Agreement, the provisions of this Chapter and of Annexes XXVII-A and XXVII-E, XXVII-B and XXVII-F, XXVII-C and XXVII-G, XXVII-D and XXVII-H to this Agreement are subject to the exceptions provided for in this Article.

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2. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on establishment or cross-border supply of services, nothing in this Chapter shall be construed to prevent the adoption or enforcement by any Party of measures:

(a) necessary to protect public security or public morals or to maintain public order;

(b) necessary to protect human, animal or plant life or health;

(c) relating to the conservation of exhaustible natural resources if such measures are applied in conjunction with restrictions on domestic entrepreneurs or on the domestic supply or consumption of services;

(d) necessary for the protection of national treasures of artistic, historic or archaeological value;

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(e) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter, including those relating to:

(i) the prevention of deceptive and fraudulent practices or dealing with the effects of a default on contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

(iii) safety;

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(f) inconsistent with Articles 205(1) and 211 of this Agreement, provided that the difference in treatment is aimed at ensuring the effective or equitable imposition or collection of direct taxes in respect of economic activities, entrepreneurs or services suppliers of the other Party[1].

[1] Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Party under its taxation system which:
(a) apply to non-resident entrepreneurs and services suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Party's territory;
(b) apply to non-residents in order to ensure the imposition or collection of taxes in the Party's territory;
(c) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures;
(d) apply to consumers of services supplied in or from the territory of another Party in order to ensure the imposition or collection of taxes on such consumers derived from sources in the Party's territory;
(e) distinguish entrepreneurs and service suppliers subject to tax on worldwide taxable items from other entrepreneurs and service suppliers, in recognition of the difference in the nature of the tax base between them; or
(f) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Party's tax base.
Tax terms or concepts referred to in point (f) of this paragraph and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the Party taking the measure.

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3. The provisions of this Chapter and of Annexes XXVII-A and XXVII-E, XXVII-B and XXVII-F, XXVII-C and XXVII-G, XXVII-D and XXVII-H to this Agreement shall not apply to the Parties' respective social security systems or to activities in the territory of each Party which are connected, even occasionally, with the exercise of official authority.

ARTICLE 262

Taxation measures

The most-favoured-nation treatment granted in accordance with the provisions of this Chapter shall not apply to the tax treatment that Parties are providing or will provide in future on the basis of agreements between the Parties designed to avoid double taxation.

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ARTICLE 263

Security exceptions

Nothing in this Agreement shall be construed to:

(a) require any Party to furnish any information, the disclosure of which it considers contrary to its essential security interests;

(b) prevent any Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) connected with the production of, or trade, in arms, munitions or war materiel;

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(ii) relating to economic activities carried out directly or indirectly for the purpose of provisioning a military establishment;

(iii) relating to fissionable and fusionable materials or the materials from which they are derived; or

(iv) taken in time of war or other emergency in international relations; or

(c) prevent any Party from taking any action in pursuance of obligations it has accepted for the purpose of maintaining international peace and security.

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CHAPTER 7

CURRENT PAYMENTS AND MOVEMENT OF CAPITAL

ARTICLE 264

Current payments

The Parties undertake to authorise, in freely convertible currency, in accordance with the provisions of Article VIII of the Agreement of the International Monetary Fund, any payments and transfers on the current account of balance of payments between the Parties.

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ARTICLE 265

Capital movements

1. With regard to transactions on the capital and financial account of balance of payments, from the entry into force of this Agreement, the Parties shall ensure the free movement of capital relating to direct investments, including the acquisition of real estate, made in accordance with the laws of the host country, investments made in accordance with the provisions of Chapter 6 (Establishment, Trade in Services and Electronic Commerce) of Title V (Trade and Trade-related Matters) of this Agreement, and the liquidation or repatriation of invested capital and of any profit stemming therefrom.

2. With regard to transactions on the capital and financial account of balance of payments other than the transactions listed in paragraph 1, from the entry into force of this Agreement, each Party shall ensure, without prejudice to other provisions of this Agreement,

(a) the free movement of capital relating to credits for commercial transactions or for the provision of services in which a resident of one of the Parties is participating; and

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(b) the free movement of capital relating to portfolio investments, financial loans and credits by the investors of the other Party.

ARTICLE 266

Safeguard measures

Where, in exceptional circumstances, payments or movements of capital cause, or threaten to cause, serious difficulties for the operation of exchange rate policy or monetary policy, including serious balance of payments difficulties, in one or more Member States or in the Republic of Moldova, the Parties concerned may take safeguard measures for a period not exceeding six months if such measures are strictly necessary. The Party adopting the safeguard measure shall inform the other Party forthwith of the adoption of any safeguard measure and, as soon as possible, of a time schedule for its removal.

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ARTICLE 267

Facilitation and evolution provisions

1. The Parties shall consult with a view to facilitating the movement of capital between the Parties in order to promote the objectives of this Agreement.

2. During the first four years following the date of entry into force of this Agreement, the Parties shall take measures permitting the creation of the necessary conditions for further gradual application of the Union rules on the free movement of capital.

3. By the end of the fifth year following the date of entry into force of this Agreement, the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, shall review the measures taken and determine the modalities for further liberalisation.

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CHAPTER 8

PUBLIC PROCUREMENT

ARTICLE 268

Objectives

1. The Parties recognise the contribution of transparent, non-discriminatory, competitive and open tendering to sustainable economic development and set as their objective the effective, reciprocal and gradual opening of their respective procurement markets.

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2. This Chapter envisages mutual access to public procurement markets on the basis of the principle of national treatment at national, regional and local level for public contracts and concessions in the public sector as well as in the utilities sector. It provides for a gradual approximation of the public procurement legislation in the Republic of Moldova with the Union *acquis* on public procurement, accompanied with an institutional reform and the creation of an efficient public procurement system based on the principles governing public procurement in the Union and the terms and definitions set out in Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts and Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.

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ARTICLE 269

Scope

1. This Chapter applies to works, supplies and services public contracts, as well as works, supplies and service contracts in the utilities sectors and works and services concessions.

2. This Chapter applies to any contracting authority and any contracting entity which meets the definitions of the Union *acquis* on public procurement (hereinafter referred to as the "contracting entities"). It also covers bodies governed by public law and public undertakings in the field of utilities, such as state-owned enterprises carrying out the relevant activities, and private undertakings operating on the basis of special and exclusive rights in the field of utilities.

3. This Chapter applies to contracts above value thresholds set out in Annex XXIX-A to this Agreement.

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4. The calculation of the estimated value of a public contract shall be based on the total amount payable, net of taxes on value added. When applying those thresholds, the Republic of Moldova will calculate and convert contract values into its national currency, using the conversion rate of its National Bank.

5. Value thresholds shall be revised regularly every two years, beginning in the year of entry into force of this Agreement, based on the average daily value of the euro, expressed in Special Drawing Rights, over the 24 month period terminating on the last day of August preceding the revision, with effect from January 1. The value of the thresholds thus revised shall, where necessary, be rounded down to nearest thousand euro. The revision of the thresholds shall be adopted by decision of the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement.

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ARTICLE 270

Institutional background

1. Each Party shall establish or maintain an appropriate institutional framework and mechanisms necessary for the proper functioning of the public procurement system and the implementation of the provisions of this Chapter.

2. In the framework of institutional reform, the Republic of Moldova shall designate in particular:

(a) an executive body responsible for economic policy at central government level tasked with guaranteeing a coherent policy in all areas related to public procurement. Such a body shall facilitate and coordinate the implementation of this Chapter and guide the process of gradual approximation to the Union *acquis*; and

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(b) an impartial and independent body tasked with the review of decisions taken by contracting authorities or entities during the award of contracts. In that context, "independent" means that that body shall be a public authority which is separate from all contracting entities and economic operators. There shall be a possibility to subject the decisions taken by that body to judicial review.

3. Each Party shall ensure that decisions taken by the authorities responsible for the review of complaints by economic operators concerning infringements of domestic law shall be effectively enforced.

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ARTICLE 271

Basic standards regulating the award of contracts

1. No later than nine months from the entry into force of this Agreement, the Parties shall comply with a set of basic standards for the award of all contracts as stipulated in paragraphs 2 to 15. Those basic standards derive directly from the rules and principles of public procurement, as regulated in the Union *acquis* on public procurement, including the principles of non-discrimination, equal treatment, transparency and proportionality.

Publication

2. Each Party shall ensure that all intended procurements are published in an appropriate medium in a manner that is sufficient to:

(a) enable the market to be opened up to competition; and

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(b) allow any interested economic operator to have appropriate access to information regarding the intended procurement prior to the award of the contract and to express its interest in obtaining the contract.

3. The publication shall be appropriate to the economic interest of the contract to economic operators.

4. The publication shall contain at least the essential details of the contract to be awarded, the criteria for qualitative selection, the award method, the contract award criteria and any other additional information that the economic operators reasonably need to decide on whether to express their interest in obtaining the contract.

Award of contracts

5. All contracts shall be awarded through transparent and impartial award procedures that prevent corrupt practices. That impartiality shall be ensured in particular through the non-discriminatory description of the subject matter of the contract, equal access for all economic operators, appropriate time-limits and a transparent and objective approach.

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6. When describing the characteristics of the required work, supply or service, the contracting entities shall use general descriptions of performance and functions and international, European or national standards.

7. The description of the characteristics required of a work, supply or service shall not refer to a specific make or source, or a particular process, or to trademarks, patents, types or a specific origin or production unless such a reference is justified by the subject matter of the contract and accompanied by the words "or equivalent". Preference shall be given to the use of general descriptions of performance or functions.

8. Contracting entities shall not impose conditions resulting in direct or indirect discrimination against the economic operators of the other Party, such as the requirement that economic operators interested in the contract are required to be established in the same country, region or territory as the contracting entity.

Notwithstanding the first subparagraph, in cases where it is justified by the specific circumstances of the contract, the successful applicant may be required to establish certain business infrastructure at the place of performance.

9. The time-limits for expression of interest and for submission of offers shall be sufficiently long to allow economic operators from the other Party to make a meaningful assessment of the tender and prepare their offer.

10. All participants are required to know the applicable rules, selection criteria and award criteria in advance. Those rules must apply equally to all participants.

11. Contracting entities may invite a limited number of applicants to submit an offer, provided that:

(a) it is done in a transparent and non-discriminatory manner; and

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(b) the selection is based only on objective factors such as the experience of the applicants in the sector concerned, the size and infrastructure of their businesses or their technical and professional abilities.

In inviting a limited number of applicants to submit an offer, account shall be taken of the need to ensure adequate competition.

12. Contracting entities may use negotiated procedures only in exceptional and defined cases when the use of such a procedure effectively does not distort competition.

13. Contracting entities may use qualification systems only under the condition that the list of qualified operators is compiled by means of a sufficiently advertised, transparent and open procedure. Contracts falling within the scope of such a system shall be awarded also on a non-discriminatory basis.

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14. Each Party shall ensure that contracts are awarded in a transparent manner to the applicant who has submitted the economically most advantageous offer or the offer with the lowest price, based on the tender criteria and the procedural rules established and communicated in advance. The final decisions shall be communicated to all applicants without undue delay. Upon request of an unsuccessful applicant, reasons must be provided in sufficient detail to allow the review of such a decision.

Judicial protection

15. Each Party shall ensure that any person having or having had an interest in obtaining a particular contract and who has been, or risks being, harmed by an alleged infringement is entitled to effective, impartial judicial protection against any decision of the contracting entity related to the award of that contract. The decisions taken in the course and at the end of such review procedure shall be made public in a manner that is sufficient to inform all interested economic operators.

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ARTICLE 272

Planning of gradual approximation

1. Prior to the commencement of gradual approximation, the Republic of Moldova shall submit to the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, a comprehensive roadmap for the implementation of this Chapter with time schedules and milestones which shall include all reforms in terms of approximation to the Union *acquis* and institutional capacity building. This roadmap shall comply with the phases and time schedules set out in Annex XXIX-B to this Agreement.

2. The roadmap shall cover all aspects of the reform and the general legal framework for the implementation of public procurement activities, in particular, approximation for public contracts, contracts in the utilities sector, works concessions and review procedures, and strengthening of the administrative capacity at all levels, including review bodies and enforcement mechanisms.

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3. Following a favourable opinion by the Association Committee in Trade configuration, the roadmap shall be considered as the reference document for the implementation of this Chapter. The Union shall make its best efforts in assisting the Republic of Moldova in the implementation of the roadmap.

ARTICLE 273

Gradual approximation

1. The Republic of Moldova shall ensure that its existing and future legislation on public procurement will be gradually made compatible with the Union *acquis* on public procurement.

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2. Approximation to the Union *acquis* shall be carried out in consecutive phases as set out in the schedule in Annex XXIX-B to this Agreement and further specified in Annexes XXIX-C to XXIX-F, XXIX-H, XXIX-I, and XXIX-K thereof. Annexes XXIX-G and XXIX-J to this Agreement identify non-mandatory elements that need not be approximated, whereas Annexes XXIX-L to XXIX-O to this Agreement identify elements of the Union *acquis* that remain outside the scope of approximation. In that process, due account shall be taken of the corresponding case law of the Court of Justice of the European Union and the implementing measures adopted by the European Commission, as well as, should it become necessary, of any modifications of the Union *acquis* occurring in the meantime. The implementation of each phase shall be evaluated by the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, and, following a positive assessment by that Committee, it shall be linked to the reciprocal granting of market access as set out in Annex XXIX-B to this Agreement. The European Commission shall notify without undue delay the Republic of Moldova of any modifications to the Union *acquis*. It shall provide appropriate advice and technical assistance for the purpose of implementing such modifications.

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3. The Association Committee in Trade configuration shall only proceed to the evaluation of a next phase once the measures to implement the previous phase have been carried out and approved according to the modalities set out in paragraph 2.

4. Each Party shall ensure that those aspects and areas of public procurement which are not covered by this Article comply with the principles of transparency, non-discrimination and equal treatment as set out under Article 271 of this Agreement.

ARTICLE 274

Market access

1. The Parties agree that the effective and reciprocal opening of their respective markets shall be attained gradually and simultaneously. During the process of approximation, the extent of the market access mutually granted shall be linked to the progress made in that process as stipulated in Annex XXIX-B to this Agreement.

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2. The decision to proceed to a further phase of market opening shall be made on the basis of an assessment of the quality of the legislation adopted as well as its practical implementation. Such assessment shall be carried out regularly by the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement.

3. In so far as a Party has, according to Annex XXIX-B to this Agreement, opened its procurement market to the other Party:

(a) the Union shall grant access to contract award procedures to companies of the Republic of Moldova, whether established or not in the Union, pursuant to Union public procurement rules under treatment no less favourable than that accorded to Union companies;

(b) the Republic of Moldova shall grant access to contract award procedures for Union companies, whether established or not in the Republic of Moldova, pursuant to national procurement rules under treatment no less favourable than that accorded to companies of the Republic of Moldova.

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4. After the implementation of the last phase in the process of approximation, the Parties will examine the possibility to grant mutual market access with regard to procurements below the value thresholds set out in Annex XXIX-A to this Agreement.

5. Finland reserves its position with regard to the Åland Islands.

ARTICLE 275

Information

1. Each Party shall ensure that contracting entities and economic operators are appropriately informed about public procurement procedures, including through the publication of all relevant legislation and administrative rulings.

2. Each Party shall ensure the effective dissemination of information on tendering opportunities.

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ARTICLE 276

Cooperation

1. The Parties shall enhance their cooperation through exchanges of experience and information relating to their best practices and regulatory frameworks.

2. The Union shall facilitate the implementation of this Chapter, including through technical assistance where appropriate. In line with the provisions in Title VI (Financial Assistance, and Anti-Fraud and Control Provisions) of this Agreement, specific decisions on financial assistance shall be taken through the relevant Union funding mechanisms and instruments.

3. An indicative list of issues for cooperation is included in Annex XXIX-P to this Agreement.

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CHAPTER 9

INTELLECTUAL PROPERTY RIGHTS

SECTION 1

GENERAL PROVISIONS AND PRINCIPLES

ARTICLE 277

Objectives

The objectives of this Chapter are to:

(a) facilitate the production and commercialisation of innovative and creative products between the Parties; and

(b) achieve an adequate and effective level of protection and enforcement of intellectual property rights.

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ARTICLE 278

Nature and scope of obligations

1. The Parties shall ensure the adequate and effective implementation of the international agreements dealing with intellectual property to which they are parties, including the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights ("the TRIPS Agreement"). The provisions of this Chapter shall complement and further specify the rights and obligations between the Parties under the TRIPS Agreement and other international agreements in the field of intellectual property.

2. For the purposes of this Agreement, the expression "intellectual property" refers at least to all categories of intellectual property covered by Articles 280 to 317 of this Agreement.

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3. Protection of intellectual property includes protection against unfair competition as referred to in Article 10*bis* of the Paris Convention for the Protection of Industrial Property of 1967 ("the Paris Convention").

ARTICLE 279

Exhaustion

Each Party shall provide for a regime of domestic or regional exhaustion of intellectual property rights.

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SECTION 2

STANDARDS CONCERNING INTELLECTUAL PROPERTY RIGHTS

SUB-SECTION 1

COPYRIGHT AND RELATED RIGHTS

ARTICLE 280

Protection granted

The Parties shall comply with the rights and obligations set out in the following international agreements:

(a) the Berne Convention for the Protection of Literary and Artistic Works ("the Berne Convention");

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(b) the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations of 1961;

(c) the TRIPS Agreement;

(d) the WIPO Copyright Treaty; and

(e) the WIPO Performances and Phonograms Treaty.

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ARTICLE 281

Authors

Each Party shall provide for authors the exclusive right to authorise or prohibit:

(a) the direct or indirect, temporary or permanent, reproduction by any means and in any form, in whole or in part, of their works;

(b) any form of distribution to the public by sale or otherwise of the original of their works or of copies thereof; and

(c) any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them.

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ARTICLE 282

Performers

Each Party shall provide for performers the exclusive right to:

(a) authorise or prohibit the fixation[1] of their performances;

(b) authorise or prohibit the direct or indirect, temporary or permanent, reproduction by any means and in any form, in whole or in part, of fixations of their performances;

(c) make available to the public, by sale or otherwise, fixations of their performances;

(d) authorise or prohibit the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, of fixations of their performances;

[1] For the purposes of this Chapter "fixation" means the embodiment of sounds or images, or of the representations thereof, from which they can be perceived, reproduced or communicated through a device.

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(e) authorise or prohibit the broadcasting by wireless means and the communication to the public of their performances, except where the performance is itself already a broadcast performance or is made from a fixation.

ARTICLE 283

Producers of phonograms

Each Party shall provide for phonogram producers the exclusive right to:

(a) authorise or prohibit the direct or indirect, temporary or permanent, reproduction by any means and in any form, in whole or in part, of their phonograms;

(b) make available to the public, by sale or otherwise, their phonograms, including copies thereof; and

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(c) authorise or prohibit the making available of their phonograms to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

ARTICLE 284

Broadcasting organisations

Each Party shall provide for broadcasting organisations the exclusive right to authorise or prohibit:

(a) the fixation of their broadcasts;

(b) the reproduction of fixations of their broadcasts;

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(c) the making available to the public, by wire or wireless means, of fixations of their broadcasts; and

(d) the rebroadcasting of their broadcasts by wireless means, as well as the communication to the public of their broadcasts if such communication is made in places accessible to the public against payment of an entrance fee.

ARTICLE 285

Broadcasting and communication to the public

1. Each Party shall provide a right in order to ensure that a single equitable remuneration is paid by the user, if a phonogram published for commercial purposes, or a reproduction of such phonogram, is used for broadcasting by wireless means or for any communication to the public, and to ensure that that remuneration is shared between the relevant performers and phonogram producers.

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2. Each Party may, in the absence of agreement between the performers and phonogram producers, lay down the conditions as to the sharing of that remuneration between them.

ARTICLE 286

Term of protection

1. The rights of an author of a literary or artistic work within the meaning of Article 2 of the Berne Convention shall run for the life of the author and for 70 years after his/her death, irrespective of the date when the work is lawfully made available to the public.

2. The term of protection of a musical composition with words shall expire 70 years after the death of the last of the following persons to survive, whether or not those persons are designated as co-authors: the author of the lyrics and the composer of the musical composition, provided that both contributions were specifically created for the respective musical composition with words.

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3. The rights of performers shall expire no less than 50 years after the date of the performance. However;

(a) if a fixation of the performance, other than in a phonogram, is lawfully published or lawfully communicated to the public within that period, the rights shall expire 50 years from the date of the first such publication or the first such communication to the public, whichever is the earlier;

(b) if a fixation of the performance in a phonogram is lawfully published or lawfully communicated to the public within that period, the rights shall expire 70 years from the date of the first such publication or the first such communication to the public, whichever is the earlier.

4. The rights of producers of phonograms shall expire no less than 50 years after the fixation is made. However;

(a) if a phonogram has been lawfully published within that period, the said rights shall expire no less than 70 years from the date of the first lawful publication. If no lawful publication has taken place within the period mentioned in the first sentence, and if the phonogram has been lawfully communicated to the public within that period, the said rights shall expire not less than 70 years from the date of the first lawful communication to the public;

(b) if 50 years after a phonogram is lawfully published or communicated to the public, the phonogram producer does not offer copies of the phonogram for sale in sufficient quantity, or does not make it available to the public, the performer may terminate the contract by which he/she has transferred or assigned his/her rights in the fixation of his/her performance to a phonogram producer.

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5. The rights of broadcasting organisations shall expire no less than 50 years after the first transmission of a broadcast, whether that broadcast is transmitted by wire or wireless means, including by cable or satellite.

6. The terms laid down in this Article shall be calculated from the first of January of the year following the event which gives rise to them.

ARTICLE 287

Protection of technological measures

1. Each Party shall provide adequate legal protection against the circumvention of any effective technological measures, which the person concerned carries out in the knowledge, or with reasonable grounds to know, that he/she is pursuing that objective.

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2. Each Party shall provide adequate legal protection against the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components, or the provision of services which:

(a) are promoted, advertised or marketed for the purpose of circumvention of any effective technological measures;

(b) have only a limited commercially significant purpose or use other than to circumvent any effective technological measures; or

(c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of any effective technological measures.

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3. For the purposes of this Agreement, the expression "technological measures" means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other protected subject matter, which are not authorised by the right holder of any copyright or related right as provided for by domestic law. Technological measures shall be deemed "effective" where the use of a work or other protected subject matter is controlled by the right holders through the application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject matter or a copy control mechanism, which achieves the protection objective.

ARTICLE 288

Protection of rights management information

1. Each Party shall provide adequate legal protection against any person performing without authority any of the following acts:

(a) the removal or alteration of any electronic rights-management information;

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(b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject matter protected under this Agreement from which electronic rights-management information has been removed or altered without authority,

if that person knows, or has reasonable grounds to know, that by so doing he/she is inducing, enabling, facilitating or concealing an infringement of any copyright or any related rights as provided by domestic law.

2. For the purposes of this Chapter, the expression "rights-management information" means any information provided by right holders which identifies the work or other subject matter that is the object of protection under this Chapter, the author or any other right holder, or information about the terms and conditions of use of the work or other subject matter, and any numbers or codes that represent such information. Paragraph 1 shall apply when any of those items of information is associated with a copy of, or appears in connection with the communication to the public of, a work or other subject matter that is the object of protection under this Chapter.

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ARTICLE 289

Exceptions and limitations

1. In accordance with the conventions and international agreements to which they are parties, each Party may provide for limitations or exceptions to the rights set out in Articles 281 to 286 of this Agreement only in certain special cases which do not conflict with a normal exploitation of the protected subject matter and which do not unreasonably prejudice the legitimate interests of the right holders.

2. Each Party shall provide that temporary acts of reproduction referred to in Articles 282 to 285 of this Agreement, which are transient or incidental, which are an integral and essential part of a technological process and the sole purpose of which is to enable:

(a) a transmission in a network between third parties by an intermediary; or

(b) a lawful use

of a work or other protected subject matter to be made, and which have no independent economic significance, shall be exempted from the reproduction right provided for in Articles 282 to 285 of this Agreement.

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ARTICLE 290

Artists' resale right in works of art

1. Each Party shall provide, for the benefit of the author of an original work of art, a resale right, to be defined as an inalienable right which cannot be waived, even in advance, to receive a royalty based on the sale price obtained for any resale of the work, subsequent to the first transfer of the work by the author.

2. The right referred to in paragraph 1 shall apply to all acts of resale involving as sellers, buyers or intermediaries art market professionals, such as salesrooms, art galleries and, in general, any dealers in works of art.

3. Each Party may provide that the right referred to in paragraph 1 shall not apply to acts of resale where the seller has acquired the work directly from the author less than three years before that resale and where the resale price does not exceed a certain minimum amount.

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4. The royalty shall be payable by the seller. Each Party may provide that one of the natural or legal persons referred to in paragraph 2, other than the seller, shall alone be liable or shall share liability with the seller for payment of the royalty.

5. The protection provided may be claimed to the extent permitted by the Party where that protection is claimed. The procedure for collection and the amounts shall be matters for determination by domestic law.

ARTICLE 291

Cooperation on collective management of rights

The Parties shall endeavour to promote dialogue and cooperation between their respective collective management societies for the purpose of promoting the availability of works and other protected subject matter and the transfer of royalties for the use of such works or other protected subject matter.

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SUB-SECTION 2

TRADEMARKS

ARTICLE 292

International agreements

The Parties shall:

(a) comply with the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, the WIPO Trademark Law Treaty and the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks; and

(b) make all reasonable efforts to accede to the Singapore Treaty on the Law of Trademarks.

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ARTICLE 293

Registration procedure

1. Each Party shall provide for a system for the registration of trademarks in which each final negative decision taken by the relevant trademark administration shall be communicated to the applicant in writing and shall be duly reasoned.

2. Each Party shall provide for the possibility to oppose applications to register trademarks. Such opposition proceedings shall be adversarial.

3. The Parties shall provide a publicly available electronic database of applications and registrations of trademarks.

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ARTICLE 294

Well-known trademarks

For the purpose of giving effect to Article 6*bis* of the Paris Convention and Article 16(2) and (3) of the TRIPS Agreement on the protection of well-known trademarks, the Parties shall apply the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of the World Intellectual Property Organisation (WIPO) at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO (September 1999).

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ARTICLE 295

Exceptions to the rights conferred by a trademark

Each Party shall provide for limited exceptions to the rights conferred by a trademark, such as the fair use of descriptive terms, the protection of geographical indications as provided for in Article 303 of this Agreement, or other limited exceptions that take account of the legitimate interests of the owner of the trademark and of third parties.

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SUB-SECTION 3

GEOGRAPHICAL INDICATIONS

ARTICLE 296

Scope

1. This Sub-Section applies to the recognition and protection of geographical indications which are originating in the territories of the Parties.

2. In order for a geographical indication of a Party to be protected by the other Party, it shall cover products within the scope of the legislation of that Party referred to in Article 297 of this Agreement.

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3. "Geographical indication" means an indication as defined in Article 22(1) of the TRIPS Agreement, which also includes "designations of origin".

ARTICLE 297

Established geographical indications

1. Having examined the legislation of the Republic of Moldova on the protection of geographical indications listed in Part A of Annex XXX-A of this Agreement, the Union concludes that that legislation meets the elements laid down in Part C of Annex XXX-A to this Agreement.

2. Having examined the legislation of the Union on the protection of geographical indications listed in Part B of Annex XXX-A to this Agreement, the Republic of Moldova concludes that that legislation meets the elements laid down in Part C of Annex XXX-A to this Agreement.

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3. The Government of the Republic of Moldova, after having completed an objection procedure in accordance with the criteria set out in Annex XXX-B to this Agreement, and after having examined the geographical indications for agricultural products and foodstuffs of the Union listed in Annex XXX-C to this Agreement and the geographical indications for wines, aromatised wines and spirit drinks of the Union listed in Annex XXX-D to this Agreement, which have been registered by the Union under the legislation referred to in paragraph 2 of this Article, shall protect those geographical indications according to the level of protection laid down in this Sub-Section.

4. The Union, after having completed an objection procedure in accordance with the criteria set out in Annex XXX-B to this Agreement and after having examined the geographical indications for agricultural products and foodstuffs of the Republic of Moldova listed in Annex XXX-C to this Agreement and the geographical indications for wines, aromatised wines and spirit drinks of the Republic of Moldova listed in Annex XXX-D to this Agreement, which have been registered by the Republic of Moldova under the legislation referred to in paragraph 1 of this Article, shall protect those geographical indications according to the level of protection laid down in this Sub-Section.

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5. The decisions of the Joint Committee set up by Article 11 of the Agreement between the European Union and the Republic of Moldova on the protection of geographical indications of agricultural products and foodstuffs concerning the amendment of Annexes III and IV to that Agreement, which are taken before the entry into force of this Agreement, shall be deemed to be decisions of the Geographical Indications Sub-Committee, and the geographical indications added to Annexes III and IV to that Agreement shall be deemed to be part of Annexes XXX-C and XXX-D to this Agreement. Accordingly, the Parties shall protect those geographical indications as established geographical indications under this Agreement.

ARTICLE 298

Addition of new geographical indications

1. The Parties agree on the possibility to add new geographical indications to be protected in Annexes XXX-C and XXX-D to this Agreement in accordance with the procedure set out in Article 306(3) of this Agreement after having completed the objection procedure and after having examined the geographical indications as referred to in Article 297(3) and 297(4) of this Agreement to the satisfaction of both Parties.

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2. A Party shall not be required to protect as a geographical indication a name that conflicts with the name of a plant variety, including a wine grape variety, or an animal breed and as a result is likely to mislead the consumer as to the true origin of the product.

ARTICLE 299

Scope of protection of geographical indications

1. The geographical indications listed in Annexes XXX-C and XXX-D to this Agreement, as well as those added pursuant to Article 298 of this Agreement, shall be protected against:

(a) any direct or indirect commercial use of a protected name:

(i) for comparable products not compliant with the product specification of the protected name; or

(ii) in so far as such use exploits the reputation of a geographical indication;

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(b) any misuse, imitation or evocation[1], even if the true origin of the product is indicated or if the protected name is translated, transcribed, transliterated or accompanied by an expression such as "style", "type", "method", "as produced in", "imitation", "flavour", "like" or similar;

(c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the product concerned, and the packing of the product in a container liable to convey a false impression as to its origin; and

(d) any other practice liable to mislead the consumer as to the true origin of the product.

[1] The term "evocation" means, in particular, the use in any way for products falling under heading 20.09 of the HS, although only in so far as those products are referred to as wines falling under heading 22.04, aromatised wines falling under heading 22.05 and spirit drinks falling under heading 22.08 of that system.

2. If geographical indications are wholly or partially homonymous, protection shall be granted to each indication provided that it has been used in good faith and with due regard for local and traditional usage and the actual risk of confusion. Without prejudice to Article 23 of the TRIPS Agreement, the Parties shall mutually decide the practical conditions of use under which the homonymous geographical indications will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled. A homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as the actual territory, region or place of origin of the product in question is concerned.

3. Where a Party, in the context of negotiations with a third country, proposes to protect a geographical indication of that third country, and the name is homonymous with a geographical indication of the other Party, the latter shall be consulted and given the opportunity to comment before the name is protected.

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4. Nothing in this Sub-Section shall oblige a Party to protect a geographical indication of the other Party which is not or ceases to be protected in its country of origin. The Parties shall notify each other if a geographical indication ceases to be protected in its country of origin.

5. The provisions of this Sub-Section shall in no way prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where that name is used in such a manner as to mislead consumers.

ARTICLE 300

Right of use of geographical indications

1. A name protected under this Sub-Section may be used by any operator marketing, producing, processing or preparing agricultural products, foodstuffs, wines, aromatised wines or spirit drinks conforming to the corresponding product specification.

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2. Once a geographical indication is protected under this Sub-Section, the use of such protected name shall not be subject to any registration of users or further charges.

ARTICLE 301

Enforcement of protection

The Parties shall enforce the protection provided for in Articles 297 to 300 of this Agreement by appropriate administrative actions or legal proceedings, as appropriate, including at the customs border (export and import), in order to prevent and stop any unlawful use of the protected geographical indications. They shall also enforce such protection at the request of an interested party.

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ARTICLE 302

Implementation of complementary actions

Without prejudice to the Republic of Moldova's previous commitments to grant protection for the Union geographical indications derived from international agreements on the protection of geographical indications and the enforcement thereof, including the commitments undertaken in the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, and in accordance with Article 301 of this Agreement, the Republic of Moldova shall benefit from a transitional period of five years from 1 April 2013 to put in place all complementary actions necessary to stop any unlawful use of the protected geographical indications, in particular the measures at the customs border.

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ARTICLE 303

Relationship with trademarks

1. The Parties shall refuse to register or shall invalidate, *ex officio* or at the request of any interested party in accordance with the legislation of each Party, a trademark that corresponds to any of the situations referred to in Article 299(1) of this Agreement in relation to a protected geographical indication for like products, provided an application to register the trademark is submitted after the date of application for protection of the geographical indication in the territory concerned.

2. For geographical indications referred to in Article 297 of this Agreement, the date of application for protection shall be 1 April 2013.

3. For geographical indications referred to in Article 298 of this Agreement, the date of application for protection shall be the date of the transmission of a request to the other Party to protect a geographical indication.

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4. For geographical indications referred to in Article 298 of this Agreement, the Parties shall have no obligation to protect a geographical indication where, in the light of a reputed or well-known trademark, protection is liable to mislead consumers as to the true identity of the product.

5. Without prejudice to paragraph 4 of this Article, the Parties shall protect geographical indications also where a prior trademark exists. A prior trademark shall mean a trademark, the use of which corresponds to one of the situations referred to in Article 299(1) of this Agreement, which has been applied for, registered or established by use, if that possibility is provided for by the legislation concerned, in the territory of one of the Parties before the date on which the application for protection of the geographical indication is submitted by the other Party under this Sub-Section. Such trademark may continue to be used and renewed notwithstanding the protection of the geographical indication, provided that no grounds for the trademark's invalidity or revocation exist in the legislation on trademarks of the Parties.

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ARTICLE 304

General rules

1. This Sub-Section shall apply without prejudice to the rights and obligations of the Parties under the WTO Agreement.

2. Notwithstanding Article 302 of this Agreement, the import, export and marketing of any product referred to in Articles 297 and 298 of this Agreement shall be conducted in compliance with the laws and regulations applying in the territory of the importing Party.

3. Any matter arising from technical specifications of registered names shall be dealt with in the Geographical Indications Sub-Committee established pursuant to Article 306 of this Agreement.

4. Geographical indications protected under this Sub-Section may only be cancelled by the Party in which the product originates.

5. A product specification referred to in this Sub-Section shall be that approved, including any amendments also approved, by the authorities of the Party in the territory of which the product originates.

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ARTICLE 305

Cooperation and transparency

1. The Parties shall, either directly or through the Geographical Indications Sub-Committee established pursuant to Article 306 of this Agreement, maintain contact on all matters relating to the implementation and the functioning of this Sub-Section. In particular, a Party may request from the other Party information relating to product specifications and their modification, and contact points for control provisions.

2. Each Party may make publicly available the product specifications or a summary thereof and contact points for control provisions corresponding to geographical indications of the other Party protected pursuant to this Article.

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ARTICLE 306

Geographical Indications Sub-Committee

1. The Geographical Indications Sub-Committee is hereby established.

2. The Geographical Indications Sub-Committee shall consist of representatives of the Parties with the purpose of monitoring the development of this Sub-Section and of intensifying their cooperation and dialogue on geographical indications. It shall report to the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement.

3. The Geographical Indications Sub-Committee adopts its decisions by consensus. It shall determine its own rules of procedure. It shall meet at least once a year and at the request of either of the Parties, alternatively in the EU and in the Republic of Moldova, at a time and place and in a manner (which may include videoconference) mutually determined by the Parties, but no later than 90 days after the request.

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4. The Geographical Indications Sub-Committee shall also see to the proper functioning of this Sub-Section and may consider any matter related to its implementation and operation. In particular, it shall be responsible for:

(a) amending Part A and Part B of Annex XXX-A to this Agreement as regards the references to the law applicable in the Parties;

(b) amending Annexes XXX-C and XXX-D to this Agreement as regards geographical indications;

(c) exchanging information on legislative and policy developments on geographical indications and any other matter of mutual interest in the area of geographical indications;

(d) exchanging information on geographical indications for the purpose of considering their protection in accordance with this Sub-Section; and

(e) monitoring the latest developments regarding the enforcement of the protection of the geographical indications listed in Annexes XXX-C and XXX-D to this Agreement.

SUB-SECTION 4

DESIGNS

ARTICLE 307

International agreements

The Parties shall comply with the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs of 1999.

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ARTICLE 308

Protection of registered designs

1. Each Party shall provide for the protection of independently created designs that are new and original[1]. That protection shall be provided by registration, which shall confer an exclusive right upon the holders of a registered design in accordance with the provisions of this Article.

2. A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and original:

(a) if the component part, once it has been incorporated into the complex product, remains visible during normal use of the product; and

(b) to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and originality.

[1] For the purposes of this Article, a Party may consider that a design having individual character is original.

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3. The expression "normal use" in paragraph 2(a) shall mean use by the end user, excluding maintenance, servicing or repair work.

4. The holder of a registered design shall have the right to prevent third parties not having the owner's consent from, at a minimum, making, offering for sale, selling, importing, exporting, stocking or using a product bearing or embodying the protected design when such acts are undertaken for commercial purposes, unduly prejudice the normal exploitation of the design, or are not compatible with fair trade practices.

5. The duration of protection available shall amount to 25 years from the date of filing of the application for registration.

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ARTICLE 309

Protection conferred to unregistered designs

1. Each Party shall provide the legal means to prevent the use of unregistered designs, only if the contested use results from copying the unregistered appearance of the product. For the purposes of this Article, the term "use" includes the offering for sale, putting on the market, importing or exporting the product.

2. The duration of protection available for unregistered designs shall amount to at least three years from the date on which the design was made available to the public in one of the Parties.

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ARTICLE 310

Exceptions and exclusions

1. Each Party may provide limited exceptions to the protection of designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected designs and do not unreasonably prejudice the legitimate interests of the owner of the protected design, taking account of the legitimate interests of third parties.

2. Design protection shall not extend to designs dictated essentially by technical or functional considerations. In particular a design right shall not subsist in features of appearance of a product which are required to be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around or against another product so that either product may perform its function.

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ARTICLE 311

Relationship to copyright

A design shall also be eligible for protection under the copyright law of a Party as from the date on which the design was created or fixed in any form. The extent to which, and the conditions under which, such a protection is conferred, including the level of originality required, shall be determined by each Party.

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SUB-SECTION 5

PATENTS

ARTICLE 312

International agreements

The Parties shall adhere to the provisions of the WIPO Patent Cooperation Treaty and shall make all reasonable efforts to comply with the WIPO Patent Law Treaty.

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ARTICLE 313

Patents and public health

1. The Parties recognise the importance of the Declaration of the Ministerial Conference of the WTO on the TRIPS Agreement and Public Health, adopted on 14 November 2001. In interpreting and implementing the rights and obligations under this Chapter, the Parties shall ensure consistency with that Declaration.

2. The Parties shall respect the Decision of the WTO General Council of 30 August 2003 on paragraph 6 of the declaration referred to in paragraph 1 of this Article and shall contribute to its implementation.

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ARTICLE 314

Supplementary protection certificate

1. The Parties recognise that medicinal and plant protection products protected by a patent may be subject to an administrative authorisation procedure before being put on their market. They recognise that the period that elapses between the filing of the application for a patent and the first authorisation to place the product on their respective market, as defined for that purpose by domestic law, may shorten the period of effective protection under the patent.

2. Each Party shall provide for a further period of protection for a medicinal or plant protection product which is protected by a patent and which has been subject to an administrative authorisation procedure, that period being equal to the period referred to in the second sentence of paragraph 1, reduced by a period of five years.

3. Notwithstanding paragraph 2, the duration of the further period of protection may not exceed five years.

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4. In the case of medicinal products for which paediatric studies have been carried out, and provided that results of those studies are reflected in the product information, the Parties shall provide for a further six months extension of the period of protection referred to in paragraph 2.

ARTICLE 315

Protection of data submitted to obtain an authorisation to put a medicinal product on the market

1. Each Party shall implement a comprehensive system to guarantee the confidentiality, non-disclosure and non-reliance of data submitted for the purpose of obtaining an authorisation to put a medicinal product on the market.[1]

[1] For the purposes of this Article "medicinal products" means:
(i) any substance or combination of substances presented for treating or preventing disease in human beings; or
(ii) any substance or combination of substances which may be administered to human beings with a view to making a medical diagnosis or to restoring, correcting or modifying physiological functions in human beings.
Medicinal products include, for example, chemical medicinal products, biological medicinal products (e.g. vaccines, (anti)toxins) including medicinal products derived from human blood or human plasma, advanced therapy medicinal products (e.g. gene therapy medicinal products and cell therapy medicinal products), herbal medicinal products, and radiopharmaceuticals.

2. Each Party shall ensure that any required information that is submitted to obtain an authorisation to put a medicinal product on the market remains undisclosed to third parties and benefits from protection against unfair commercial use.

To that end,

(a) during a period of at least five years, starting from the date of the grant of a marketing authorisation in the Party concerned, no person or entity, whether public or private, other than the person or entity who submitted such undisclosed data, shall be allowed to rely directly or indirectly on such data, without the explicit consent of the person or entity who submitted that data, in support of an application for the authorisation to put a medicinal product on the market;

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(b) during a period of at least seven years, starting from the date of the grant of a marketing authorisation in the Party concerned, a marketing authorisation for any subsequent application shall not be granted, unless the subsequent applicant submits his/her own data, or data used with authorisation of the holder of the first authorisation, meeting the same requirements as in the case of the first authorisation. Products registered without submission of such data shall be removed from the market until the requirements are met.

3. The seven-year period referred to in paragraph 2(b) shall be extended to a maximum of eight years if, during the first five years after obtaining the initial authorisation, the holder obtains an authorisation for one or more new therapeutic indications considered to be of significant clinical benefit in comparison with existing therapies.

4. The provisions of this Article shall not have retroactive effect. They shall not affect the marketing of medicinal products authorised before the entry into force of this Agreement.

5. The Republic of Moldova undertakes to align its legislation concerning data protection for medicinal products with that of the Union at a date to be decided by the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement.

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ARTICLE 316

Data protection on plant protection products

1. Each Party shall determine safety and efficacy requirements before authorising the placing on the market of plant protection products.

2. Each Party shall assign a temporary data protection right to the owner of a test or study report submitted for the first time to obtain a marketing authorisation for a plant protection product.

During the period of validity of the data protection right, the test or study report shall not be used for the benefit of any other person aiming to obtain a marketing authorisation for a plant protection product, except when the explicit consent of the owner is provided.

3. The test or study report shall fulfil the following conditions:

(a) that it is necessary for the authorisation or for an amendment of an authorisation in order to allow the use on other crops; and

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(b) that it is certified as compliant with the principles of good laboratory practice or of good experimental practice.

4. The period of data protection shall be at least ten years from the first authorisation in the Party concerned. In case of low risk plant protection products, the period may be extended to 13 years.

5. The periods referred to in paragraph 4 shall be extended by three months for each extension of authorisation for minor uses[1] if the applications for such authorisations are made by the holder of the authorisation at the latest five years after the date of the first authorisation. The total period of data protection may in no case exceed 13 years. For low risk plant protection products the total period of data protection may in no case exceed 15 years.

[1] For the purposes of this Article, the expression "minor use" means use of a plant protection product in a Party on plants or plant products which are not widely grown in that Party or which are widely grown to meet an exceptional plant protection need.

6. A test or study report shall also be protected if it was necessary for the renewal or review of an authorisation. In those cases, the period for data protection shall be 30 months.

ARTICLE 317

Plant varieties

The Parties shall protect plant varieties rights, in accordance with the International Convention for the Protection of New Varieties of Plants including the optional exception to the breeder's right as referred to in Article 15(2) of the said Convention, and shall cooperate to promote and enforce those rights.

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SECTION 3

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

ARTICLE 318

General obligations

1. The Parties reaffirm their commitments under the TRIPS Agreement, in particular Part III thereof, and shall provide for the complementary measures, procedures and remedies set forth in this Section necessary to ensure the enforcement of intellectual property rights[1].

[1] For the purposes of this Sub-Section the notion of "intellectual property rights" includes at least the following rights: copyright; rights related to copyright; *sui generis* right of a database maker; rights of the creator of the topographies of a semi-conductor product; trademark rights; design rights; patent rights, including rights derived from supplementary protection certificates; geographical indications; utility model rights; plant variety rights; and trade names in so far as these are protected as exclusive rights by domestic law.

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2. Those complementary measures, procedures and remedies shall be fair and equitable, and shall not be unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays.

3. Those complementary measures and remedies shall also be effective, proportionate and dissuasive and shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

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ARTICLE 319

Entitled applicants

Each Party shall recognise as persons entitled to seek application of the measures, procedures and remedies referred to in this Section and in Part III of the TRIPS Agreement:

(a) the holders of intellectual property rights in accordance with the provisions of the applicable law;

(b) all other persons authorised to use those rights, in particular licensees, in so far as permitted by and in accordance with the provisions of the applicable law;

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(c) intellectual property collective rights management bodies which are regularly recognised as having a right to represent holders of intellectual property rights, in so far as permitted by and in accordance with the provisions of the applicable law; and

(d) professional defence bodies which are regularly recognised as having a right to represent holders of intellectual property rights, in so far as permitted by and in accordance with the provisions of the applicable law.

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SUB-SECTION 1

CIVIL ENFORCEMENT

ARTICLE 320

Measures for preserving evidence

1. Each Party shall ensure that, even before the commencement of proceedings on the merits of the case, the competent judicial authorities may, on application by a party who has presented reasonably available evidence to support his/her claims that his/her intellectual property right has been infringed or is about to be infringed, order prompt and effective provisional measures to preserve relevant evidence in respect of the alleged infringement, subject to the protection of confidential information.

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2. Such measures may include the detailed description, with or without the taking of samples, or the physical seizure of the alleged infringing goods, and, in appropriate cases, the materials and implements used in the production and/or distribution of those goods and the documents relating thereto. Those measures shall be taken, if necessary, without the other party being heard, in particular where any delay is likely to cause irreparable harm to the right holder or where there is a demonstrable risk of evidence being destroyed.

ARTICLE 321

Right of information

1. Each Party shall ensure that, in the context of proceedings concerning an infringement of an intellectual property right and in response to a justified and proportionate request of the claimant, the competent judicial authorities may order that information on the origin and distribution networks of the goods or services which infringe an intellectual property right be provided by the infringer and/or any other person who:

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(a) was found in possession of the infringing goods on a commercial scale;

(b) was found to be using the infringing services on a commercial scale;

(c) was found to be providing on a commercial scale services used in infringing activities;

(d) was indicated by the person referred to in point (a), (b) or (c) as being involved in the production, manufacture or distribution of the goods or the provision of the services.

2. The information referred to in paragraph 1 shall, as appropriate, comprise:

(a) the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as the intended wholesalers and retailers;

(b) information on the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the goods or services in question.

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3. Paragraphs 1 and 2 shall apply without prejudice to other statutory provisions which:

(a) grant the right holder rights to receive fuller information;

(b) govern the use in civil or criminal proceedings of the information communicated pursuant to this Article;

(c) govern responsibility for misuse of the right of information;

(d) afford an opportunity for refusing to provide information which would force the person referred to in paragraph 1 to admit to his/her own participation or that of his/her close relatives in an infringement of an intellectual property right; or

(e) govern the protection of confidentiality of information sources or the processing of personal data.

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ARTICLE 322

Provisional and precautionary measures

1. Each Party shall ensure that the judicial authorities may, at the request of the applicant, issue against the alleged infringer an interlocutory injunction intended to prevent any imminent infringement of an intellectual property right, or to forbid, on a provisional basis and subject, where appropriate, to a recurring penalty payment where provided for by domestic law, the continuation of the alleged infringements of that right, or to make such continuation subject to the lodging of guarantees intended to ensure the compensation of the right holder. An interlocutory injunction may also be issued, under the same conditions, against an intermediary whose services are being used by a third party to infringe an intellectual property right.

2. An interlocutory injunction may also be issued to order the seizure or delivery of goods suspected of infringing an intellectual property right, so as to prevent their entry into or movement within the channels of commerce.

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3. In the case of an alleged infringement committed on a commercial scale, the Parties shall ensure that, if the applicant demonstrates circumstances likely to endanger the recovery of damages, the judicial authorities may order the precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of his/her bank accounts and other assets. To that end, the competent authorities may order the communication of bank, financial or commercial documents, or appropriate access to the relevant information.

ARTICLE 323

Corrective measures

1. Each Party shall ensure that the competent judicial authorities may order, at the request of the applicant and without prejudice to any damages due to the right holder by reason of the infringement, and without compensation of any sort, at least the definitive removal from the channels of commerce, or the destruction, of goods that they have found to be infringing an intellectual property right. If appropriate, the competent judicial authorities may also order the destruction of materials and implements predominantly used in the creation or manufacture of those goods.

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2. The Parties' judicial authorities shall have the power to order that those measures shall be carried out at the expense of the infringer, unless particular reasons are invoked for not doing so.

ARTICLE 324

Injunctions

Each Party shall ensure that, where a judicial decision has been taken, finding an infringement of an intellectual property right, the judicial authorities may issue against the infringer, as well as against an intermediary whose services are used by a third party to infringe an intellectual property right, an injunction aimed at prohibiting the continuation of the infringement.

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ARTICLE 325

Alternative measures

The Parties may provide that, in appropriate cases and at the request of the person liable to be subject to the measures provided for in Article 323 and/or Article 324 of this Agreement, the competent judicial authorities may order pecuniary compensation to be paid to the injured party instead of applying the measures provided for in those two Articles if that person acted unintentionally and without negligence, if execution of the measures in question would cause him/her disproportionate harm and if pecuniary compensation to the injured party appears reasonably satisfactory.

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ARTICLE 326

Damages

1. Each Party shall ensure that the judicial authorities, on application of the injured party, order the infringer who knowingly, or with reasonable grounds to know, engaged in an infringing activity, to pay the right-holder damages appropriate to the actual prejudice suffered by him/her as a result of the infringement. When the judicial authorities set the amount of damages:

(a) they shall take into account all appropriate aspects, such as the negative economic consequences, including lost profits, which the injured party has suffered, any unfair profits made by the infringer and, in appropriate cases, elements other than economic factors, such as the moral prejudice caused to the right holder by the infringement; or

(b) as an alternative to point (a), they may, in appropriate cases, set the amount of damages as a lump sum on the basis of elements such as, at least, the amount of royalties or fees which would have been due if the infringer had requested authorisation to use the intellectual property right in question.

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2. Where the infringer did not knowingly, or with reasonable grounds to know, engage in the infringing activity, the Parties may lay down that the judicial authorities may order in favour of the injured party the recovery of profits or the payment of damages which may be pre-established.

ARTICLE 327

Legal costs

Each Party shall ensure that reasonable and proportionate legal costs and other expenses incurred by the successful party shall, as a general rule, be borne by the unsuccessful party, unless equity does not allow this.

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ARTICLE 328

Publication of judicial decisions

Each Party shall ensure that, in legal proceedings instituted for infringement of an intellectual property right, the judicial authorities may order, at the request of the applicant and at the expense of the infringer, appropriate measures for the dissemination of the information concerning the decision, including displaying the decision and publishing it in full or in part.

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ARTICLE 329

Presumption of authorship or ownership

For the purposes of applying the measures, procedures and remedies provided for in this Section:

(a) for the author of a literary or artistic work, in the absence of proof to the contrary, to be regarded as such, and consequently to be entitled to institute infringement proceedings, it shall be sufficient for his/her name to appear on the work in the usual manner;

(b) point (a) shall apply *mutatis mutandis* to the holders of rights related to copyright with regard to their protected subject matter.

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SUB-SECTION 2

OTHER PROVISIONS

ARTICLE 330

Border measures

1. Each Party shall, unless otherwise provided for in this Sub-Section, adopt procedures to enable a right holder, who has valid grounds for suspecting that the importation, exportation, re-exportation, entry or exit of the customs territory, placement under a suspensive procedure or placement under a free zone or a free warehouse of goods infringing an intellectual property right[1] may take place, to lodge an application in writing with the competent authorities, whether administrative or judicial, for the suspension by the customs authorities of the release or detention of such goods.

[1] For the purposes of this Article, "goods infringing an intellectual property right" means:
(a) "counterfeit goods", namely:
(i) goods, including packaging, bearing without authorisation a trademark identical to the trademark duly registered in respect of the same type of goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the trademark holder's rights;
(ii) any trademark symbol such as a logo, label, sticker, brochure, instructions for use or guarantee document, even if presented separately, on the same conditions as the goods referred to in point (i);
(iii) packaging materials bearing the trademark of counterfeit goods, presented separately, on the same conditions as the goods referred to in point (i);
(b) "pirated goods", namely goods which are or contain copies made without the consent of the right-holder or of a person duly authorised by the holder in the country of production, and which are made directly or indirectly from an article, where the making of that copy would have constituted an infringement of a copyright or related right or design right under the law of the country of importation, regardless of whether it is registered in domestic law;
(c) goods which, according to the law of the Party in which the application for customs action is made, infringe a patent, a plant variety right, or a geographical indication.

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2. Each Party shall provide that when the customs authorities, in the course of their actions and before an application has been lodged by a right holder or granted, have sufficient grounds for suspecting that goods infringe an intellectual property right, they may suspend the release of the goods or detain them in order to enable the right holder to submit an application for action in accordance with paragraph 1.

3. Any rights or obligations concerning the importer which are established in domestic law for the implementation of this Article and of Section 4 of Part III of the TRIPS Agreement shall be also applicable to the exporter or to the holder of the goods.

4. Each Party shall provide that its competent authorities require a right holder who requests the procedures described in paragraph 1 to provide adequate evidence to satisfy the competent authorities that, under the law of the Party providing the procedures, there is a *prima facie* infringement of the right holder's intellectual property right, and to supply sufficient information that may reasonably be expected to be within the right holder's knowledge to make the suspect goods reasonably recognisable by the competent authorities. The requirement to provide sufficient information shall not unreasonably deter recourse to the procedures described in paragraph 1.

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5. With a view to establishing whether an intellectual property right has been infringed, the customs office shall inform the right holder, at his/her request and if known, of the names and addresses of the consignee, the consignor or the holder of the goods and the origin and provenance of goods suspected of infringing an intellectual property right.

The customs office shall also give the applicant the opportunity to inspect goods whose release has been suspended or which have been detained. When examining goods, the customs office may take samples and hand them over or send them to the right holder, at his/her request, strictly for the purposes of analysis and to facilitate the subsequent procedure.

6. The customs authorities shall be active in targeting and identifying shipments containing goods suspected of infringing an intellectual property right on the basis of risk analysis techniques. They shall set up systems for close cooperation with right holders, including effective mechanisms to collect information for the risk analysis.

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7. The Parties agree to cooperate with a view to eliminating international trade in goods infringing intellectual property rights. In particular, for that purpose, they shall, where appropriate, exchange information and arrange for cooperation between their competent authorities with regard to trade in goods infringing intellectual property rights.

8. For goods in transit through the territory of a Party destined for the territory of the other Party, the former Party shall provide information to the latter Party to enable effective enforcement against shipments of goods suspected of infringing an intellectual property right.

9. Without prejudice to other forms of cooperation, Protocol III on Mutual Administrative Assistance in Customs Matters will be applicable with regard to paragraphs 7 and 8 of this Article with respect to breaches of customs legislation related to intellectual property rights.

10. The Customs Sub-Committee referred to in Article 200 of this Agreement shall act as the responsible Committee to ensure the proper functioning and implementation of this Article.

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ARTICLE 331

Codes of conduct

The Parties shall encourage:

a) the development by trade or professional associations or organisations of codes of conduct aimed at contributing towards the enforcement of intellectual property rights; and

b) the submission to the competent authorities of the Parties of draft codes of conduct and of any evaluations of the application of those codes of conduct.

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ARTICLE 332

Cooperation

1. The Parties agree to cooperate with a view to supporting implementation of the commitments and obligations undertaken under this Chapter.

2. Subject to the provisions of Title VI (Financial Assistance, and Anti-Fraud and Control Provisions) of this Agreement, areas of cooperation include, but are not limited to, the following activities:

(a) exchange of information on the legal framework concerning intellectual property rights and relevant rules of protection and enforcement; exchange of experiences on legislative progress in those areas;

(b) exchange of experiences and information on enforcement of intellectual property rights;

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(c) exchange of experiences on central and sub-central enforcement by customs, police, administrative and judiciary bodies; coordination to prevent exports of counterfeit goods, including with other countries;

(d) capacity-building; exchange and training of personnel;

(e) promotion and dissemination of information on intellectual property rights in, *inter alia*, business circles and civil society; public awareness of consumers and right holders;

(f) enhancement of institutional cooperation, for example between intellectual property offices;

(g) active promotion of awareness and education of the general public on policies concerning intellectual property rights; formulation of effective strategies to identify key audiences, and the creation of communication programmes to increase consumer and media awareness on the impact of intellectual property violations, including the risk to health and safety and the connection to organised crime.

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CHAPTER 10

COMPETITION

SECTION 1

ANTITRUST AND MERGERS

ARTICLE 333

Definitions

For the purposes of this Section:

(1) "competition authority" means for the Union, the European Commission, and for the Republic of Moldova, the Competition Council;

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(2) "competition laws" means:

(a) for the Union, Articles 101, 102 and 106 of the Treaty on the Functioning of the European Union, Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation), and their implementing regulations or amendments;

(b) for the Republic of Moldova, Competition Law N° 183 of 11 July 2012 and its implementing regulations or amendments; and

(c) any changes that the instruments referred to in points (a) and (b) may undergo after the entry into force of this Agreement.

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ARTICLE 334

Principles

The Parties recognise the importance of free and undistorted competition in their trade relations. The Parties acknowledge that anti-competitive business practices have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation.

ARTICLE 335

Implementation

1. Each Party shall maintain in its respective territory comprehensive competition laws which effectively address anti-competitive agreements, concerted practices and anti-competitive unilateral conduct of undertakings with dominant market power and provide effective control of concentrations.

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2. Each Party shall maintain an operationally independent authority with adequate human and financial resources in order to effectively enforce the competition laws referred to in Article 333(2).

3. The Parties recognise the importance of applying their respective competition laws in a transparent and non-discriminatory manner, respecting the principles of procedural fairness and rights of defence of the undertakings concerned.

ARTICLE 336

State monopolies, public undertakings and undertakings entrusted with special or exclusive rights

1. Nothing in this Chapter prevents a Party from designating or maintaining state monopolies or public undertakings or entrusting undertakings with special or exclusive rights according to their respective laws.

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2. With regard to state monopolies of a commercial character, public undertakings and undertakings entrusted with special or exclusive rights, each Party shall ensure that such undertakings are subject to the competition laws referred to in Article 333(2), in so far as the application of those laws does not obstruct the performance, in law or in fact, of the particular tasks of public interest assigned to the undertakings in question.

ARTICLE 337

Cooperation and exchange of information

1. The Parties recognise the importance of cooperation and coordination between their respective competition authorities to enhance effective competition law enforcement, and to fulfil the objectives of this Agreement through the promotion of competition and the curtailment of anti-competitive business conduct or anti-competitive transactions.

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2. To that end, each competition authority may inform the other competition authority of its willingness to cooperate with respect to the enforcement activity of any of the Parties. Neither Party shall be prevented from taking autonomous decisions on the matters subject to the cooperation.

3. With a view to facilitating the effective enforcement of their respective competition laws, the competition authorities may exchange non-confidential information. All exchange of information shall be subject to the standards of confidentiality applicable in each Party. Whenever the Parties exchange information under this Article, they shall take into account the limitations imposed by the requirements of professional and business secrecy in their respective jurisdictions.

ARTICLE 338

Dispute settlement

The provisions on the dispute settlement mechanism in Chapter 14 (Dispute Settlement) of Title V (Trade and Trade-related Matters) of this Agreement shall not apply to this Section.

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SECTION 2

STATE AID

ARTICLE 339

General principles and scope

1. State aid granted by the Union or the Republic of Moldova, or through the resources of one of the Parties, in any form whatsoever, which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods and services and which affects trade between the Parties, shall be incompatible with this Agreement.

2. This Chapter shall not apply to state aid related to fisheries, products covered by Annex 1 to the Agreement on Agriculture or other aids covered by the Agreement on Agriculture.

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ARTICLE 340

Assessment of state aid

1. State aid shall be assessed on the basis of the criteria arising from the application of the competition rules applicable in the EU, in particular Article 107 of the Treaty on the Functioning of the European Union and interpretative instruments adopted by the EU institutions, including the relevant jurisprudence of the Court of Justice of the European Union.

2. The obligations deriving from this Article shall apply within five years from the date of entry into force of this Agreement.

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ARTICLE 341

State aid legislation and authority

1. The Parties shall adopt or maintain, as appropriate, legislation for the control of state aid. They shall also establish or maintain, as appropriate, an operationally independent authority entrusted with the powers necessary for the control of state aid. That authority shall have, *inter alia*, the powers to authorise state aid schemes and individual state aid measures, as well as the powers to order the recovery of state aid that has been unlawfully granted.

2. The obligations deriving from this Article shall be fulfilled within two years from the date of entry into force of this Agreement.

3. Any state aid schemes instituted before the establishment of the state aid authority shall be aligned within a period of eight years from the date of entry into force of this Agreement. Without prejudice to other Chapters of this Agreement, the alignment period shall be extended for a maximum period of up to ten years from the date of entry into force of this Agreement with regard to state aid schemes instituted under the Law of the Republic of Moldova on Free Economic Zones No 440-XV of 27 July 2001.

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ARTICLE 342

Transparency

1. Each Party shall ensure transparency in the area of state aid. To that end, each Party shall, as of 1 January 2016, report every two years to the other Party, following the methodology and the presentation of the EU annual survey on state aid. That report is deemed to have been provided if the relevant information is made available by the Parties or on their behalf on a publicly accessible website.

2. Whenever a Party considers its trade relations to be affected by an individual case of state aid granted by the other Party, the Party concerned may request the other Party to provide information on the individual case of state aid.

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ARTICLE 343

Confidentiality

When exchanging information under this Chapter, the Parties shall take into account the limitations imposed by the requirements of professional and business secrecy.

ARTICLE 344

Review clause

The Parties shall keep under constant review the matters to which reference is made in this Chapter. Each Party may refer such matters to the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement. The Parties agree to review progress in implementing this Chapter every two years after the entry into force of this Agreement, unless both Parties agree otherwise.

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CHAPTER 11

TRADE-RELATED ENERGY

ARTICLE 345

Definitions

For the purposes of this Chapter:

(1) "energy goods" means crude oil (HS code 27.09), natural gas (HS code 27.11) and electrical energy (HS code 27.16);

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(2) "fixed infrastructure" means any transmission or distribution network, liquefied natural gas facility or storage facility, as defined in Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and in Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity;

(3) "transport" means transmission and distribution, as defined in Directive 2003/54 and Directive 2003/55, and the carriage or conveyance of oil through pipelines;

(4) "unauthorised taking" means any activity consisting of the unlawful taking of energy goods from fixed infrastructure.

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ARTICLE 346

Domestic regulated prices

1. In accordance with the Protocol concerning the Accession of the Republic of Moldova to the Energy Community the price for the supply of gas and electricity for non-household customers shall be determined solely by supply and demand.

2. By way of derogation from paragraph 1, a Party may impose in the general economic interest[1] an obligation on undertakings which relates to the price of supply of natural gas and electricity (hereinafter referred to as "regulated price"). In case non-household customers are not able to agree with a supplier on a price for electricity or natural gas that is lower than or equal to the regulated price for natural gas or electricity, non-household customers shall have the right to enter into a contract for the supply of electricity or natural gas with a supplier against the regulated price applicable. In any case, the non-household customers shall be free to negotiate and sign a contract with any alternative supplier.

[1] The expression "general economic interest" shall be interpreted in the same way as in Article 106 of the Treaty on the Functioning of the European Union and in particular in accordance with the case law of the Court of Justice of the European Union.

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3. The Party imposing an obligation in accordance with paragraph 2 shall ensure that the obligation is clearly defined, transparent, proportionate, non-discriminatory, verifiable and of limited duration. When imposing any such obligation, the Party shall also guarantee equality of access for other undertakings to consumers.

4. Where the price at which natural gas and electricity are sold on the domestic market is regulated by a Party, that Party shall ensure that the methodology underlying the calculation of the regulated price is published prior to the entry into force of the regulated price.

ARTICLE 347

Prohibition of dual pricing

1. Without prejudice to the possibility of imposing regulated prices consistently with paragraphs 2 and 3 of Article 346 of this Agreement, a Party, or a regulatory authority of a Party, shall not adopt or maintain a measure resulting in a higher price for exports of energy goods to the other Party than the price charged for such goods when intended for domestic consumption.

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2. The exporting Party shall upon request of the other Party provide evidence that a different price for the same energy goods sold on the domestic market and for export does not result from a measure prohibited by paragraph 1.

ARTICLE 348

Transit

The Parties shall take any necessary measures to facilitate transit, consistent with the principle of freedom of transit, and in accordance with Articles V.1, V.2, V.4 and V.5 of GATT 1994 and Articles 7.1 and 7.3 of the Energy Charter Treaty, which are incorporated into this Agreement and made part thereof.

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ARTICLE 349

Transport

As regards transport of electricity and gas, in particular third party access to fixed infrastructure, the Parties shall adapt their legislation, as referred to in Annex VIII to this Agreement and in the Energy Community Treaty, in order to ensure that the tariffs, which shall be published prior to their entry into force, the capacity allocation procedures and all other conditions are objective, reasonable and transparent and that they do not discriminate on the basis of origin, ownership or destination of the electricity or gas.

ARTICLE 350

Unauthorised taking of goods in transit

Each Party shall take all necessary measures to prohibit and address any unauthorised taking of energy goods in transit through its territory by any entity subject to that Party's control or jurisdiction.

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ARTICLE 351

Uninterrupted transit

1. A Party shall not interfere with the transit of energy goods through its territory, except where such interference is specifically provided for in a contract or other agreement governing such transit.

2. In the event of a dispute over any matter involving the Parties or one or more entities subject to the control or jurisdiction of one of the Parties, a Party through the territory of which energy goods transit shall not, prior to the conclusion of a dispute resolution procedure under the relevant contract or agreement or of an emergency procedure under Annex XXXI to this Agreement or under Chapter 14 (Dispute Settlement) of Title V (Trade and Trade-related Matters) of this Agreement, interrupt or reduce such transit, or permit any entity subject to its control or jurisdiction, including a state trading enterprise, to interrupt or reduce such transit, except under the circumstances provided in paragraph 1 of this Article.

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3. A Party shall not be held liable for an interruption or reduction of transit pursuant to this Article where that Party is unable to supply or to transit energy goods as a result of actions attributable to a third country or an entity under the control or jurisdiction of a third country.

ARTICLE 352

Transit obligation for operators

Each Party shall ensure that fixed infrastructure operators take any necessary measures to:

(a) minimise the risk of accidental interruption or reduction of transit; and

(b) expeditiously restore the normal operation of such transit, which has been accidentally interrupted or reduced.

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ARTICLE 353

Regulatory authority for electricity and natural gas

1. In accordance with Directive 2003/55/EC and Directive 2003/54/EC, a regulatory authority in the field of natural gas and electricity shall be legally distinct and functionally independent from any other public or private entity, and shall be sufficiently empowered to ensure effective competition and the efficient functioning of the market.

2. The decisions of a regulatory authority and the procedures used by it shall be impartial with respect to all market participants.

3. An operator affected by a decision of a regulatory authority shall have the right to appeal against that decision to an appeal body that is independent of the parties involved. Where the appeal body is not judicial in character, written reasons for its decision shall always be given and its decisions shall also be subject to review by an impartial and independent judicial authority. Decisions taken by appeal bodies shall be effectively enforced.

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ARTICLE 354

Relationship with the Energy Community Treaty

1. In the event of a conflict between the provisions of this Chapter and the provisions of the Energy Community Treaty or the provisions of the Union legislation made applicable under the Energy Community Treaty, the provisions of the Energy Community Treaty or the provisions of the Union legislation made applicable under the Energy Community Treaty shall prevail to the extent of such conflict.

2. In implementing this Chapter, preference shall be given to the adoption of legislation or other acts which are consistent with the Energy Community Treaty or are based on the legislation applicable in the Union. In the event of a dispute as regards this Chapter, legislation or other acts which meet those criteria shall be presumed to conform to this Chapter. In assessing whether the legislation or other acts meet those criteria, any relevant decision taken under Article 91 of the Energy Community Treaty shall be taken into account.

3. Neither Party shall utilise the dispute settlement provisions of this Agreement in order to allege a violation of the provisions of the Energy Community Treaty.

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CHAPTER 12

TRANSPARENCY

ARTICLE 355

Definitions

For the purposes of this Chapter:

(1) "measures of general application" includes laws, regulations, judicial decisions, procedures and administrative rulings of general application and any other general or abstract act, interpretation or other requirement that may have an impact on any matter covered by Title V (Trade and Trade-related Matters) of this Agreement. It does not include a ruling that applies to a particular person;

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(2) "interested person" means any natural or legal person that may be subject to any rights or obligations under measures of general application, within the meaning of Title V (Trade and Trade-related Matters) of this Agreement.

ARTICLE 356

Objective and scope

Recognising the impact which the regulatory environment may have on trade and investment between the Parties, the Parties shall provide a predictable regulatory environment for economic operators and efficient procedures, taking due account of the requirements of legal certainty and proportionality.

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ARTICLE 357

Publication

1. Each Party shall ensure that measures of general application:

(a) are promptly and readily available via an officially designated medium and, where feasible, electronic means, in such a manner as to enable any person to become acquainted with them;

(b) provide an explanation of the objective of, and the rationale for, such measures; and

(c) allow for sufficient time between publication and entry into force of such measure except in duly justified cases.

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2. Each Party shall:

(a) endeavour to publish at an appropriate early stage any proposal to adopt or to amend any measure of general application, including an explanation of the objective of, and rationale for, the proposal;

(b) provide reasonable opportunities for interested persons to comment on such proposal, allowing, in particular, for sufficient time for such opportunities; and

(c) endeavour to take into account the comments received from interested persons with respect to such proposal.

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ARTICLE 358

Enquiries and contact points

1. In order to facilitate the communication between the Parties on any matter covered by Title V (Trade and Trade-related Matters) of this Agreement, each Party shall designate a contact point acting as a coordinator.

2. Each Party shall maintain or establish appropriate mechanisms for responding to enquiries from any person regarding any measure of general application which is proposed or in force, and its application. Enquiries may be addressed through the contact point established under paragraph 1 or through any other mechanism, as appropriate.

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3. The Parties recognise that any response provided for in paragraph 2 may not be definitive or legally binding but for information purposes only, unless otherwise provided in their respective laws and regulations.

4. Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any measure of general application or any proposal to adopt or to amend any measure of general application that the requesting Party considers might affect the operation of Title V (Trade and Trade-related Matters) of this Agreement, regardless of whether the requesting Party has been previously notified of that measure.

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ARTICLE 359

Administration of measures of general application

Each Party shall administer in an objective, impartial and reasonable manner all measures of general application. To that end, each Party, in applying such measures to particular persons, goods or services of the other Party in specific cases, shall:

(a) endeavour to provide interested persons, that are directly affected by a proceeding, with reasonable notice, in accordance with its procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issues in controversy;

(b) afford such interested persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when the time, the nature of the proceeding, and the public interest permit; and

(c) ensure that its procedures are based on and carried out in accordance with its law.

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ARTICLE 360

Review and appeal

1. Each Party shall establish or maintain judicial, arbitral or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, the correction of administrative action relating to matters covered by Title V (Trade and Trade-related Matters) of this Agreement. Such tribunals or procedures shall be impartial and independent of the office or authority entrusted with administrative enforcement, and those responsible for them shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:

(a) a reasonable opportunity to support or defend their respective positions; and

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(b) a decision based on the evidence and the submissions of record or, where required by the Party's law, the record compiled by the administrative authority.

3. Each Party shall ensure that, subject to appeal or further review as provided in its law, such decision shall be implemented by, and shall govern the practice of, the office or the competent authority with respect to the administrative action at issue.

ARTICLE 361

Regulatory quality and performance and good administrative behaviour

1. The Parties agree to cooperate in promoting regulatory quality and performance, including through the exchange of information and best practices on their respective regulatory policies and regulatory impact assessments.

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2. The Parties subscribe to the principles of good administrative behaviour[1], and agree to cooperate in promoting them, including through the exchange of information and best practices.

ARTICLE 362

Specific rules

The provisions of this Chapter shall apply without prejudice to any specific rules on transparency established in other Chapters of Title V (Trade and Trade-related Matters) of this Agreement.

[1] As expressed in the Council of Europe's *Recommendation of the Committee of Ministers to member states on good administration*, CM/Rec(2007)7 of 20 June 2007.

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CHAPTER 13

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 363

Context and objectives

1. The Parties recall the Agenda 21 of the United Nations Conference on Environment and Development of 1992, the ILO Declaration on Fundamental Principles and Rights at Work of 1998, the Johannesburg Plan of Implementation on Sustainable Development of 2002, the Ministerial Declaration of the United Nations Economic and Social Council on Generating Full and Productive Employment and Decent Work for All of 2006, and the ILO Declaration on Social Justice for a Fair Globalisation of 2008. The Parties reaffirm their commitment to promote the development of international trade, in such a way as to contribute to the objective of sustainable development, for the welfare of present and future generations, and to ensure that that objective is integrated and reflected at every level of their trade relationship.

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2. The Parties reaffirm their commitment to pursue sustainable development and recognise that economic development, social development and environmental protection are its interdependent and mutually reinforcing pillars. They underline the benefit of considering trade-related labour[1] and environmental issues as part of a global approach to trade and sustainable development.

ARTICLE 364

Right to regulate and levels of protection

1. The Parties recognise the right of each Party to determine its sustainable development policies and priorities, to establish its own levels of domestic environmental and labour protection, and to adopt or modify accordingly its relevant law and policies, consistently with their commitment to the internationally recognised standards and agreements referred to in Articles 365 and 366 of this Agreement.

[1] When "labour" is referred to in this Chapter, it includes the issues relevant to the strategic objectives of the ILO, through which the Decent Work Agenda is expressed, as agreed on in the ILO Declaration on Social Justice for a Fair Globalisation of 2008.

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2. In that context, each Party shall strive to ensure that its law and policies provide for and encourage high levels of environmental and labour protection and shall strive to continue to improve those law and policies and the underlying levels of protection.

ARTICLE 365

Multilateral labour standards and agreements

1. The Parties recognise full and productive employment and decent work for all as key elements for managing globalisation, and reaffirm their commitment to promote the development of international trade in a way that is conducive to full and productive employment and decent work for all. In that context, the Parties commit to consulting and cooperating, as appropriate, on trade-related labour issues of mutual interest.

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2. In accordance with their obligations as members of the ILO and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up of 1998, the Parties commit to respecting, promoting and realising in their law and practice and in their whole territory the internationally recognised core labour standards, as embodied in the fundamental ILO conventions, and in particular:

(a) the freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour; and

(d) the elimination of discrimination in respect of employment and occupation.

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3. The Parties reaffirm their commitment to effectively implement in their law and in practice the fundamental, the priority and other ILO conventions ratified by the Member States and the Republic of Moldova, respectively.

4. The Parties will also consider the ratification of the remaining priority and other conventions that are classified as up-to-date by the ILO. In that context, the Parties shall regularly exchange information on their respective situation and advancement in the ratification process.

5. The Parties recognise that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes.

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ARTICLE 366

Multilateral environmental governance and agreements

1. The Parties recognise the value of international environmental governance and agreements as a response of the international community to global or regional environmental problems, and stress the need to enhance the mutual supportiveness between trade and environmental policies. In that context, the Parties commit to consulting and cooperating, as appropriate, with respect to negotiations on trade-related environmental issues and with respect to other trade-related environmental matters of mutual interest.

2. The Parties reaffirm their commitment to effectively implement in their law and in practice the multilateral environmental agreements (MEAs) to which they are party.

3. The Parties shall regularly exchange information on their respective situation and advancements as regards ratifications of MEAs or amendments to such agreements.

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4. The Parties reaffirm their commitment to reaching the ultimate objective of the United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol. They commit to cooperating on the development of the future international climate change framework under the UNFCCC and its related agreements and decisions.

5. Nothing in this Agreement shall prevent the Parties from adopting or maintaining measures to implement the MEAs to which they are party, provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade.

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ARTICLE 367

Trade and investment promoting sustainable development

The Parties reconfirm their commitment to enhance the contribution of trade to the goal of sustainable development in its economic, social and environmental dimensions. Accordingly, the Parties:

(a) recognise the beneficial role that core labour standards and decent work can have on economic efficiency, innovation and productivity, and shall seek greater policy coherence between trade policies, on the one hand, and labour policies, on the other;

(b) shall strive to facilitate and promote trade and investment in environmental goods and services, including through addressing related non-tariff barriers;

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(c) shall strive to facilitate the removal of obstacles to trade or investment concerning goods and services of particular relevance to climate change mitigation, such as sustainable renewable energy and energy efficient products and services, including through the adoption of policy frameworks conducive to the deployment of best available technologies and through the promotion of standards that respond to environmental and economic needs and minimise technical obstacles to trade;

(d) agree to promote trade in goods that contribute to enhanced social conditions and environmentally sound practices, including goods that are the subject of voluntary sustainability assurance schemes such as fair and ethical trade schemes, eco-labels, and certification schemes for natural resource-based products;

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(e) agree to promote corporate social responsibility, including through the exchange of information and best practices. In that regard, the Parties refer to the relevant internationally recognised principles and guidelines, such as the OECD Guidelines for Multinational Enterprises, the United Nations Global Compact, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

ARTICLE 368

Biological diversity

1. The Parties recognise the importance of ensuring the conservation and the sustainable use of biological diversity as a key element for the achievement of sustainable development, and reaffirm their commitment to conserve and sustainably use biological diversity, in accordance with the Convention on Biological Diversity and other relevant international instruments to which they are party.

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2. To that end, the Parties commit to:

(a) promoting trade in natural resource-based products obtained through a sustainable use of biological resources and contributing to the conservation of biodiversity;

(b) exchanging information on actions on trade in natural resource-based products aimed at halting the loss of biological diversity and reducing pressures on biodiversity and, where relevant, cooperating to maximise the impact and to ensure the mutual supportiveness of their respective policies;

(c) promoting the listing of species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) where the conservation status of those species is considered at risk; and

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(d) cooperating at the regional and global levels with the aim of promoting the conservation and the sustainable use of biological diversity in natural or agricultural ecosystems, including endangered species, their habitat, specially protected natural areas and genetic diversity, the restoration of ecosystems, and the elimination or the reduction of negative environmental impacts resulting from the use of living and non-living natural resources or of ecosystems.

ARTICLE 369

Sustainable management of forests and trade in forest products

1. The Parties recognise the importance of ensuring the conservation and the sustainable management of forests and of forests' contribution to the Parties' economic, environmental and social objectives.

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2. To that end, the Parties commit to:

(a) promoting trade in forest products derived from sustainably managed forests, harvested in accordance with the domestic legislation of the country of harvest. Actions, in that regard, may include the conclusion of a Forest Law Enforcement Governance and Trade Voluntary Partnership Agreement;

(b) exchanging information on measures to promote the consumption of timber and timber products from sustainably managed forests and, where relevant, cooperate in the development of such measures;

(c) adopting measures to promote the conservation of forest cover and to combat illegal logging and related trade, including with respect to third countries, as appropriate;

(d) exchanging information on actions for improving forest governance and, where relevant, cooperating to maximise the impact and ensure the mutual supportiveness of their respective policies aiming at excluding illegally harvested timber and timber products from trade flows;

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(e) promoting the listing of timber species under CITES where the conservation status of that species is considered at risk; and

(f) cooperating at the regional and global level with the aim of promoting the conservation of forest cover and the sustainable management of all types of forests, with use of certification promoting responsible management of the forests.

ARTICLE 370

Trade in fish products

Taking into account the importance of ensuring responsible management of fish stocks in a sustainable manner as well as promoting good governance in trade, the Parties commit to:

(a) promoting best practices in fisheries management with a view to ensuring the conservation and the management of fish stocks in a sustainable manner, and based on the ecosystem approach;

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(b) taking effective measures to monitor and control fishing activities;

(c) ensuring full compliance with applicable conservation and control measures, adopted by Regional Fisheries Management Organisations as well as cooperating with and within Regional Fisheries Management Organisations as widely as possible; and

(d) cooperating in the fight against illegal, unreported and unregulated (IUU) fishing and fishing related activities with comprehensive, effective and transparent measures. The Parties shall also implement policies and measures to exclude IUU products from trade flows and their markets.

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ARTICLE 371

Upholding levels of protection

1. The Parties recognise that it is inappropriate to encourage trade or investment by lowering the levels of protection afforded in domestic environmental or labour law.

2. A Party shall not waive or derogate from, or offer to waive or derogate from, its environmental or labour law as an encouragement for trade or the establishment, the acquisition, the expansion or the retention of an investment of an investor in its territory.

3. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental and labour law, as an encouragement for trade or investment.

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ARTICLE 372

Scientific information

When preparing and implementing measures aimed at protecting the environment or labour conditions that may affect trade or investment, the Parties shall take account of available scientific and technical information, and relevant international standards, guidelines or recommendations if they exist, including the precautionary principle.

ARTICLE 373

Transparency

Each Party, in accordance with its domestic law and Chapter 12 (Transparency) of Title V (Trade and Trade-related Matters) of this Agreement, shall ensure that any measure aimed at protecting the environment or labour conditions that may affect trade or investment is developed, introduced and implemented in a transparent manner, with due notice and public consultation, and with appropriate and timely communication to, and consultation of, non-state actors.

ARTICLE 374

Review of sustainability impacts

The Parties commit to reviewing, monitoring and assessing the impact of the implementation of Title V (Trade and Trade-related Matters) of this Agreement on sustainable development through their respective participative processes and institutions, as well as those set up under this Agreement, for instance through trade-related sustainability impact assessments.

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ARTICLE 375

Working together on trade and sustainable development

The Parties recognise the importance of working together on trade-related aspects of environmental and labour policies in order to achieve the objectives of Title V (Trade and Trade-related Matters) of this Agreement. They may cooperate in, *inter alia*, the following areas:

(a) labour or environmental aspects of trade and sustainable development in international fora, including in particular the WTO, the ILO, UNEP, and MEAs;

(b) methodologies and indicators for trade sustainability impact assessments;

(c) the impact of labour and environment regulations, norms and standards on trade and investment, as well as the impact of trade and investment rules on labour and environmental law, including on the development of labour and environmental regulations and policy;

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(d) the positive and negative impacts of Title V (Trade and Trade-related Matters) of this Agreement on sustainable development and ways to enhance, prevent or mitigate them, respectively, also taking into account the sustainability impact assessments carried out by either or both Parties;

(e) promoting the ratification and the effective implementation of fundamental, priority and other up-to-date ILO conventions and MEAs of relevance in a trade context;

(f) promoting private and public certification, traceability and labelling schemes, including eco-labelling;

(g) promoting corporate social responsibility, for instance through actions concerning awareness raising, adherence, implementation and follow-up of internationally recognised guidelines and principles;

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(h) trade-related aspects of the ILO Decent Work Agenda, including on the interlink between trade and full and productive employment, labour market adjustment, core labour standards, labour statistics, human resources development and lifelong learning, social protection and social inclusion, social dialogue and gender equality;

(i) trade-related aspects of MEAs, including customs cooperation;

(j) trade-related aspects of the current and future international climate change regime, including means to promote low-carbon technologies and energy efficiency;

(k) trade-related measures to promote the conservation and the sustainable use of biological diversity;

(l) trade-related measures to tackle deforestation, including by addressing problems regarding illegal logging; and

(m) trade-related measures to promote sustainable fishing practices and trade in sustainably managed fish products.

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ARTICLE 376

Institutional and overseeing mechanisms

1. Each Party shall designate an office within its administration that shall serve as the contact point with the other Party for the purposes of implementing this Chapter.

2. The Trade and Sustainable Development Sub-Committee is hereby established. It shall report on its activities to the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement. It shall comprise senior officials from within the administrations of each Party.

3. The Trade and Sustainable Development Sub-Committee shall meet within the first year after the date of entry into force of this Agreement, and thereafter as necessary, to oversee the implementation of this Chapter, including cooperative activities undertaken under Article 375 of this Agreement. That Sub-Committee shall establish its own rules of procedure.

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4. Each Party shall convene new, or consult existing, domestic advisory group(s) on sustainable development with the task of advising on issues relating to this Chapter. Such group(s) may submit views or recommendations on the implementation of this Chapter, including on its (their) own initiative.

5. The domestic advisory group(s) shall comprise independent representative organisations of civil society in a balanced representation of economic, social, and environmental stakeholders, including, among others, employers' and workers' organisations, non-governmental organisations, business groups, as well as other relevant stakeholders.

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ARTICLE 377

Joint civil society dialogue forum

1. The Parties shall facilitate a joint forum with civil society organisations established in their territories, including members of their domestic advisory group(s) and the public at large, to conduct a dialogue on sustainable development aspects of this Agreement. The Parties shall promote a balanced representation of relevant interests, including independent representative organisations of employers, workers, environmental interests and business groups, as well as other relevant stakeholders, as appropriate.

2. The joint civil society dialogue forum shall be convened once a year unless otherwise agreed by the Parties. The Parties shall agree on the operation of the joint civil society dialogue forum no later than one year after the entry into force of this Agreement.

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3. The Parties shall present an update on the implementation of this Chapter to the joint civil society dialogue forum. The views and the opinions of the joint civil society dialogue forum shall be submitted to the Parties and shall be made publicly available.

ARTICLE 378

Government consultations

1. For any matter arising under this Chapter the Parties shall only have recourse to the procedures established under this Article and Article 379 of this Agreement.

2. A Party may request consultations with the other Party regarding any matter arising under this Chapter by delivering a written request to the contact point of the other Party. The request shall present the matter clearly, identifying the problem at issue and providing a brief summary of the claims under this Chapter. Consultations shall start promptly after a Party delivers a request for consultations.

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3. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter. The Parties shall take into account the activities of the ILO or relevant multilateral environmental organisations or bodies so as to promote greater cooperation and coherence between the work of the Parties and those organisations. Where relevant, the Parties may seek advice from those organisations or bodies, or any person or body they deem appropriate, in order to fully examine the matter.

4. If a Party considers that the matter needs further discussion, that Party may request that the Trade and Sustainable Development Sub-Committee be convened to consider the matter by delivering a written request to the contact point of the other Party. That Sub-Committee shall convene promptly and endeavour to agree on a resolution of the matter.

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5. Where appropriate, that Sub-Committee may seek the advice of the domestic advisory group(s) of either Party or both Parties or other expert assistance.

6. Any resolution reached by the consulting Parties on the matter shall be made publicly available.

ARTICLE 379

Panel of Experts

1. Each Party may, 90 days after the delivery of a request for consultations under Article 378(2) of this Agreement, request that a Panel of Experts be convened to examine a matter that has not been satisfactorily addressed through government consultations.

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2. The provisions of Sub-Section 1 and Sub-Section 3 of Section 3, and of Article 406 of Chapter 14 (Dispute Settlement) of Title V (Trade and Trade-related Matters) of this Agreement, as well as the Rules of Procedure in Annex XXXIII to this Agreement and the Code of Conduct for Arbitrators and Mediators ("Code of Conduct") set out in Annex XXXIV to this Agreement, shall apply, except as otherwise provided in this Article.

3. At its first meeting after the entry into force of this Agreement, the Trade and Sustainable Development Sub-Committee shall establish a list of at least 15 individuals who are willing and able to serve as experts in Panel procedures. Each Party shall propose at least five individuals to serve as experts. The Parties shall also select at least five individuals who are not nationals of either Party who may serve as chairperson to the Panel of Experts. The Trade and Sustainable Development Sub-Committee shall ensure that the list is always maintained at that level.

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4. The list referred to in paragraph 3 shall comprise individuals with specialised knowledge or expertise in law, labour or environmental issues addressed in this Chapter, or the resolution of disputes arising under international agreements. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government with regard to issues related to the matter at stake, or be affiliated with the government of any Party, and shall comply with the Code of Conduct set out in Annex XXXIV to this Agreement.

5. For matters arising under this Chapter, the Panel of Experts shall be composed of experts from the list referred to in paragraph 3 of this Article, in accordance with Article 385 of this Agreement and rule 8 of the Rules of Procedure set out in Annex XXXIII to this Agreement.

6. The Panel of Experts may seek information and advice from either Party, the domestic advisory group(s) or any other source it deems appropriate. In matters related to the respect of multilateral agreements as set out in Articles 365 and 366 of this Agreement, the Panel of Experts should seek information and advice from the ILO or MEA bodies.

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7. The Panel of Experts shall issue its report to the Parties, in accordance with the relevant procedures set out in Chapter 14 (Dispute Settlement) of Title V (Trade and Trade-related Matters) of this Agreement. That report shall set out the findings of facts, the applicability of the relevant provisions and the basic rationale behind any findings and recommendations that it makes. The Parties shall make the report publicly available within 15 days of its issuance.

8. The Parties shall discuss appropriate measures to be implemented, taking into account the Panel of Experts' report and recommendations. The Party concerned shall inform its advisory group(s) and the other Party of its decisions on any action or measure to be implemented no later than three months after the public release of the report. The follow-up to the report and the recommendations of the Panel of Experts shall be monitored by the Trade and Sustainable Development Sub-Committee. The advisory bodies and the Joint Civil Society Dialogue Forum may submit observations to the Trade and Sustainable Development Sub-Committee in that regard.

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CHAPTER 14

DISPUTE SETTLEMENT

SECTION 1

OBJECTIVE AND SCOPE

ARTICLE 380

Objective

The objective of this Chapter is to establish an effective and efficient mechanism for avoiding and settling any dispute between the Parties concerning the interpretation and application of Title V (Trade and Trade-related Matters) of this Agreement with a view to arriving, where possible, at a mutually agreed solution.

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ARTICLE 381

Scope of application

This Chapter shall apply with respect to any dispute concerning the interpretation and application of the provisions of Title V (Trade and Trade-related Matters) of this Agreement, except as otherwise provided.

SECTION 2

CONSULTATIONS AND MEDIATION

ARTICLE 382

Consultations

1. The Parties shall endeavour to resolve any dispute referred to in Article 381 of this Agreement by entering into consultations in good faith with the aim of reaching a mutually agreed solution.

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2. A Party shall seek consultations by means of a written request to the other Party, copied to the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, giving reasons for the request, including by identifying the measure at issue and the provisions referred to in Article 381 of this Agreement that it considers applicable.

3. Consultations shall be held within 30 days of the date of receipt of the request and take place, unless the Parties agree otherwise, in the territory of the Party to which the request is made. The consultations shall be deemed concluded within 30 days of the date of receipt of the request, unless both Parties agree to continue consultations. Consultations, in particular all information disclosed and positions taken by the Parties during the consultations, shall be confidential, and without prejudice to the rights of either Party in any further proceedings.

4. Consultations on matters of urgency, including those regarding perishable goods or seasonal goods or services, shall be held within 15 days of the date of receipt of the request by the requested Party, and shall be deemed concluded within those 15 days unless both Parties agree to continue consultations.

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5. If the Party to which the request is made does not respond to the request for consultations within ten days of the date of its receipt, or if consultations are not held within the timeframes laid down in paragraph 3 or in paragraph 4 of this Article, respectively, or if the Parties agree not to have consultations, or if consultations have been concluded and no mutually agreed solution has been reached, the Party that sought consultations may have recourse to Article 384 of this Agreement.

6. During the consultations each Party shall deliver sufficient factual information, so as to allow a complete examination of the manner in which the measure at issue could affect the operation and the application of this Agreement.

7. Where consultations concern the transport of energy goods through networks and one Party views the resolution of the dispute as urgent because of an interruption, in full or in part, of transport of natural gas, oil or electricity between the Parties, the consultations shall be held within three days of the date of submission of the request, and shall be deemed concluded three days after the date of submission of the request unless both Parties agree to continue consultations.

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ARTICLE 383

Mediation

Any Party may request the other Party to enter into a mediation procedure with respect to any measure adversely affecting trade or investment between the Parties pursuant to Annex XXXII to this Agreement.

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SECTION 3

DISPUTE SETTLEMENT PROCEDURES

SUB-SECTION 1

ARBITRATION PROCEDURE

ARTICLE 384

Initiation of the arbitration procedure

1. Where the Parties have failed to resolve the dispute by recourse to consultations as provided for in Article 382 of this Agreement, the Party that sought consultations may request the establishment of an arbitration panel in accordance with this Article.

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2. The request for the establishment of an arbitration panel shall be made in writing to the other Party and the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement. The complaining Party shall identify in its request the measure at issue, and it shall explain how such measure is inconsistent with the provisions referred to in Article 381 of this Agreement in a manner sufficient to present the legal basis for the complaint clearly.

ARTICLE 385

Establishment of the arbitration panel

1. An arbitration panel shall be composed of three arbitrators.

2. Within ten days of the date of receipt by the Party complained against of the request for the establishment of an arbitration panel, the Parties shall consult in order to reach an agreement on the composition of the arbitration panel.

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3. In the event that the Parties are unable to agree on the composition of the arbitration panel within the time frame laid down in paragraph 2 of this Article, each Party may appoint an arbitrator from its sub-list established under Article 404 of this Agreement within five days from the expiry of the timeframe established in paragraph 2 of this Article. If any of the Parties fails to appoint the arbitrator, the arbitrator shall, upon request of the other Party, be selected by lot by the chair of the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, or the chair's delegate, from the sub-list of that Party contained in the list established under Article 404 of this Agreement.

4. Unless the Parties reach an agreement concerning the chairperson of the arbitration panel within the timeframe established in paragraph 2 of this Article, the chair of the Association Committee in Trade configuration or the chair's delegate shall, upon request of any of the Parties, select by lot the chairperson of the arbitration panel from the sub-list of chairpersons contained in the list established under Article 404 of this Agreement.

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5. The chair of the Association Committee in Trade configuration or the chair's delegate shall select the arbitrators within five days of the request by either Party referred to in paragraphs 3 and 4.

6. The date of establishment of the arbitration panel shall be the date on which the last of the three selected arbitrators accepts the appointment according to the Rules of Procedure in Annex XXXIII to this Agreement.

7. Should any of the lists provided for in Article 404 of this Agreement not be established or not contain sufficient names at the time a request is made pursuant to paragraphs 3 and 4 of this Article, the arbitrators shall be drawn by lot from the individuals who have been formally proposed by one or both of the Parties.

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8. Unless the Parties agree otherwise, in respect of a dispute concerning Chapter 11 (Trade-related Energy) of Title V (Trade and Trade-related Matters) of this Agreement which a Party considers to be urgent because of an interruption, in full or in part, of any transport of natural gas, oil, or electricity or a threat thereof between the Parties, the second sentence of paragraph 3 and paragraph 4 shall apply without recourse to paragraph 2, and the period referred to in paragraph 5 shall be of two days.

ARTICLE 386

Preliminary ruling on urgency

If a Party so requests, the arbitration panel shall, within ten days of its establishment, give a preliminary ruling on whether it deems the case to be urgent.

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ARTICLE 387

Arbitration panel report

1. The arbitration panel shall notify an interim report to the Parties setting out the findings of fact, the applicability of relevant provisions and the basic rationale behind any findings and recommendations that it makes, not later than 90 days after the date of establishment of the arbitration panel. Where it considers that that deadline cannot be met, the chairperson of the arbitration panel shall notify the Parties and the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, in writing, stating the reasons for the delay and the date on which the arbitration panel plans to notify its interim report. Under no circumstances should the interim report be notified later than 120 days after the date of establishment of the arbitration panel.

2. A Party may submit a written request to the arbitration panel to review precise aspects of the interim report within 14 days of its notification.

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3. In cases of urgency, including those involving perishable goods or seasonal goods or services, the arbitration panel shall make every effort to notify its interim report within 45 days and, in any case, no later than 60 days after the date of establishment of the arbitration panel. A Party may submit a written request to the arbitration panel to review precise aspects of the interim report, within 7 days of the notification of the interim report.

4. After considering any written comments by the Parties on the interim report, the arbitration panel may modify its report and make any further examination it considers appropriate. The findings of the final panel ruling shall include a sufficient discussion of the arguments made at the interim review stage, and shall answer clearly to the questions and observations of the Parties.

5. In respect of a dispute concerning Chapter 11 (Trade-related Energy) of Title V (Trade and Trade-related Matters) of this Agreement which a Party considers to be urgent because of an interruption, in full or in part, of any transport of natural gas, oil or electricity or a threat thereof between the Parties, the interim report shall be notified 20 days after the date of establishment of the arbitration panel, and any request pursuant to paragraph 2 of this Article shall be made within five days of the notification of the written report. The arbitration panel may also decide to dispense with the interim report.

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ARTICLE 388

Conciliation for urgent energy disputes

1. In respect of a dispute concerning Chapter 11 (Trade-related Energy) of Title V (Trade and Trade-related Matters) of this Agreement which a Party considers to be urgent because of an interruption, in full or in part, of any transport of natural gas, oil, or electricity or a threat thereof between the Parties, either Party may request the chairperson of the arbitration panel to act as a conciliator concerning any matter related to the dispute by making a request to the arbitration panel.

2. The conciliator shall seek an agreed resolution of the dispute or seek to agree a procedure to achieve such resolution. If within 15 days of his/her appointment he/she has failed to secure such agreement, he/she shall recommend a resolution to the dispute or a procedure to achieve such resolution and shall decide on the terms and conditions to be observed from a date which he/she shall specify until the dispute is resolved.

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3. The Parties and the entities under their control or jurisdiction shall respect recommendations made under paragraph 2 on the terms and conditions for three months following the conciliator's decision or until resolution of the dispute, whichever is earlier.

4. The conciliator shall respect the Code of Conduct set out in Annex XXXIV to this Agreement.

ARTICLE 389

Notification of the ruling of the arbitration panel

1. The arbitration panel shall notify its final ruling to the Parties and to the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, within 120 days from the date of establishment of the arbitration panel. Where it considers that that deadline cannot be met, the chairperson of the arbitration panel shall notify the Parties and the Association Committee in Trade configuration in writing, stating the reasons for the delay and the date on which the arbitration panel plans to notify its ruling. Under no circumstances should the ruling be notified later than 150 days after the date of establishment of the arbitration panel.

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2. In cases of urgency, including those involving perishable goods or seasonal goods or services, the arbitration panel shall make every effort to notify its ruling within 60 days from the date of its establishment. Under no circumstances should the ruling be notified later than 75 days after the date of its establishment.

3. In respect of a dispute concerning Chapter 11 (Trade-related Energy) of Title V (Trade and Trade-related Matters) of this Agreement which a Party considers to be urgent because of an interruption, in full or in part, of any transport of natural gas, oil or electricity or a threat thereof between the Parties, the arbitration panel shall notify its ruling within 40 days from the date of its establishment.

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SUB-SECTION 2

COMPLIANCE

ARTICLE 390

Compliance with the arbitration panel ruling

The Party complained against shall take any measure necessary to comply promptly and in good faith with the arbitration panel ruling.

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ARTICLE 391

Reasonable period of time for compliance

1. If immediate compliance is not possible, the Parties shall endeavour to agree on the period of time to comply with the ruling. In such a case, the Party complained against shall, no later than 30 days after the receipt of the notification of the arbitration panel ruling to the Parties, notify the complaining Party and the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, of the time it will require for compliance ("reasonable period of time") and provide reasons for the proposed reasonable period of time.

2. If there is disagreement between the Parties on the reasonable period of time to comply with the arbitration panel ruling, the complaining Party shall, within 20 days of the receipt of the notification made under paragraph 1 by the Party complained against, request in writing the original arbitration panel to determine the length of the reasonable period of time. Such request shall be notified simultaneously to the other Party and to the Association Committee in Trade configuration. The original arbitration panel shall notify its ruling to the Parties and to the Association Committee in Trade configuration within 20 days from the date of submission of the request.

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3. The Party complained against shall inform the complaining Party in writing of its progress to comply with the arbitration panel ruling at least 30 days before the expiry of the reasonable period of time.

4. The reasonable period of time may be extended by mutual agreement of the Parties.

ARTICLE 392

Review of any measure taken to comply with the arbitration panel ruling

1. The Party complained against shall notify the complaining Party and the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, before the end of the reasonable period of time of any measure that it has taken to comply with the arbitration panel ruling.

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2. In the event that there is disagreement between the Parties concerning the existence or the consistency of any measure taken to comply as notified in paragraph 1 with the provisions referred to in Article 381 of this Agreement, the complaining Party may request in writing the original arbitration panel to rule on the matter. Such request shall identify the specific measure at issue and explain how such measure is inconsistent with the provisions referred to in Article 381 of this Agreement, in a manner sufficient to present the legal basis for the complaint clearly. The original arbitration panel shall notify its ruling to the Parties and to the Association Committee in Trade configuration within 45 days of the date of submission of the request.

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ARTICLE 393

Temporary remedies in case of non-compliance

1. If the Party complained against fails to notify any measure taken to comply with the arbitration panel ruling before the expiry of the reasonable period of time, or if the arbitration panel rules that no measure taken to comply exists or that the measure notified under Article 392(1) of this Agreement is inconsistent with that Party's obligations under the provisions referred to in Article 381 of this Agreement, the Party complained against shall, if so requested by the complaining Party and after consultations with that Party, present an offer for temporary compensation.

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2. If the complaining Party decides not to request an offer for temporary compensation under paragraph 1 of this Article, or, in case such request is made but no agreement on compensation is reached within 30 days from the end of the reasonable period of time or of the notification of the arbitration panel ruling under Article 392 of this Agreement that no measure taken to comply exists or that a measure taken to comply is inconsistent with the provisions referred to in Article 381 of this Agreement, the complaining Party shall be entitled, upon notification to the other Party and to the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, to suspend obligations arising from any provision referred to in Article 381 of this Agreement at a level equivalent to the nullification or impairment caused by the violation. The notification shall specify the level of suspension of obligations. The complaining Party may implement the suspension at any moment after the expiry of ten days after the date of receipt of the notification by the Party complained against, unless the Party complained against has requested arbitration under paragraph 3 of this Article.

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3. If the Party complained against considers that the level of suspension is not equivalent to the nullification or impairment caused by the violation, it may request in writing the original arbitration panel to rule on the matter. Such request shall be notified to the complaining Party and to the Association Committee in Trade configuration before the expiry of the ten day period referred to in paragraph 2. The original arbitration panel shall notify its ruling on the level of the suspension of obligations to the Parties and to the Association Committee in Trade configuration within 30 days of the date of submission of the request. Obligations shall not be suspended until the original arbitration panel has notified its ruling, and any suspension shall be consistent with the arbitration panel ruling.

4. The suspension of obligations and the compensation foreseen in this Article shall be temporary and shall not be applied after:

(a) the Parties have reached a mutually agreed solution pursuant to Article 398 of this Agreement;

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(b) the Parties have agreed that the measure notified under Article 392(1) of this Agreement brings the Party complained against in conformity with the provisions referred to in Article 381 of this Agreement; or

(c) any measure found to be inconsistent with the provisions referred to in Article 381 of this Agreement has been withdrawn or amended so as to bring it in conformity with those provisions, as ruled under Article 392(1) of this Agreement.

ARTICLE 394

Remedies for urgent energy disputes

1. In respect of a dispute concerning Chapter 11 (Trade-related Energy) of Title V (Trade and Trade-related Matters) of this Agreement which a Party considers to be urgent because of an interruption, in full or in part, of any transport of natural gas, oil, or electricity or a threat thereof between the Parties, the provisions of this Article on remedies shall apply.

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2. By way of derogation from Articles 391, 392, and 393 of this Agreement, the complaining Party may suspend obligations arising under Title V (Trade and Trade-related Matters) of this Agreement to a level equivalent to the nullification or impairment caused by the Party failing to bring itself into compliance with the arbitration panel ruling within 15 days of its notification. That suspension may take effect immediately. Such suspension may be maintained as long as the Party complained against has not complied with the arbitration panel ruling.

3. Should the Party complained against dispute the existence of a failure to comply or the level of suspension due to the failure to comply, it may initiate proceedings under Articles 393(3) and 395 of this Agreement which shall be examined expeditiously. The complaining Party shall be required to remove or adjust the suspension only after the arbitration panel has ruled on the matter, and may maintain the suspension pending the proceedings.

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ARTICLE 395

Review of any measure taken to comply after the adoption of temporary remedies for non-compliance

1. The Party complained against shall notify the complaining Party and the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, of the measure it has taken to comply with the ruling of the arbitration panel following the suspension of concessions or following the application of temporary compensation, as the case may be. With the exception of cases under paragraph 2 of this Article, the complaining Party shall terminate the suspension of concessions within 30 days from the receipt of the notification. In cases where compensation has been applied, and with the exception of cases under paragraph 2, the Party complained against may terminate the application of such compensation within 30 days from its notification that it has complied with the ruling of the arbitration panel.

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2. If the Parties do not reach an agreement on whether the notified measure brings the Party complained against in conformity with the provisions referred to in Article 381 of this Agreement within 30 days of the date of receipt of the notification, the complaining Party shall request in writing the original arbitration panel to rule on the matter. Such a request shall be notified simultaneously to the other Party and to the Association Committee in Trade configuration. The arbitration panel ruling shall be notified to the Parties and to the Association Committee in Trade configuration within 45 days of the date of submission of the request. If the arbitration panel rules that the measure taken to comply is in accordance with the provisions referred to in Article 381 of this Agreement, the suspension of obligations or compensation, as the case may be, shall be terminated. Where relevant, the complaining Party shall adapt the level of suspension of concessions to the level determined by the arbitration panel.

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SUB-SECTION 3

COMMON PROVISIONS

ARTICLE 396

Replacement of arbitrators

If in an arbitration proceeding under this Chapter, the original arbitration panel, or some of its members, are unable to participate, withdraw, or need to be replaced because they do not comply with the requirements of the Code of Conduct set out in Annex XXXIV to this Agreement, the procedure set out in Article 385 of this Agreement shall apply. The time-limit for the notification of the arbitration panel ruling shall be extended for the time necessary for the appointment of a new arbitrator but for no more than 20 days.

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ARTICLE 397

Suspension and termination of arbitration and compliance procedures

The arbitration panel shall, at the written request of the Parties, suspend its work at any time for a period agreed by the Parties not exceeding 12 consecutive months. The arbitration panel shall resume its work before the end of that period at the written request of the Parties or at the end of that period at the written request of any Party. The requesting Party shall inform the Chairperson of the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, and the other Party, accordingly. If a Party does not request the resumption of the arbitration panel's work at the expiry of the agreed suspension period, the procedure shall be terminated. The suspension and termination of the arbitration panel's work are without prejudice to the rights of either Party in another proceeding subject to Article 405 of this Agreement.

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ARTICLE 398

Mutually agreed solution

The Parties may reach a mutually agreed solution to a dispute under this Chapter at any time. They shall jointly notify the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, and the chairperson of the arbitration panel, where applicable, of any such solution. If the solution requires approval pursuant to the relevant domestic procedures of either Party, the notification shall refer to this requirement, and the dispute settlement procedure shall be suspended. If such approval is not required, or if the completion of any such domestic procedures is notified, the dispute settlement procedure shall be terminated.

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ARTICLE 399

Rules of procedure

1. Dispute settlement procedures under this Chapter shall be governed by the Rules of Procedure set out in Annex XXXIII to this Agreement and by the Code of Conduct set out in Annex XXXIV to this Agreement.

2. Any hearing of the arbitration panel shall be open to the public unless provided otherwise in the Rules of Procedure.

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ARTICLE 400

Information and technical advice

At the request of a Party, or upon its own initiative, the arbitration panel may obtain any information it deems appropriate for the arbitration panel proceeding from any source, including the Parties involved in the dispute. The arbitration panel also has the right to seek the opinion of experts, as it deems appropriate. The arbitration panel shall consult the Parties before choosing such experts. Natural or legal persons established in the territory of a Party may submit *amicus curiae* briefs to the arbitration panel in accordance with the Rules of Procedure. Any information obtained under this Article shall be disclosed to each of the Parties and submitted for their comments.

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ARTICLE 401

Rules of interpretation

The arbitration panel shall interpret the provisions referred to in Article 381 of this Agreement in accordance with customary rules of interpretation of public international law, including those codified in the Vienna Convention of 1969 on the Law of Treaties. The arbitration panel shall also take into account relevant interpretations established in reports of panels and of the Appellate Body adopted by the WTO Dispute Settlement Body (DSB). The rulings of the arbitration panel cannot add to or diminish the rights and obligations of the Parties provided under this Agreement.

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ARTICLE 402

Decisions and rulings of the arbitration panel

1. The arbitration panel shall make every effort to take any decision by consensus. Where, nevertheless, a decision cannot be arrived at by consensus, the matter at issue shall be decided by majority vote. However, in no case shall dissenting opinions of arbitrators be disclosed.

2. The rulings of the arbitration panel shall be unconditionally accepted by the Parties. They shall not create any rights or obligations for natural or legal persons. The rulings shall set out the findings of fact, the applicability of the relevant provisions referred to in Article 381 of this Agreement, and the basic rationale behind any findings and conclusions that they make. The Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, shall make the rulings of the arbitration panel publicly available in their entirety within ten days of their notification, unless it decides not to do so in order to ensure the confidentiality of business confidential information.

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ARTICLE 403

Referrals to the Court of Justice of the European Union

1. The procedures set out in this Article shall apply to disputes concerning the interpretation and application of a provision of this Agreement relating to gradual approximation contained in Chapter 3 (Technical Barriers to Trade), Chapter 4 (Sanitary and Phytosanitary Measures), Chapter 5 (Customs and Trade Facilitation), Chapter 6 (Establishment, Trade in Services and Electronic Commerce), Chapter 8 (Public Procurement) or Chapter 10 (Competition) of Title V (Trade and Trade-related Matters) of this Agreement, or which otherwise imposes upon a Party an obligation defined by reference to a provision of Union law.

2. Where a dispute raises a question of interpretation of a provision of Union law referred to in paragraph 1, the arbitration panel shall not decide the question, but request the Court of Justice of the European Union to give a ruling on the question. In such cases, the deadlines applying to the rulings of the arbitration panel shall be suspended until the Court of Justice of the European Union has given its ruling. The ruling of the Court of Justice of the European Union shall be binding on the arbitration panel.

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SECTION 4

GENERAL PROVISIONS

ARTICLE 404

Lists of arbitrators

1. The Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, shall, no later than six months after the entry into force of this Agreement, establish a list of at least 15 individuals who are willing and able to serve as arbitrators. The list shall be composed of three sub-lists: one sub-list for each Party and one sub-list of individuals that are not nationals of either Party and who may serve as chairperson to the arbitration panel. Each sub-list shall include at least five individuals. The Association Committee in Trade configuration shall ensure that the list is always maintained at that level.

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2. Arbitrators shall have specialised knowledge and experience of law and international trade. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government, or be affiliated with the government of any of the Parties, and shall comply with the Code of Conduct set out in Annex XXXIV to this Agreement.

3. The Association Committee in Trade configuration may establish additional lists of 12 individuals with knowledge and experience in specific sectors covered by this Agreement. Subject to the agreement of the Parties, such additional lists shall be used to compose the arbitration panel in accordance with the procedure set out in Article 385 of this Agreement.

ARTICLE 405

Relation with WTO obligations

1. Recourse to the dispute settlement provisions of this Chapter shall be without prejudice to any action in the WTO framework, including dispute settlement proceedings.

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2. However, a Party shall not, for any particular measure, seek redress for a substantially equivalent obligation under both this Agreement and the WTO Agreement in both fora. In such case, once a dispute settlement proceeding has been initiated, the Party shall not bring a claim seeking redress for the breach of the substantially equivalent obligation under the other Agreement to the other forum, unless the forum selected first fails for procedural or jurisdictional reasons to make findings on the claim seeking redress of that obligation.

3. For the purposes of paragraph 2 of this Article:

(a) dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO; and

(b) dispute settlement proceedings under this Chapter are deemed to be initiated by a Party's request for the establishment of an arbitration panel under Article 384 of this Agreement.

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4. Nothing in this Agreement shall preclude a Party from implementing the suspension of obligations authorised by the DSB. The WTO Agreement shall not be invoked to preclude a Party from suspending obligations under this Chapter.

ARTICLE 406

Time-limits

1. All time-limits laid down in this Chapter, including the limits for the arbitration panels to notify their rulings, shall be counted in calendar days from the day following the act or the fact to which they refer, unless otherwise specified.

2. Any time-limit referred to in this Chapter may be modified by mutual agreement of the Parties to the dispute. The arbitration panel may at any time propose to the Parties to modify any time-limit referred to in this Chapter, stating the reasons for the proposal.

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CHAPTER 15

GENERAL PROVISIONS ON APPROXIMATION UNDER TITLE V

ARTICLE 407

Progress in approximation in trade-related areas

1. For the purposes of facilitating the assessment of the approximation, referred to in Articles 451 and 452 of this Agreement, of the law of the Republic of Moldova to Union law in the trade-related areas of Title V (Trade and Trade-related Matters), the Parties shall regularly, and at least once a year, discuss the progress in approximation according to the agreed timeframes provided for in Chapters 3, 4, 5, 6, 8 and 10 of Title V (Trade and Trade-related Matters) of this Agreement in the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, or one of its Sub-Committees established under this Agreement.

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2. Upon request by the Union, and for the purposes of such discussion, the Republic of Moldova shall submit to the Association Committee in Trade configuration or one of its Sub-Committees, as appropriate, information in writing on progress in approximation and on the effective implementation and enforcement of approximated domestic law, in relation to the relevant Chapters of Title V (Trade and Trade-related Matters) of this Agreement.

3. The Republic of Moldova shall inform the Union when it considers that it has completed the approximation provided for in any of the Chapters referred to in paragraph 1.

ARTICLE 408

Repeal of inconsistent domestic law

As part of the approximation, the Republic of Moldova shall withdraw provisions of its domestic law or abolish domestic practices that are inconsistent with Union law or with its domestic law approximated to the Union law in the trade-related areas of Title V (Trade and Trade-related Matters) of this Agreement.

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ARTICLE 409

Assessment of approximation in trade-related areas

1. The assessment of approximation by the Union referred to in Title V (Trade and Trade-related Matters) of this Agreement shall start after the Republic of Moldova has informed the Union pursuant to Article 407(3) of this Agreement, unless otherwise provided for in Chapters 4 and 8 of Title V (Trade and Trade-related Matters) of this Agreement.

2. The Union shall assess whether the legislation of the Republic of Moldova has been approximated to Union law and whether it is implemented and enforced effectively. The Republic of Moldova shall provide the Union with all necessary information to enable such assessment, in a language to be mutually agreed.

3. The assessment by the Union pursuant to paragraph 2 shall take into account the existence and operation of relevant infrastructure, bodies and procedures in the Republic of Moldova necessary for the effective implementation and enforcement of the legislation of the Republic of Moldova.

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4. The assessment by the Union pursuant to paragraph 2 shall take account of the existence of any domestic provisions or practices that are inconsistent with Union law or with the domestic law approximated to the Union law in the trade-related areas of Title V (Trade and Trade-related Matters) of this Agreement.

5. The Union shall inform the Republic of Moldova within 12 months from the start of the assessment referred to in paragraph 1 about the results of its assessment, unless otherwise provided. The Parties shall discuss the assessment in the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, or its relevant Sub-Committees, in accordance with Article 452 of this Agreement, unless otherwise provided.

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ARTICLE 410

Developments relevant to approximation

1. The Republic of Moldova shall ensure the effective implementation of the approximated domestic law and undertake any action necessary to reflect the developments in Union law in its domestic law in the trade-related areas of Title V (Trade and Trade-related Matters) of this Agreement.

2. The Republic of Moldova shall refrain from any action that would undermine the objective or the outcome of approximation under Title V (Trade and Trade-related Matters) of this Agreement.

3. The Union shall inform the Republic of Moldova about any final European Commission proposals to adopt or amend Union law relevant to approximation obligations incumbent on the Republic of Moldova under Title V (Trade and Trade-related Matters) of this Agreement.

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4. The Republic of Moldova shall inform the Union of legislative proposals and measures, including domestic practices, which may affect the fulfilment of its obligations under Title V (Trade and Trade-related Matters) of this Agreement.

5. Upon request, the Parties shall discuss the impact of any proposals or actions referred to in paragraphs 3 and 4 of this Article on the legislation of the Republic of Moldova or on the compliance with the obligations under Title V (Trade and Trade-related Matters) of this Agreement.

6. If, after an assessment has been made under Article 409 of this Agreement, the Republic of Moldova modifies its domestic law to take account of changes in Chapters 3, 4, 5, 6, 8 and 10 of Title V (Trade and Trade-related Matters) of this Agreement, a new assessment by the Union shall be conducted pursuant to Article 409 of this Agreement. If the Republic of Moldova takes any other action that could have an effect on the implementation and enforcement of the approximated domestic law, a new assessment by the Union may be conducted pursuant to Article 409 of this Agreement.

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7. If the circumstances so require, particular benefits, accorded by the Union on the basis of an assessment that the legislation of the Republic of Moldova has been approximated to Union law and implemented and enforced effectively, may be temporarily suspended in accordance with paragraph 8, if the Republic of Moldova does not approximate its domestic law to take account of changes to Title V (Trade and Trade-related Matters) of this Agreement, if the assessment referred to in paragraph 6 shows that the legislation of the Republic of Moldova is no longer approximated to the Union law, or if the Association Council established by Article 434 of this Agreement fails to take a decision to update Title V (Trade and Trade-related Matters) of this Agreement in accordance with developments in Union law.

8. If the Union intends to implement any such suspension, it shall promptly notify the Republic of Moldova. The Republic of Moldova may refer the matter to the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, within one month from the notification, providing a statement of reasons in writing. The Association Committee in Trade configuration shall discuss the matter within three months from the referral. If the matter is not referred to the Association Committee in Trade configuration, or if it cannot be resolved by that Committee within three months from the referral, the Union may implement the suspension of benefits. The suspension shall be promptly lifted, if the Association Committee in Trade configuration subsequently resolves the matter.

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ARTICLE 411

Exchange of information

The exchange of information in relation to approximation under Title V (Trade and Trade-related Matters) shall take place through the contact points established in Article 358(1) of this Agreement.

ARTICLE 412

General provision

1. The Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, shall adopt procedures to facilitate the assessment of the approximation and to ensure the effective exchange of information pertaining to approximation, including the form, content and language of the exchanged information.

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2. Any reference to a specific Union act in Title V (Trade and Trade-related Matters) of this Agreement covers amendments, supplements and replacement measures published in the *Official Journal of the European Union* before 29 November 2013.

3. The provisions in Chapters 3, 4, 5, 6, 8 and 10 of Title V (Trade and Trade-related Matters) of this Agreement shall prevail over the provisions set out in this Chapter to the extent that there is a conflict.

4. Claims of a violation of the provisions of this Chapter shall not be pursued under Chapter 14 (Dispute Settlement) of Title V (Trade and Trade-related Matters) of this Agreement.

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TITLE VI

FINANCIAL ASSISTANCE, AND ANTI-FRAUD AND CONTROL PROVISIONS

CHAPTER 1

FINANCIAL ASSISTANCE

ARTICLE 413

The Republic of Moldova shall benefit from financial assistance through the relevant EU funding mechanisms and instruments. The Republic of Moldova may also benefit from loans by the European Investment Bank (EIB), the European Bank for Reconstruction and Development (EBRD) and other international financial institutions. The financial assistance will contribute to achieving the objectives of this Agreement and will be provided in accordance with this Chapter.

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ARTICLE 414

The main principles of financial assistance shall be set out in the relevant Regulations on EU Financial Instruments.

ARTICLE 415

The priority areas of the EU financial assistance agreed by the Parties shall be laid down in annual action programmes based on multi-annual frameworks which reflect agreed policy priorities. The amounts of assistance established in those programmes shall take into account the Republic of Moldova's needs, sector capacities and progress with reforms, particularly in areas covered by this Agreement.

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ARTICLE 416

In order to permit optimum use of the resources available, the Parties shall endeavour to ensure that EU assistance is implemented in close cooperation and coordination with other donor countries, donor organisations and international financial institutions, and in line with international principles of aid effectiveness.

ARTICLE 417

The fundamental legal, administrative and technical basis of financial assistance shall be established within the framework of relevant agreements between the Parties.

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ARTICLE 418

The Association Council shall be informed of the progress and implementation of financial assistance and its impact upon pursuing the objectives of this Agreement. To that end, the relevant bodies of the Parties shall provide appropriate monitoring and evaluation information on a mutual and permanent basis.

ARTICLE 419

The Parties shall implement assistance in accordance with the principles of sound financial management and cooperate in the protection of the financial interests of the EU and of the Republic of Moldova in accordance with Chapter 2 (Anti-Fraud and Control Provisions) of this Title.

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CHAPTER 2

ANTI-FRAUD AND CONTROL PROVISIONS

ARTICLE 420

Definitions

For the purposes of this Chapter, the definitions set out in Protocol IV of this Agreement shall apply.

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ARTICLE 421

Scope

This Chapter shall be applicable to any further agreement or financing instrument to be concluded between the Parties, and any other EU financing instrument to which the Republic of Moldova may be associated, without prejudice to any other additional clauses covering audits, on-the-spot checks, inspections, controls, and anti-fraud measures, including those conducted by the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA).

ARTICLE 422

Measures to prevent and fight fraud, corruption and any other illegal activities

The Parties shall take effective measures to prevent and fight fraud, corruption and any other illegal activities, *inter alia* by means of mutual administrative assistance and mutual legal assistance in the fields covered by this Agreement.

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ARTICLE 423

Exchange of information and further cooperation at operational level

1. For the purposes of proper implementation of this Chapter, the competent EU authorities and the competent authorities of the Republic of Moldova shall regularly exchange information and, at the request of one of the Parties, conduct consultations.

2. OLAF may agree with its counterparts of the Republic of Moldova on further cooperation in the field of anti-fraud, including operational arrangements with the authorities of the Republic of Moldova.

3. For the transfer and processing of personal data, Article 13 of Title III (Freedom, Security and Justice) of this Agreement shall apply.

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ARTICLE 424

Prevention of irregularities, fraud and corruption

1. The authorities of the Republic of Moldova shall check regularly that the operations financed with EU funds have been properly implemented. They shall take any appropriate measure to prevent and remedy irregularities and fraud.

2. The authorities of the Republic of Moldova shall take any appropriate measure to prevent and remedy any active or passive corruption practices and exclude conflict of interest at any stage of the procedures related to the implementation of EU funds.

3. The authorities of the Republic of Moldova shall inform the European Commission of any prevention measure taken.

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4. The European Commission shall be entitled to obtain evidence in accordance with Article 56 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities.

5. The European Commission shall also be entitled to obtain evidence that procedures on procurement and grants satisfy the principles of transparency, equal treatment and non-discrimination, prevent any conflict of interest, offer guarantees equivalent to internationally accepted standards and ensure compliance with the provisions of sound financial management.

6. To that end, the competent authorities of the Republic of Moldova shall provide the European Commission with any information related to the implementation of EU funds and shall inform it without delay of any substantial change in their procedures or systems.

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ARTICLE 425

Investigation and prosecution

The authorities of the Republic of Moldova shall ensure investigation and prosecution of suspected and actual cases of fraud, corruption or any other irregularity, including conflict of interest, following national or EU controls. Where appropriate, OLAF may assist the competent authorities of the Republic of Moldova in that task.

ARTICLE 426

Communication of fraud, corruption and irregularities

1. The authorities of the Republic of Moldova shall transmit to the European Commission without delay any information which has come to their notice on suspected or actual cases of fraud, corruption or any other irregularity, including conflict of interest, in connection with the implementation of EU funds. In case of suspicion of fraud or corruption, OLAF shall also be informed.

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2. The authorities of the Republic of Moldova shall also report on all measures taken in connection with facts communicated under this Article. Should there be no suspected or actual cases of fraud, corruption, or any other irregularity to report, the authorities of the Republic of Moldova shall inform the European Commission following the end of each calendar year.

ARTICLE 427

Audits

1. The European Commission and the ECA are entitled to examine whether all expenditure related to the implementation of EU funds has been incurred in a lawful and regular manner and whether the financial management has been sound.

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2. Audits shall be carried out on the basis both of commitments undertaken and payments made. They shall be based on records and, if necessary, performed on-the-spot on the premises of any entity which manages or takes part in the implementation of EU funds. The audits may be carried out before the closure of the accounts for the financial year in question and for a period of five years from the date of payment of the balance.

3. European Commission inspectors or other persons mandated by the European Commission or the ECA may conduct documentary or on-the-spot checks and audits on the premises of any entity which manages or takes part in the implementation of EU funds and of their subcontractors in the Republic of Moldova.

4. The European Commission or other persons mandated by the European Commission or the ECA shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. That right of access should be communicated to all public institutions of the Republic of Moldova and shall be stated explicitly in the contracts concluded to implement the instruments referred to in this Agreement.

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5. The checks and audits referred to in this Article are applicable to all contractors and subcontractors who have received EU funds directly or indirectly. In the performance of their tasks, the ECA and the audit bodies of the Republic of Moldova shall cooperate in a spirit of trust while maintaining their independence.

ARTICLE 428

On-the-spot checks

1. Within the framework of this Agreement, OLAF shall be authorised to carry out on-the-spot checks and inspections in order to protect the EU's financial interests against fraud and other irregularities in accordance with the provisions of Council Regulation (EC, Euratom) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.

2. On-the-spot checks and inspections shall be prepared and conducted by OLAF in close cooperation with the competent authorities of the Republic of Moldova.

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3. The authorities of the Republic of Moldova shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. To that end, the officials of the competent authorities of the Republic of Moldova may participate in the on-the-spot checks and inspections.

4. If the authorities of the Republic of Moldova concerned express their interest, the on-the-spot checks and inspections may be carried out jointly by OLAF and them.

5. Where an economic operator resists an on-the-spot check or inspection, the authorities of the Republic of Moldova shall give OLAF the assistance it needs to allow it to discharge its duty in carrying out an on-the-spot check or inspection.

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ARTICLE 429

Administrative measures and penalties

Administrative measures and penalties may be imposed by the European Commission in accordance with Regulations (EC, Euratom) No 1605/2002 and (EC, Euratom) No 2342/2002 of 23 December 2002 and with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests.

ARTICLE 430

Recovery

1. The authorities of the Republic of Moldova shall take any appropriate measure to recover EU funds unduly paid.

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2. Where the authorities of the Republic of Moldova are entrusted with the implementation of EU funds the European Commission is entitled to recover EU funds unduly paid, in particular through financial corrections. The European Commission shall take into account the measures taken by the authorities of the Republic of Moldova to prevent the loss of the EU funds concerned.

3. The European Commission shall consult with the Republic of Moldova on the matter before taking any decision on recovery. Disputes on recovery will be discussed in the Association Council.

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4. Where the European Commission implements EU funds directly or indirectly by entrusting budget implementation tasks to third parties, a decision taken by the European Commission within the scope of this Title of this Agreement which imposes a pecuniary obligation on persons other than States, shall be enforceable in the Republic of Moldova in accordance with the following principles:

(a) enforcement shall be governed by the rules of civil procedure in force in the Republic of Moldova. The order for the enforcement of the decision shall be appended to it, without any formality other than verification of the authenticity of the decision, by the national authority which the government of the Republic of Moldova shall designate for that purpose and shall make known to the European Commission and to the Court of Justice of the European Union;

(b) when the formalities referred to in point (a) have been completed on application by the Party concerned, the latter may proceed to enforcement in accordance with the legislation of the Republic of Moldova, by bringing the matter directly before the competent authority;

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(c) enforcement may be suspended only by a decision of the Court of Justice of the European Union. However, the courts of the Republic of Moldova concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

5. The enforcement order shall be issued, without any further control other than verification of the authenticity of the act, by the authorities designated by the government of the Republic of Moldova. Enforcement shall take place in accordance with the rules of procedure of the Republic of Moldova. The legality of the enforcement decision shall be subject to control by the Court of Justice of the European Union.

6. Judgments given by the Court of Justice of the European Union pursuant to an arbitration clause in a contract within the scope of this Chapter shall be enforceable on the same terms.

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ARTICLE 431

Confidentiality

Information communicated or acquired in any form under this Chapter shall be covered by professional secrecy and protected in the same way as similar information is protected by the law of the Republic of Moldova and by the corresponding provisions applicable to the EU institutions. Such information may not be communicated to persons, other than those in the EU institutions, in the Member States or in the Republic of Moldova, whose functions require them to know it, nor may it be used for purposes other than to ensure effective protection of the Parties' financial interests.

ARTICLE 432

Approximation of legislation

The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XXXV to this Agreement according to the provisions of that Annex.

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TITLE VII

INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

CHAPTER 1

INSTITUTIONAL FRAMEWORK

ARTICLE 433

Political and policy dialogue, including on issues related to sectoral cooperation between the Parties, may take place at any level. Periodic high-level policy dialogue shall take place within the Association Council established by Article 434 of this Agreement and within the framework of regular meetings between representatives of the Parties at ministerial level by mutual agreement.

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ARTICLE 434

1. An Association Council is hereby established. It shall supervise and monitor the application and implementation of this Agreement and periodically review the functioning of this Agreement in the light of its objectives.

2. The Association Council shall meet at ministerial level and at regular intervals, at least once a year, and when circumstances require. The Association Council may meet in any configuration, by mutual agreement.

3. In addition to supervising and monitoring the application and implementation of this Agreement, the Association Council shall examine any major issues arising within the framework of this Agreement, and any other bilateral or international issues of mutual interest.

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ARTICLE 435

1. The Association Council shall consist of members of the Council of the European Union and members of the European Commission, on the one hand, and of members of the Government of the Republic of Moldova, on the other.

2. The Association Council shall establish its own rules of procedure.

3. The Association Council shall be chaired in turn by a representative of the Union and a representative of the Republic of Moldova.

4. Where appropriate, and by mutual agreement, representatives of other bodies may take part as observers in the work of the Association Council.

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ARTICLE 436

1. For the purpose of attaining the objectives of this Agreement, the Association Council shall have the power to take decisions within the scope of this Agreement. Such decisions shall be binding upon the Parties, which shall take appropriate measures, including, if necessary, action of bodies established under this Agreement, to implement the decisions taken. The Association Council may also make recommendations. It shall adopt its decisions and recommendations by agreement between the Parties following completion of the respective internal procedures.

2. In line with the objective of gradual approximation of the legislation of the Republic of Moldova to that of the Union, as laid down in this Agreement, the Association Council will be a forum for exchange of information on the legislation of the EU and of the Republic of Moldova, both under preparation and in force, and on implementation, enforcement and compliance measures.

3. In accordance with paragraph 1 of this Article, the Association Council shall have the power to update or amend the Annexes to this Agreement without prejudice to any specific provisions under Title V (Trade and Trade-related Matters) of this Agreement.

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ARTICLE 437

1. An Association Committee is hereby established. It shall assist the Association Council in the performance of its duties.

2. The Association Committee shall be composed of representatives of the Parties, in principle, at senior civil servant level.

3. The Association Committee shall be chaired in turn by a representative of the Union and a representative of the Republic of Moldova.

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ARTICLE 438

1. The Association Council shall determine in its rules of procedure the duties and functioning of the Association Committee, whose responsibilities shall include the preparation of meetings of the Association Council. The Association Committee shall meet at least once a year.

2. The Association Council may delegate to the Association Committee any of its powers, including the power to take binding decisions.

3. The Association Committee shall have the power to adopt decisions in the cases provided for in this Agreement and in areas in which the Association Council has delegated powers to it. Those decisions shall be binding upon the Parties, which shall take appropriate measures to implement them. The Association Committee shall adopt its decisions by agreement between the Parties.

4. The Association Committee shall meet in a specific configuration to address all issues related to Title V (Trade and Trade-related Matters) of this Agreement. The Association Committee shall meet in that configuration at least once a year.

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ARTICLE 439

1. The Association Committee shall be assisted by sub-committees established under this Agreement.

2. The Association Council may decide to set up any special committee or body in specific areas necessary for the implementation of this Agreement, and shall determine the composition, duties and functioning of such special committees or bodies. In addition, such special committees or bodies may hold discussions on any matter that they consider relevant without prejudice to any of the specific provisions of Title V (Trade and Trade-related Matters) of this Agreement.

3. The Association Committee may also create sub-committees, including to take stock of progress achieved in the regular dialogues referred to in this Agreement.

4. The sub-committees shall have the powers to take decisions in the cases provided for in this Agreement. They shall report on their activities to the Association Committee regularly, as required.

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5. The sub-committees established under Title V (Trade and Trade-related Matters) of this Agreement shall inform the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement, of the date and agenda of their meetings sufficiently in advance of their meetings. They shall report on their activities at each regular meeting of the Association Committee in Trade configuration, as set out in Article 438(4) of this Agreement.

6. The existence of any of the sub-committees shall not prevent either Party from bringing any matter directly to the Association Committee, including in Trade configuration, as set out in Article 438(4) of this Agreement.

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ARTICLE 440

1. A Parliamentary Association Committee is hereby established. It shall consist of Members of the European Parliament, on the one hand, and of Members of the Parliament of the Republic of Moldova, on the other, and shall be a forum for them to meet and exchange views. It shall meet at intervals which it shall itself determine.

2. The Parliamentary Association Committee shall establish its own rules of procedure.

3. The Parliamentary Association Committee shall be chaired in turn by a representative of the European Parliament and a representative of the Parliament of the Republic of Moldova respectively, in accordance with the provisions to be laid down in its rules of procedure.

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ARTICLE 441

1. The Parliamentary Association Committee may request relevant information regarding the implementation of this Agreement from the Association Council, which shall then supply the Parliamentary Association Committee with the requested information.

2. The Parliamentary Association Committee shall be informed of the decisions and recommendations of the Association Council.

3. The Parliamentary Association Committee may make recommendations to the Association Council.

4. The Parliamentary Association Committee may create Parliamentary Association sub-committees.

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ARTICLE 442

1. The Parties shall also promote regular meetings of representatives of their civil societies, in order to keep them informed of, and gather their input for, the implementation of this Agreement.

2. A Civil Society Platform is hereby established. It shall consist of representatives of civil society, on the side of the EU, including Members of the European Economic and Social Committee, and representatives of civil society on the side of the Republic of Moldova, and shall be a forum for them to meet and exchange views. It shall meet at intervals which it shall itself determine.

3. The Civil Society Platform shall establish its own rules of procedure.

4. The Civil Society Platform shall be chaired in turn by a representative of the European Economic and Social Committee and representatives of civil society on the side of the Republic of Moldova respectively, in accordance with the provisions to be laid down in its rules of procedure.

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ARTICLE 443

1. The Civil Society Platform shall be informed of the decisions and recommendations of the Association Council.

2. The Civil Society Platform may make recommendations to the Association Council.

3. The Association Committee and Parliamentary Association Committee shall organise regular contacts with representatives of the Civil Society Platform in order to obtain their views on the attainment of the objectives of this Agreement.

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CHAPTER 2

GENERAL AND FINAL PROVISIONS

ARTICLE 444

Access to courts and administrative organs

Within the scope of this Agreement, each Party undertakes to ensure that natural and legal persons of the other Party have access, that is free of discrimination in relation to its own nationals, to its competent courts and administrative organs in order to defend their individual and property rights.

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ARTICLE 445

Access to official documents

The provisions of this Agreement shall be without prejudice to the application of the relevant internal laws and regulations of the Parties regarding public access to official documents.

ARTICLE 446

Security exceptions

Nothing in this Agreement shall prevent a Party from taking any measures:

(a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests;

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(b) which relate to the production of, or trade in, arms, munitions or war materiel or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes; and

(c) which it considers essential to its own security, in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

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ARTICLE 447

Non-discrimination

1. In the fields covered by this Agreement and without prejudice to any special provisions contained therein:

(a) the arrangements applied by the Republic of Moldova in respect of the Union or the Member States shall not give rise to any discrimination between the Member States, their nationals, companies or firms; and

(b) the arrangements applied by the Union or the Member States in respect of the Republic of Moldova shall not give rise to any discrimination between nationals, companies or firms of the Republic of Moldova.

2. The provisions of paragraph 1 shall be without prejudice to the right of the Parties to apply the relevant provisions of their fiscal legislation to taxpayers who are not in identical situations as regards their place of residence.

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ARTICLE 448

Gradual approximation

The Republic of Moldova shall carry out gradual approximation of its legislation to EU law and international instruments as referred to in the Annexes to this Agreement, based on commitments identified in this Agreement, and according to the provisions of those Annexes. This provision shall be without prejudice to any specific provisions and obligations on approximation under Title V (Trade and Trade-related Matters) of this Agreement.

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ARTICLE 449

Dynamic approximation

In line with the goal of gradual approximation by the Republic of Moldova of its legislation to EU law, and in particular as regards the commitments identified in Titles III, IV, V and VI of this Agreement, and according to the provisions of the Annexes to this Agreement, the Association Council shall periodically revise and update those Annexes, including to take into account the evolution of EU law, as defined in this Agreement. This provision shall be without prejudice to any specific provisions under Title V (Trade and Trade-related Matters) of this Agreement.

ARTICLE 450

Monitoring

Monitoring shall mean the continuous appraisal of progress in implementing and enforcing measures covered by this Agreement. The Parties will cooperate in order to facilitate the monitoring process in the framework of the institutional bodies established by this Agreement.

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ARTICLE 451

Assessment of approximation

1. The EU shall assess the approximation of the law of the Republic of Moldova to EU law, as defined in this Agreement. This includes aspects of implementation and enforcement. Those assessments may be conducted by the EU individually, by the EU in agreement with the Republic of Moldova, or jointly by the Parties. To facilitate the assessment process, the Republic of Moldova shall report to the EU on progress in approximation, where appropriate before the end of the transitional periods set out in this Agreement in relation to EU legal acts. The reporting and assessment process, including modalities and frequency of assessments, will take into account specific modalities laid down in this Agreement or decisions by the institutional bodies established by this Agreement.

2. Assessment of approximation may include on-the-spot missions, with the participation of EU institutions, bodies and agencies, non-governmental bodies, supervisory authorities, independent experts and others, as necessary.

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ARTICLE 452

Results of monitoring, including assessments of approximation

1. The results of monitoring activities, including the assessments of approximation as set out in Article 451 of this Agreement, shall be discussed in all relevant bodies established under this Agreement. Such bodies may adopt joint recommendations, agreed unanimously, which shall be submitted to the Association Council.

2. If the Parties agree that necessary measures covered by Title V (Trade and Trade-related Matters) of this Agreement have been implemented and are being enforced, the Association Council, under the powers conferred on it by Article 436 of this Agreement, shall agree on further market opening as defined in Title V (Trade and Trade-related Matters) of this Agreement.

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3. A joint recommendation as referred to in paragraph 1 of this Article, submitted to the Association Council, or the failure to reach such a recommendation, shall not be subject to dispute settlement as defined in Title V (Trade and Trade-related Matters) of this Agreement. A decision taken by the relevant body established under this Agreement, or failure to take such a decision, shall not be subject to dispute settlement as defined in Title V (Trade and Trade-related Matters) of this Agreement.

ARTICLE 453

Fulfilment of obligations

1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall ensure that the objectives set out in this Agreement are attained.

2. The Parties agree to consult promptly through appropriate channels at the request of either Party, to discuss any matter concerning the interpretation, implementation, or good faith application of this Agreement and other relevant aspects of the relations between the Parties.

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3. The Parties shall refer to the Association Council any dispute related to the interpretation, implementation, or good faith application of this Agreement in accordance with Article 454 of this Agreement. The Association Council may settle a dispute by means of a binding decision.

ARTICLE 454

Dispute settlement

1. When a dispute arises between the Parties concerning the interpretation, implementation, or good faith application of this Agreement, any Party shall submit to the other Party and the Association Council a formal request that the matter in dispute be resolved. By way of derogation, disputes concerning the interpretation, implementation, or good faith application of Title V (Trade and Trade-related Matters) shall be exclusively governed by Chapter 14 (Dispute Settlement) of that Title.

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2. The Parties shall endeavour to resolve the dispute by entering into good faith consultations within the Association Council and other relevant bodies referred to in Articles 437 and 439 of this Agreement, with the aim of reaching a mutually acceptable solution in the shortest time possible.

3. The Parties shall provide the Association Council and other relevant bodies with all information required for a thorough examination of the situation.

4. As long as a dispute is not resolved, it shall be discussed at every meeting of the Association Council. A dispute shall be deemed to be resolved when the Association Council has taken a binding decision to settle the matter as provided for in paragraph 3 of Article 453 of this Agreement, or when it has declared that the dispute has ended. Consultations on a dispute can also be held at any meeting of the Association Committee or any other relevant body referred to in Article 439 of this Agreement, as agreed between the Parties or at the request of either of the Parties. Consultations may also be held in writing.

5. All information disclosed during the consultations shall remain confidential.

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ARTICLE 455

Appropriate measures in case of non-fulfilment of obligations

1. A Party may take appropriate measures if the matter at issue is not resolved within three months of the date of notification of a formal request for dispute settlement according to Article 454 of this Agreement and if the complaining Party continues to consider that the other Party has failed to fulfil an obligation under this Agreement. The requirement for a three-month consultation period shall not apply to exceptional cases set out in paragraph 3 of this Article.

2. In the selection of appropriate measures, priority shall be given to those which least disturb the functioning of this Agreement. Except in the cases described in paragraph 3 of this Article, such measures may not include the suspension of any rights or obligations provided for under provisions of this Agreement set out in Title V (Trade and Trade-related Matters). The measures taken under paragraph 1 of this Article shall be notified immediately to the Association Council and shall be the subject of consultations in accordance with paragraph 2 of Article 453, and of dispute settlement in accordance with paragraph 3 of Article 453 and Article 454 of this Agreement.

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3. The exceptions referred to in paragraphs 1 and 2 shall concern:

(a) denunciation of this Agreement not sanctioned by the general rules of international law; or

(b) violation by the other Party of any of the essential elements of this Agreement, referred to in Article 2 of Title I (General Principles) of this Agreement.

Relation to other agreements

ARTICLE 456

1. The Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, signed in Luxembourg on 28 November 1994 and which entered into force on 1 July 1998, is hereby repealed.

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2. This Agreement replaces the agreement referred to in paragraph 1. References to that agreement in all other agreements between the Parties shall be construed as references to this Agreement.

3. This Agreement replaces the Agreement between the European Union and the Republic of Moldova on the protection of geographical indications of agricultural products and foodstuffs, signed on 26 June 2012 in Brussels and which entered into force on 1 April 2013.

ARTICLE 457

1. This Agreement shall not, until equivalent rights for individuals and economic operators have been achieved under this Agreement, affect rights ensured to them through existing agreements binding one or more Member States, on the one hand, and the Republic of Moldova, on the other hand.

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2. Existing agreements relating to specific areas of cooperation falling within the scope of this Agreement shall be considered part of the overall bilateral relations as governed by this Agreement and as forming part of a common institutional framework.

ARTICLE 458

1. The Parties may complement this Agreement by concluding specific agreements in any area falling within its scope. Such agreements shall be an integral part of the overall bilateral relations as governed by this Agreement and shall form part of a common institutional framework.

2. Without prejudice to the relevant provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union, neither this Agreement nor action taken hereunder shall in any way affect the powers of the Member States to undertake bilateral cooperation activities with the Republic of Moldova or to conclude, where appropriate, new cooperation agreements with the Republic of Moldova.

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ARTICLE 459

Annexes and Protocols

The Annexes and Protocols to this Agreement shall form an integral part of this Agreement.

ARTICLE 460

Duration

1. This Agreement is concluded for an unlimited period.

2. Either Party may denounce this Agreement by notifying the other Party. This Agreement shall terminate six months from the date of receipt of such notification.

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ARTICLE 461

Definition of the Parties

For the purposes of this Agreement, the term "the Parties" means the EU, or its Member States, or the EU and its Member States, in accordance with their respective powers as derived from the Treaty on European Union and the Treaty on the Functioning of the European Union, and, where relevant, it also means Euratom, in accordance with its powers under the Treaty establishing the European Atomic Energy Community, of the one part, and the Republic of Moldova, of the other part.

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ARTICLE 462

Territorial application

1. This Agreement shall apply, of the one part, to the territories in which the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community are applied and under the conditions laid down in those Treaties, and, without prejudice to paragraph 2 of this Article, of the other part, to the territory of the Republic of Moldova.

2. The application of this Agreement, or of Title V (Trade and Trade-related Matters) thereof, in relation to those areas of the Republic of Moldova over which the Government of the Republic of Moldova does not exercise effective control, shall commence once the Republic of Moldova ensures the full implementation and enforcement of this Agreement, or of Title V (Trade and Trade-related Matters) thereof, respectively, on its entire territory.

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3. The Association Council shall adopt a decision on when the full implementation and enforcement of this Agreement, or of Title V (Trade and Trade-related Matters) thereof, on the entire territory of the Republic of Moldova is ensured.

4. Should a Party consider that the full implementation and enforcement of this Agreement, or of Title V (Trade and Trade-related Matters) thereof, is no longer ensured in the areas of the Republic of Moldova referred to in paragraph 2 of this Article, that Party may request the Association Council to reconsider the continued application of this Agreement, or of Title V (Trade and Trade-related Matters) thereof, respectively, in relation to the areas concerned. The Association Council shall examine the situation and adopt a decision on the continued application of this Agreement, or of Title V (Trade and Trade-related Matters) thereof, within three months of the request. If the Association Council does not adopt a decision within three months of the request, the application of this Agreement, or of Title V (Trade and Trade-related Matters) thereof, shall be suspended in relation to the areas concerned until the Association Council adopts a decision.

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5. Decisions of the Association Council under this Article on the application of Title V (Trade and Trade-related Matters) of this Agreement shall cover the entirety of that Title and cannot cover only parts thereof.

ARTICLE 463

Depositary of this Agreement

The General Secretariat of the Council of the European Union shall be the depositary of this Agreement.

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ARTICLE 464

Entry into force and provisional application

1. The Parties shall ratify or approve this Agreement in accordance with their internal procedures. The instruments of ratification or approval shall be deposited with the General Secretariat of the Council of the European Union.

2. This Agreement shall enter into force on the first day of the second month following the date of the deposit of the last instrument of ratification or approval.

3. Notwithstanding paragraph 2 of this Article, the Union and the Republic of Moldova agree to provisionally apply this Agreement in part, as specified by the Union, as set out in paragraph 4 of this Article, and in accordance with their respective internal procedures and legislation, as applicable.

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4. The provisional application shall be effective from the first day of the second month following the date of receipt by the depositary of this Agreement of the following:

(a) the Union's notification on the completion of the procedures necessary for this purpose, indicating the parts of the Agreement that shall be provisionally applied; and

(b) the Republic of Moldova's notification of the completion of the procedures necessary for the provisional application of this Agreement.

5. For the purposes of the relevant provisions of this Agreement, including its respective Annexes and Protocols, as laid down in Article 459, any reference in such provisions to the "date of entry into force of this Agreement" shall be understood to the "date from which this Agreement is provisionally applied" in accordance with paragraph 3 of this Article.

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6. During the period of provisional application, in so far as the provisions of the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, signed in Luxembourg on 28 November 1994 and which entered into force on 1 July 1998, are not covered by the provisional application of this Agreement, those provisions shall continue to apply.

7. Either Party may give written notification to the depositary of this Agreement of its intention to terminate the provisional application of this Agreement. Termination of provisional application shall take effect six months after receipt of the notification by the depositary of this Agreement.

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ARTICLE 465

Authentic texts

This Agreement shall be drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly empowered to this effect, have signed this Agreement.

REPUBLIK ÖSTERREICH BUNDESKANZLERAMT AMTSSIGNATUR	Unterzeichner	serialNumber=1026761,CN=Bundeskanzleramt,C=AT
	Datum/Zeit	2017-11-28T07:19:45+01:00
	Prüfinformation	Informationen zur Prüfung des elektronischen Siegels bzw. der elektronischen Signatur finden Sie unter: https://www.signaturpruefung.gv.at Informationen zur Prüfung des Ausdrucks finden Sie unter: https://www.bka.gv.at/verifizierung
	Hinweis	Dieses Dokument wurde amtssigniert.

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