

**Addendum to Memorandum of Understanding between the European Commission, the
Government of the Republic of Moldova and the Government of Ukraine on the
European Commission Border Assistance Mission to the Republic of Moldova and to
Ukraine of 7 October 2005**

The Sides of the above-mentioned Memorandum of Understanding have reached an understanding as follows:

1. **Paragraph 1 of Article I** is replaced by the following:

"The Border Assistance Mission operating under the auspices of the European Commission in coordination with the High Representative of the Union for Foreign Affairs and Security Policy, supported in resource management by its implementing partner, and in close cooperation with the OSCE, will promote coherent and coordinated action of, and assist, the Governments of the Republic of Moldova and of Ukraine, in areas involving border, customs and fiscal matters. Within the framework of the European Neighborhood Policy, it will provide practical advice to relevant authorities in the Republic of Moldova and in Ukraine on issues related to border, customs and fiscal matters and will support actions undertaken for the benefit of the Moldovan and Ukrainian Border Guards (Border Police), Customs Administration, other law enforcement agencies and other relevant state agencies."

2. **Paragraph 2 of Article I** is replaced by the following:

"The Border Assistance Mission will assist and advise the Border Guards (Border Police), Customs Administration, other law enforcement agencies and other relevant state agencies on matters relating to the management of borders, in particular in connection with the control and auditing of cargo and passenger traffic, including the revenue collection and accounting procedures applied by the officers of border guards, customs administrations and other law enforcement agencies, wherever such procedures are applied, be it at the frontier of the territory of respectively the Republic of Moldova and Ukraine, at inland police stations and customs posts designated for the checking of documents and the clearance of the goods, and at regional and central headquarters' offices of relevant administrations."

"The Border Assistance Mission will also provide assistance in preventing serious crime and transnational organized crime, inter alia: cross-border human trafficking and smuggling of migrants, smuggling, trafficking of goods subject to customs control in an established order, including goods bearing high rates of customs duties and excise tax."

3. **Paragraph 3 of Article I** is replaced by the following:

"The objectives of the Border Assistance Mission are set out in detail in the Annex."

4. The following text is inserted as Paragraph 5 of Article I:

"The assistance of the Border Assistance Mission will be provided initially for a period of 24 months which can be extended subject to agreement between the European Commission, the Governments of the Republic of Moldova and of Ukraine, to be confirmed through an exchange of letters."

5. **Paragraph 1 of Article II** is replaced by the following:

"The Border Assistance Mission will report regularly in writing to the European Commission services and the European External Action Service, through the European Union Delegations to the Republic of Moldova and to Ukraine, and to the Governments of the Republic of Moldova and of Ukraine on its activities and findings, including the development of all assistance projects in progress."

6. The following paragraph is inserted as **Paragraph 2 of Article II**:

"The Border Assistance Mission will develop its annual action plans based on guidance received from the European Commission through the European Union Delegation responsible for contract management, in coordination with the High Representative of the Union for Foreign Affairs and Security Policy, and in full cooperation with the Governments of the Republic of Moldova and of Ukraine."

7. **Paragraph 2 of Article II** becomes Paragraph 3 of Article II. The text is replaced by the following:

"The Border Assistance Mission and its staff (hereinafter referred to as experts) will have no authority to enforce the laws of respectively the Republic of Moldova and Ukraine, and they will refrain from any action or activity incompatible with the advisory or audit nature of their duties. "

8. **Paragraph 3 of Article II** becomes Paragraph 4 of Article II. The text is replaced by the following:

"The experts of the Border Assistance Mission, when carrying out any assistance, will have the right to make unannounced visits to any location on the Ukrainian-Moldovan frontier, including all Border Checkpoints and Customs Posts, along transit itinerary and to offices of transit, such as Odessa and Ilichevsk, to any inland police station or Customs Post or Revenue accounting office, to be present and to observe customs clearance in progress, to examine and to copy customs import documents and supporting commercial records, and official books and records, that do not include state secrets, including those held on computers. The tasks envisaged in this paragraph will be performed with due account of the legislation of Ukraine and the Republic of Moldova."

9. Paragraph 4 of Article II becomes Paragraph 5 of Article II. The text is replaced by the following:

"The processing of commercial data of legal persons by the experts shall be governed by the principles of professional secrecy under Article 339 of the Treaty on the Functioning of the European Union."

10. Paragraph 5 of Article II becomes Paragraph 6 of Article II. The text is replaced by the following:

"The experts of the Border Assistance Mission, in any case of doubt, may request the head of the relevant customs or border guards unit (e.g. the head of the customs post, the head of the shift, the head of the border post, the head of the border patrol) to order the re-examination and re-assessment of any consignment of goods on which customs duty or other revenue collected at importation has already been assessed and collected. While the request is being processed, the vehicle or persons in questions shall not be allowed to move/leave the premises of the customs or border post."

11. Paragraph 6 and 7 of Article II are deleted.

12. Paragraph 8 of Article II becomes Paragraph 7 of Article II. The text is replaced by the following:

"The Moldovan and Ukrainian authorities undertake to provide suitably qualified personnel to work alongside the officers of the Border Assistance Mission, wherever the assistance is provided, and who will have the authority to enforce the laws of, respectively, the Republic of Moldova and Ukraine. The action of the

officers of the Border Assistance Mission will be restricted in accordance with paragraph 3 above."

13. **Paragraph 9 of Article II** becomes Paragraph 8 of Article II. The text is replaced by the following:

"The Border Assistance Mission is authorized to set up a logistic base in Odessa and, subject to agreement with, respectively, the Moldovan and Ukrainian authorities and the Mission, elsewhere should the need arise."

14. **Paragraph 10 of Article II** is deleted.

15. **Paragraph 11 of Article II** becomes Paragraph 6 of Article IV.

16. **Paragraph 12 of Article II** becomes Paragraph 9 of Article II.

17. **Paragraph 13 of Article II** becomes Paragraph 10 of Article II. The text is replaced by the following:

"The number of experts participating in the Border Assistance Mission is set in accordance with the operational needs, in consultation with the Governments of the Republic of Moldova and Ukraine. The number of experts will be established in the annual action plans which are part of the contractual arrangements with the European Commission."

18. **Paragraph 14 of Article II** becomes Paragraph 11 of Article II. The text is replaced by the following:

"Personnel of the EU Member States belonging to the Border Assistance Mission and their family members will carry their national passports. They will be temporarily included in the Diplomatic lists of the European Union Delegations, respectively, to the Republic of Moldova and Ukraine, as personnel belonging to the Border Assistance Mission, for the entire duration of the latter Mission. They will also carry a service card issued by the European Commission certifying their status as attached to the Border Assistance Mission. The European Commission will inform the Governments of the Republic of Moldova and of Ukraine of the arrival and departure of personnel of the Border Assistance Mission."

19. In the second sentence of Paragraph 1 of Article III, the words "*European Commission Delegation*" are replaced by "*European Union Delegation*".

20. Paragraph 7 of Article III is replaced by the following:

"The Border Assistance Mission will be implemented in accordance with the contractual agreements signed by the European Commission and the implementing partner."

21. Paragraph 8 of Article III is replaced by the following:

"Experts shall be exempt from taxation by the Republic of Moldova and by Ukraine on salaries received from the European Commission, directly or through its selected implementing partner, for the Border Assistance Mission, EU Member States and any other international organization providing assistance and on any income received from outside the Republic of Moldova and Ukraine."

The Governments of the Republic of Moldova and of Ukraine recognize the right of the Border Assistance Mission and the implementing partner contracted by the European Commission for the implementation of the Mission, subject to its compliance with the procedures established for the movement of goods across the customs border of the Republic of Moldova and of Ukraine, to import to the customs territory of the Republic of Moldova and of Ukraine, and to export from their customs territories goods which are for official (service) use of the Border Assistance Mission, exempt from customs inspection and the payment of taxes and dues, in accordance with the normal rules for Diplomatic Missions in the Republic of Moldova and in Ukraine."

22. Paragraph 2 of Article IV is replaced by the following:

"The Governments of the Republic of Moldova and of Ukraine will provide the European Commission services and the European External Action Service through the European Union Delegation responsible for contract management, and its selected implementing partner, with all information with regard to the application of this Memorandum. The two Governments will also render full cooperation and assistance necessary for the fulfillment of the tasks of the Border Assistance Mission as specified in this Memorandum of Understanding. In particular, the Governments of the Republic of Moldova and of Ukraine will appoint English-speaking officers to act as primary point of contact to the Border Assistance Mission."

23. In paragraph 5 of Article IV, the words "15 days" are replaced by "90 days".

24. The Annex section is replaced by the following:

"Objectives

To monitor and evaluate the implementation of border control measures and procedures by the Moldovan and Ukrainian Border Guards (Border Police), Customs, other law enforcement agencies and other relevant state agencies. Particular attention in this regard will be paid to the State border between the Republic of Moldova and Ukraine.

To enhance cooperation between the Republic of Moldova and Ukraine in cross-border information sharing and joint operations similar to that observed in EU best practice with a view to ensuring more effective control of persons, goods and vehicles crossing the border.

To further enhance operational capacities of the partner services in line with the Integrated Border Management principles

To fight corruption by adequate monitoring and by advising Border Guards (Border Police), Customs, other law enforcement agencies and other relevant state agencies on institutional and human resources aspects to prevent corruption.

To help prevent serious crime, transnational organized crime, economic crime and offenses, inter alia trafficking in human beings and smuggling of migrants, illicit trafficking in narcotic drugs, psychotropic substances, their analogues and precursors, weapons proliferation, smuggling and illegal movement of goods..

To contribute to the settlement of the Transnistrian conflict by, inter alia, strengthening the border management and customs regime, and confidence building measures, thus favouring interaction and exchanges between the two banks of the Nistru river and contributing to reducing possible security threats.

To support the smooth implementation of border and customs related aspects of the Association Agreements signed between the EU and the two countries respectively, on 27 June 2014, and including Deep and Comprehensive Free Trade Areas (DCFTA).

Specific activities of the Border Assistance Mission shall be defined by the annual action plans.

Such activities will also include the preparation of an exit strategy and transition for long-term sustainability."

25. This Addendum will constitute an integral part of the Memorandum of Understanding between the European Commission, the Government of the Republic of Moldova and the Government of Ukraine on the European

Commission Border Assistance Mission to the Republic of Moldova and to Ukraine of 7 October 2005 and will enter into force on the date of the last notification by the signatories of the Memorandum, on completion of respective internal procedures necessary for the entry into force of this Addendum.

Done at Brussels on 24 November 2015, in three original copies, each in the English, Romanian and Ukrainian languages, all texts being equally authentic. In case of divergence in interpretation, the English text will prevail.

For the European
Commission


For the Government of
the Republic of Moldova

For the Government
of Ukraine



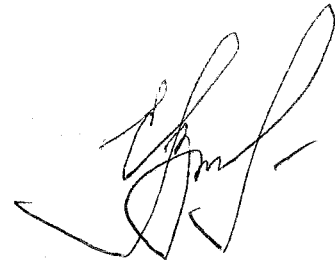
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