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I

(Acts whose publication is obligatory)

DIRECTIVE 96/1/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 22 January 1996

amending Directive 88/77/EEC on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from diesel engines for use in vehicles

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty ⁽³⁾,

Whereas measures should be adopted within the framework of the internal market;

Whereas the first programme of action of the European Community on protection of the environment ⁽⁴⁾, approved by the Council on 22 November 1973, called for account to be taken of the latest scientific advances in combating atmospheric pollution caused by gases emitted from motor vehicles and for Directives adopted previously to be amended accordingly; whereas the fifth programme of action, which in its general approach was approved by the Council and by the Representatives of the Governments of the Member States, meeting within the Member States, in the resolution of 1 February 1993 ⁽⁵⁾, provides for additional efforts to be made to effect a considerable reduction in the present level of pollutants emitted from motor vehicles;

Whereas the objective of reducing the level of pollutant emissions from motor vehicles and the smooth functioning of the internal market for vehicles cannot be sufficiently achieved by individual Member States and can therefore be better achieved by the approximation of the laws of the Member States relating to measures to be taken against air pollution by motor vehicles;

Whereas it is recognized that the development of transport in the Community has entailed significant constraints for the environment; whereas a number of official estimates of the increase in traffic density have proved to be lower than the actual figures; whereas for that reason stringent emission standards should be laid down for all motor vehicles;

Whereas Directive 88/77/EEC ⁽⁶⁾ laid down the limit values for the emissions of carbon monoxide, unburnt hydrocarbons and nitrogen oxides from diesel engines for use in motor vehicles on the basis of a test procedure representative for European driving conditions for the vehicles concerned; whereas Directive 91/542/EEC provides for two stages, the first stage (1992/93) coinciding with the implementation dates of the new European emission standards for passenger cars; whereas the second stage (1995/96) established a longer-term guideline for the European motor industry by fixing limit values based on the expected performance of technologies still under development, whilst granting industry a lead time for perfecting such technologies;

Whereas under Article 5 (2) of Directive 91/542/EEC the Commission is to report to the Council before the end of 1993 on progress made regarding the availability of technologies for controlling air-polluting emissions from diesel engines, particularly those of 85 kW or less; whereas this report should cover also new statistical methods to monitor production conformity; whereas in the light of the conclusions of this report the Commission is invited, if necessary, to submit a proposal to the

⁽¹⁾ OJ No C 389, 31. 12. 1994, p. 22 and OJ No C 309, 21. 11. 1995, p. 9.

⁽²⁾ OJ No C 201, 26. 7. 1993, p. 9.

⁽³⁾ Opinion of the European Parliament of 20 September 1995 (OJ No C 269, 16. 10. 1995, p. 88), Council common position of 7 November 1995 (OJ No C 320, 30. 11. 1995, p. 21) and Decision of the European Parliament of 13 December 1995 (OJ No C 17, 21. 1. 1996). Council Decision of 22 December 1995.

⁽⁴⁾ OJ No C 112, 20. 12. 1973, p. 1.

⁽⁵⁾ OJ No C 138, 17. 5. 1993, p. 1.

⁽⁶⁾ OJ No L 36, 9. 2. 1988, p. 33. Directive as last amended by Directive 91/542/EEC (OJ No L 295, 25. 10. 1991, p. 1).

Council for revising upwards the limit values for particulate emissions;

Whereas, in the opinion of the experts consulted, it is possible to introduce new provisions on production conformity;

Whereas the very stringent limit value for particulate emissions set in Directive 91/542/EEC for 'Stage 2' cannot, at the present state of technology, be met by most small diesel engines of 85 kW or less by the date set in that Directive; whereas a considerable reduction in particulate emissions may nevertheless be obtained for these engines as from 1 October 1995; whereas, for small diesel engines with a swept volume of less than 0,7 dm³ and a rated power speed of more than 3 000 min⁻¹, the limit value for particulate emissions set in Directive 91/542/EEC should not be introduced until 1997; whereas this additional period would allow the industry to make the necessary changes to ensure compliance with the deferred limit value,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 88/77/EEC shall be amended in accordance with the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to

comply with this Directive before 1 July 1996. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate the main provisions of national law which they adopt in the field covered by this Directive to the Commission.

Article 3

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 29 January 1996.

For the European Parliament

The President

K. HÄNSCH

For the Council

The President

L. DINI

ANNEX

AMENDMENTS TO THE ANNEXES TO DIRECTIVE 88/77/EEC

- (1) Section 6.2.1.: the following footnote (**) is added to the figure '0,15' of the last line of the table (B(1. 10. 1995)), last column (Mass of particulates (PT) g/kWh):

‘(**): until 30 September 1997 the value applied to the particulate emissions of engines having a swept volume of less than 0,7 dm³ and a rated power speed of more than 3 000 min⁻¹, is 0,25 g/kWh.’

- (2) Section 8 now reads as follows:

‘8. PRODUCTION CONFORMITY

- 8.1. Measures to ensure production conformity must be taken in accordance with the provisions of Article 10 of Directive 70/156/EEC. Production conformity is checked on the basis of the description in the type-approval certificates set out in Annex VIII to this Directive.

Sections 2.4.2 and 2.4.3 of Annex X to Directive 70/156/EEC are applicable where the competent authorities are not satisfied with the auditing procedure of the manufacturer.

- 8.1.1. If emissions of pollutants are to be measured and an engine type approval has had one or several extensions, the tests will be carried out on the engine(s) described in the information package relating to the relevant extension.

- 8.1.1.1. Conformity of the vehicle subjected to a pollutant emission test.

After submission of the engine to the authorities, the manufacturer shall not carry out any adjustment to the engines selected.

- 8.1.1.1.1. Three engines are randomly taken in the series and are subjected to the test referred to in Section 6.2. The limit values are given in Section 6.2.1 of this Annex (*).

“(*): until 30 September 1998 the value applied to the particulate emissions of engines having a swept volume of less than 0,7 dm³ and a rated power speed of more than 3 000 min⁻¹, is 0,25 g/kWh.”

- 8.1.1.1.2. The test are carried out according to Appendix 1 to this Annex, where the competent authority is satisfied with the production standard deviation given by the manufacturer, in accordance with Annex X to Directive 70/156/EEC, which applies to motor vehicles and their trailers.

The tests are carried out according to Appendix 2 to this Annex, where the competent authority is not satisfied with the production standard deviation given by the manufacturer in accordance with Annex X to Directive 70/156/EEC, which applies to motor vehicles and their trailers.

At the manufacturer's request, the tests may be carried out in accordance with Appendix 3 to this Annex.

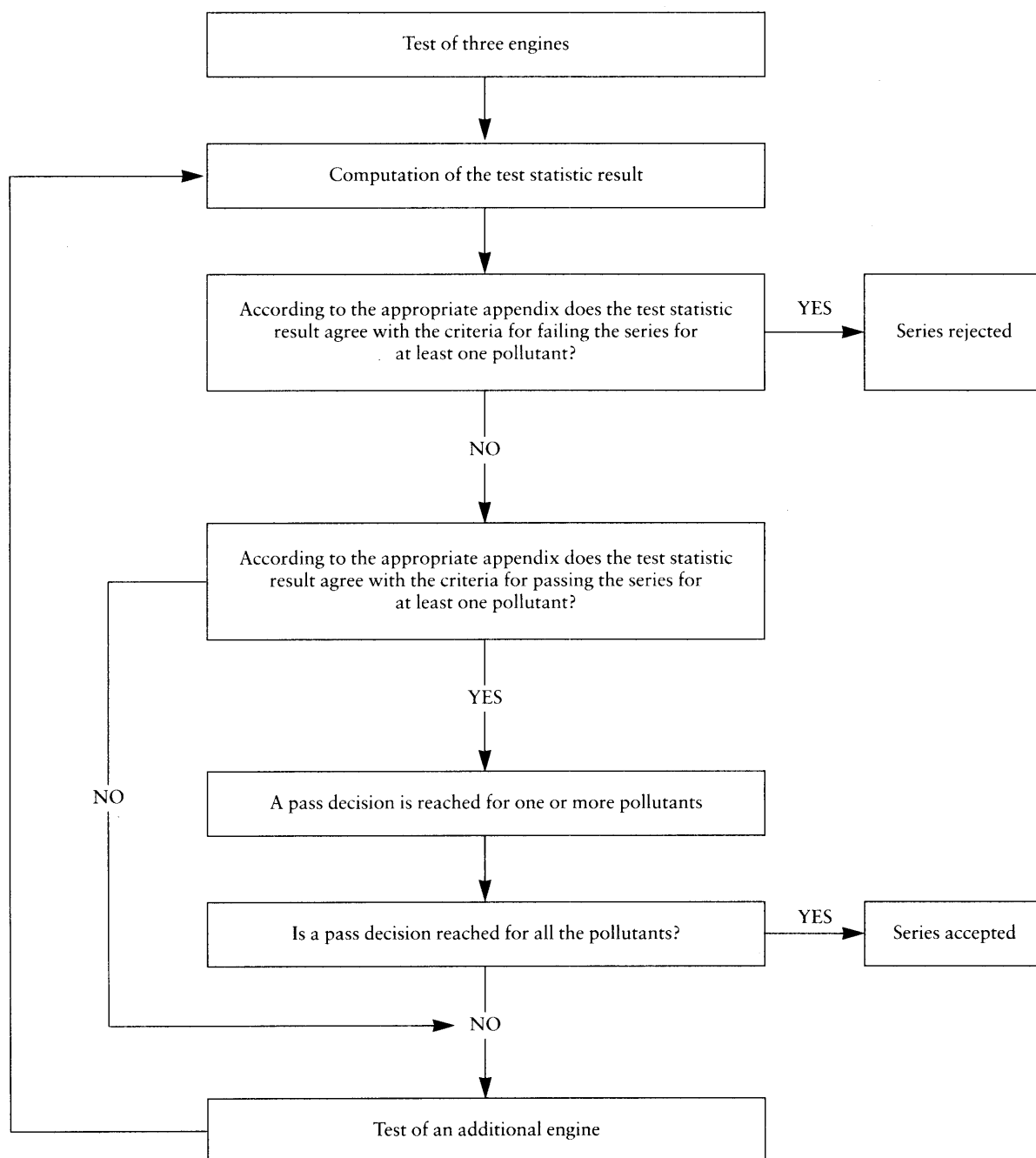
- 8.1.1.1.3. On the basis of a test of the engines by sampling, the production of a series is regarded as conforming where a pass decision is reached for all the pollutants and non-conforming where a fail decision is reached for one pollutant, in accordance with the test criteria applied in the appropriate Appendix.

When a pass decision has been reached for one pollutant, this decision may not be changed by any additional tests made in order to reach a decision for the other pollutants.

If no pass decision is reached for all the pollutants and if no fail decision is reached for one pollutant, a test is carried out on another engine (see Figure I.7).

If no decision is reached, the manufacturer may at any time decide to stop testing. In that case a fail decision is recorded.

Figure 1.7



- 8.1.1.2. The tests will be carried out on newly manufactured engines.
- 8.1.1.2.1. However, at the request of the manufacturer, the tests will be carried out on engines which have been run-in a maximum of 100 hours.
- In this case, the running-in procedure will be conducted by the manufacturer who shall undertake not to make any adjustments to those engines.
- 8.1.1.2.2. When the manufacturer asks to conduct an running-in procedure (x hours where $x \leq (100)$ hours), it may be carried out on:
- all the engines that are tested,
 - or
 - the first engine tested, with the determination of an evolution coefficient as follows:
 - the pollutant emissions will be measured at zero and at “x” hours on the first engine tested,
 - the evolution coefficient of the emissions between zero and “x” hours will be calculated for each pollutant:

$$\frac{\text{Emissions "x" hours}}{\text{Emissions zero hour}}$$
 It may be less than one.
 - The subsequent test engines will not be subjected to the running-in procedure, but their zero hour emissions will be modified by the evolution coefficient.
- In this case, the values to be taken will be:
- the values at “x” hours for the first engine,
 - the values at zero hour multiplied by the evolution coefficient for the other engines.
- 8.1.1.2.3. All these tests may be conducted with commercial fuel. However, at the manufacturer's request, the reference fuels described in Annex IV may be used.

(3) The following Appendices are added:

Appendix 1

1. This Appendix describes the procedure to be used to verify production conformity for the emissions of pollutants when the manufacturer's production standard deviation is satisfactory.
2. With a minimum sample size of three the sampling procedure is set so that the probability of a lot passing a test with 30 % of the engines defective is 0,90 (producer's risk 10 %) while the probability of a lot being accepted with 65 % of the engines defective is 0,10 (consumer's risk = 10 %).
3. The following procedure is used for each of the pollutants given in Section 6.2.1 of Annex I (see Figure I 7).

Let:

L = the natural logarithm of the limit value for the pollutant,

x_i = the natural logarithm of the measurement for the i -th engine of the sample,

s = an estimate of the production standard deviation (after taking the natural logarithm of the measurements),

n = the current sample number.

4. For each sample the sum of the standardized deviations to the limit is calculated using the following formula:

$$\frac{1}{s} \sum_{i=1}^n (L - x_i)$$

5. Then:

- if the test statistic result is greater than the pass decision number for the sample size given in Table I.1.5, a pass decision is reached for the pollutant,
- if the test statistic result is less than the fail decision number for the sample size given in Table I.1.5, a fail decision is reached for the pollutant,
- otherwise, an additional engine is tested according to Section 8.1.1.1 of Annex I and the calculation procedure is applied to the sample increased by one more unit.

Table I.1.5

Minimum sample size: 3

Cumulative number of engines tested (sample size) n	Pass decision number A_n	Fail decision number B_n
3	3,327	- 4,724
4	3,261	- 4,790
5	3,195	- 4,856
6	3,129	- 4,922
7	3,063	- 4,988
8	2,997	- 5,054
9	2,931	- 5,120
10	2,865	- 5,185
11	2,799	- 5,251
12	2,733	- 5,317
13	2,667	- 5,383
14	2,601	- 5,449
15	2,535	- 5,515
16	2,469	- 5,581
17	2,403	- 5,647
18	2,337	- 5,713
19	2,271	- 5,779
20	2,205	- 5,845
21	2,139	- 5,911
22	2,073	- 5,977
23	2,007	- 6,043
24	1,941	- 6,109
25	1,875	- 6,175
26	1,809	- 6,241
27	1,743	- 6,307
28	1,677	- 6,373
29	1,611	- 6,439
30	1,545	- 6,505
31	1,479	- 6,571
32	- 2,112	- 2,112

Appendix 2

1. This Appendix describes the procedure to be used to verify production conformity during the type I test when the manufacturer's evidence of production standard deviation is either unsatisfactory or unavailable.
2. With a minimum sample size of three the sampling procedure is set so that the probability of a lot passing a test with 30 % of the engines defective is 0,90 (producer's risk = 10 %) while the probability of a lot being accepted with 65 % of the engines defective is 0,10 (consumer's risk = 10 %).
3. The values of the pollutants given in Section 6.2.1 of Annex 1 are considered to be log normally distributed and should be transformed by taking their natural logarithms. Let m_0 and m denote the minimum and maximum sample sizes respectively ($m_0 = 3$ und $m = 32$) and let n denote the current sample number.
4. If the natural logarithms of the values measured in the series are $x_1, x_2, \dots, x_i$ and L is the natural logarithm of the limit value for the pollutant, then, define:

$$d_i = x_i - L$$

and

$$\bar{d}_n = \frac{1}{n} \sum_{i=1}^n d_i$$

$$V_n^2 = \frac{1}{n} \sum_{i=1}^n (d_i - \bar{d}_n)^2$$

5. Table I.2.5 shows values of the pass (A_n) and fail (B_n) decision numbers against current sample number. The test statistic result is the ratio $\bar{d}_n/V_n$, and shall be used to determine whether the series has passed or failed as follows:

For $m_0 \leq n < m$:

- pass the series if $\bar{d}_n/V_n \leq A_n$,
- fail the series if $\bar{d}_n/V_n \geq B_n$,
- take another measurement if $A_n < \bar{d}_n/V_n < B_n$.

6. Remarks.

The following recursive formulae are useful for calculating successive values of the test statistic:

$$\bar{d}_n = \left(1 - \frac{1}{n}\right) \bar{d}_{n-1} + \frac{1}{n} d_n$$

$$V_n^2 = \left(1 - \frac{1}{n}\right) V_{n-1}^2 + \frac{(\bar{d}_n - d_n)^2}{n-1}$$

$$(n = 2, 3, \dots; \bar{d}_1 = d_1; V_1 = 0)$$

Table I.2.5

Minimum sample size: 3

Cumulative number of engines tested (sample size) n	Pass decision number A_n	Fail decision number B_n
3	- 0,80381	16,64743
4	- 0,76339	7,68627
5	- 0,72982	4,67136
6	- 0,69962	3,25573
7	- 0,67129	2,45431
8	- 0,64406	1,94369
9	- 0,61750	1,59105
10	- 0,59135	1,33295

Cumulative number of engines tested (sample size) n	Pass decision number A_n	Fail decision number B_n
11	- 0,56542	1,13566
12	- 0,53960	0,97970
13	- 0,51379	0,85307
14	- 0,48791	0,74801
15	- 0,46191	0,65928
16	- 0,43573	0,58321
17	- 0,40933	0,51718
18	- 0,38266	0,45922
19	- 0,35570	0,40788
20	- 0,32840	0,36203
21	- 0,30072	0,32078
22	- 0,27263	0,28343
23	- 0,24410	0,24943
24	- 0,21509	0,21831
25	- 0,18557	0,18970
26	- 0,15550	0,16328
27	- 0,12483	0,13880
28	- 0,09354	0,11603
29	- 0,06159	0,09480
30	- 0,02892	0,07493
31	- 0,00449	0,05629
32	- 0,03876	0,03879

Appendix 3

1. This Appendix describes the procedure to be used to verify, at the manufacturer's request, production conformity for the emissions of pollutants.
2. With a minimum sample size of three engines the sampling procedure is set to that the probability of a lot passing a test with 30 % of the engines defective is 0,90 (producer's risk = 10 %) while the probability of a lot being accepted with 65 % of the engines defective is 0,10 (consumer's risk = 10 %).
3. The following procedure is used for each of the pollutants given in Section 6.2.1 of Annex 1, (see Figure I.7).
Let
L be the limit value for the pollutant,
 x_i the value of the measurement for the i-th engine of the sample,
 n is the current sample number.
4. Calculate for the sample the test statistic quantifying the number of non-conforming engines, i.e.:
 $x_i > L$.

5. Then:

- if the test statistic is less or equal to the pass decision number for the sample size given in Table I.3.5, a pass decision is reached for the pollutant,
- if the test statistic is greater or equal to the fail decision number for the sample size given in Table I.3.5, a fail decision is reached for the pollutant,
- otherwise, an additional engine is tested according to Section 8.1.1.1 of Annex I and the calculation procedure is applied to the sample increased by one more unit.

In Table I.3.5 the pass and fail decision numbers are calculated by means of the International Standard ISO 8422/1991.

Table I.3.5

Minimum sample size: 3

Cumulative number of engines tested (sample size) <i>n</i>	Pass decision number	Fail decision number
3	—	3
4	0	4
5	0	4
6	1	5
7	1	5
8	2	6
9	2	6
10	3	7
11	3	7
12	4	8
13	4	8
14	5	9
15	5	9
16	6	10
17	6	10
18	7	11
19	8	9'

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 29 January 1996

on the conclusion by the European Committee of the Interim Agreement on trade and trade-related matters between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Moldova, of the other part

(96/161/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 in conjunction with Article 228 (2), first sentence thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas, pending the entry into force of the Partnership and Cooperation Agreement signed in Brussels on 28 November 1994, it is necessary to approve the Interim Agreement on trade and trade-related matters between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Moldova, of the other part, signed in Luxembourg on 2 October 1995,

HAS DECIDED AS FOLLOWS:

Article 1

The Interim Agreement on trade and trade-related matters between the European Community, the European

Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Moldova, of the other part, together with the Protocol and the declarations, are hereby approved on behalf of the European Community.

These texts are attached to this Decision.

Article 2

The President of the Council shall give the notification provided for in Article 35 of the Interim Agreement on behalf of the European Community ⁽²⁾.

Done at Brussels, 29 January 1996.

For the Council

The President

S. AGNELLI

⁽¹⁾ OJ No C 339, 18. 12. 1995.

⁽²⁾ The date of entry into force of the Interim Agreement will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

INTERIM AGREEMENT

on trade and trade-related matters between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Moldova, of the other part

The EUROPEAN COMMUNITY, the EUROPEAN COAL AND STEEL COMMUNITY and the EUROPEAN ATOMIC ENERGY COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

THE REPUBLIC OF MOLDOVA,

of the other part,

WHEREAS a Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, was signed on 28 November 1994;

WHEREAS the aim of the Partnership and Cooperation Agreement is to strengthen and widen the relations established previously, notably by the Agreement between the European Economic Community and the European Atomic Energy Community and the Union of Soviet Socialist Republics on trade and commercial economic cooperation, signed on 18 December 1989;

WHEREAS it is necessary to ensure the rapid development of trade relations between the Parties;

WHEREAS to this end it is necessary to implement as speedily as possible, by means of an Interim Agreement, the provisions of the Partnership and Cooperation Agreement concerning trade and trade-related matters;

WHEREAS the said provisions should, accordingly, provisionally replace the trade provisions of the Agreement on Trade and Commercial and Economic Cooperation;

WHEREAS it is necessary to ensure that, pending the entry into force of the Partnership and Cooperation Agreement and the establishment of the Cooperation Council, the Joint Committee set up under the Agreement on Trade and Commercial and Economic Cooperation may exercise the powers assigned by the Partnership and Cooperation Agreement to the Cooperation Council;

WHEREAS these powers are necessary in order to implement the Interim Agreement,

HAVE DECIDED to conclude this Agreement and to this end have designated as their plenipotentiaries:

THE EUROPEAN COMMUNITY:

Javier SOLANA MADARIAGA

Minister of Foreign Affairs of the Kingdom of Spain,
President-in-Office of the Council of the European Union

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

Hans van den BROEK

Member of the Commission of the European Communities

THE REPUBLIC OF MOLDOVA:

Michai POPOV

Minister of Foreign Affairs of the Republic of Moldova

WHO, having exchanged their Full Powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

TITLE I

GENERAL PRINCIPLES

[PCA Moldova: Title I]

Article 1

[PCA Moldova: Article 2]

Respect for democracy, principles of international law and human rights as defined in particular in the Helsinki Final Act and the Charter of Paris for a New Europe, as well as the principles of market economy, including those enunciated in the documents of the CSCE Bonn Conference, underpin the internal and external policies of the Parties and constitute an essential element of partnership and of this Agreement.

TITLE II

TRADE IN GOODS

[PCA Moldova: Title III]

Article 2

[PCA Moldova: Article 10]

1. The Parties shall accord to one another most-favoured-nation treatment in all areas in respect of:

- customs duties and charges applied to imports and exports, including the method of collecting such duties and charges,
- provisions relating to customs clearance, transit, warehouses and transshipment,
- taxes and other internal charges of any kind applied directly or indirectly to imported goods,
- methods of payment and the transfer of such payments related to trade in goods,
- the rules relating to the sale, purchase, transport, distribution and use of goods on the domestic market.

2. The provisions of paragraph 1 shall not apply to:

- (a) advantages granted with the aim of creating a customs union or a free-trade area or pursuant to the creation of such a union or area;
- (b) advantages granted to particular countries in accordance with the General Agreement on Tariffs and Trade (GATT) and with other international arrangements in favour of developing countries;
- (c) advantages accorded to adjacent countries in order to facilitate frontier traffic.

3. The provisions of paragraph 1 and Article 3 (3) shall not apply, during a transitional period expiring on

the date of the Republic of Moldova acceding to GATT or on 31 December 1998, whichever is earlier, to advantages defined in Annex I granted by the Republic of Moldova to other independent states as from the day preceding the date of entry into force of this Agreement.

Article 3

[PCA Moldova: Article 11]

1. The Parties agree that the principle of free transit of goods is an essential condition of attaining the objectives of this Agreement.

2. In this connection each Party shall provide for unrestricted transit via or through its territory of goods originating in the customs territory or destined for the customs territory of the other Party.

3. The rules described in Article V, paragraphs 2, 3, 4 and 5 of the GATT are applicable between the two Parties.

4. The rules contained in this Article are without prejudice to any special rules relating to specific sectors, in particular such as transport, or products agreed between the Parties.

Article 4

[PCA Moldova: Article 12]

Without prejudice to the rights and obligations stemming from international conventions on the temporary

admission of goods which bind both Parties, each Party shall furthermore grant the other Party exemption from import charges and duties on goods admitted temporarily, in the instances and according to the procedures stipulated by any other international convention on this matter binding upon it, in conformity with its legislation. Account shall be taken of the conditions under which the obligations stemming from such a convention have been accepted by the Party in question.

Article 5

[PCA Moldova: Article 13]

Goods originating in the Republic of Moldova and the Community respectively shall be imported into the Community and the Republic of Moldova respectively free of quantitative restrictions without prejudice to Articles 9, 12 and 13 to the provisions of Annex II of this Agreement, and to the provisions of Articles 77, 81, 244, 249 and 280 of the Act of Accession of Spain and Portugal to the European Community.

Article 6

[PCA Moldova: Article 14]

1. The products of the territory of one Party imported into the territory of the other Party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products.

2. Moreover, these products shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provision of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

Article 7

[PCA Moldova: Article 15]

The following Articles of the GATT shall be applicable *mutatis mutandis* between the two Parties:

- (i) Article VII, paragraphs 1, 2, 3, 4a, 4b, 4d, 5;
- (ii) Article VIII;
- (iii) Article IX;
- (iv) Article X.

Article 8

[PCA Moldova: Article 16]

Goods shall be traded between the Parties at market-related prices.

Article 9

[PCA Moldova: Article 17]

1. Where any product is being imported into the territory of one of the Parties in such increased quantities and under such conditions as to cause or threaten to cause substantial injury to domestic producers of like or directly competitive products, the Community or the Republic of Moldova, whichever is concerned, may take appropriate measures in accordance with the following procedures and conditions.

2. Before taking any measures, or in cases to which paragraph 4 applies as soon as possible thereafter, the Community or the Republic of Moldova as the case may be shall supply the Joint Committee with all relevant information with a view to seeking a solution acceptable to both Parties.

3. If, as a result of the consultations, the Parties do not reach agreement within 30 days of referral to the Joint Committee on actions to avoid the situation, the Party which requested consultations shall be free to restrict imports of the products concerned to the extent and for such time as is necessary to prevent or remedy the injury, or to adopt other appropriate measures.

4. In critical circumstances where delay would cause damage difficult to repair, the Parties may take the measures before the consultations, on the condition that consultations shall be offered immediately after taking such action.

5. In the selection of measures under this Article, the Contracting Parties shall give priority to those which cause least disturbance to the achievement of the aims of this Agreement.

Article 10

[PCA Moldova: Article 18]

Nothing in this Title, and in Article 9 in particular, shall prejudice or affect in any way the taking, by either Party, of anti-dumping or countervailing measures in accordance with Article VI of the GATT, the Agreement on implementation of Article VI of the GATT, the Agreement on interpretation or application of Articles VI, XVI and XXIII of the GATT or related internal legislation.

In respect of anti-dumping or subsidies investigations, each Party agrees to examine submissions by the other Party and to inform the interested parties concerned of the essential facts and considerations on the basis of which a final decision is to be made. Before definitive anti-dumping and countervailing duties are imposed, the Party shall do the utmost to bring about a constructive solution to the problem.

Article 11

[PCA Moldova: Article 19]

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants; the protection of natural resources; the protection of national treasures of artistic, historic or archaeological value or the protection of intellectual, industrial and commercial property or rules relating to gold and silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 12

[PCA Moldova: Article 20]

This Title shall not apply to trade in textile products falling under Chapters 50 to 63 of the combined

nomenclature. Trade in these products shall be governed by a separate agreement, initialled on 14 May 1993 and applied provisionally since 1 January 1993.

Article 13

[PCA Moldova: Article 21]

1. Trade in products covered by the Treaty establishing the European Coal and Steel Community shall be governed by the provisions of this Title, with the exception of Article 5.

2. A contact group on coal and steel matters shall be set up, comprising representatives of the Community on the one hand, and representatives of the Republic of Moldova on the other.

The contact group shall exchange, on a regular basis, information in all coal and steel matters of interest to the Parties.

Article 14

[PCA Moldova: Article 22]

Trade in nuclear items will be conducted in accordance with the provisions of the Treaty establishing the European Atomic Energy Community. If necessary, trade in nuclear materials shall be subject to the provisions of a specific Agreement to be concluded between the European Atomic Energy Community and the Republic of Moldova.

TITLE III

PAYMENTS, COMPETITION AND OTHER ECONOMIC PROVISIONS

[PCA Moldova: Titles V and VI]

Article 15

[PCA Moldova: Article 47]

The Parties undertake to authorize, in freely convertible currency, any payments on the current account of balance of payments between residents of the Community and of the Republic of Moldova connected with the movement of goods, made in accordance with the provisions of this Agreement.

Article 16

[PCA Moldova: Article 48]

1. The Parties agree to work to remedy or remove, through the application of their competition laws or

otherwise, restrictions on competition by enterprises or caused by State intervention in so far as they may affect trade between the Community and the Republic of Moldova.

2. In order to attain the objectives mentioned in paragraph 1:

2.1. the Parties shall ensure that they have and enforce laws addressing restrictions on competition by enterprises within their jurisdiction;

2.2. the Parties shall refrain from granting State aids favouring certain undertakings or the production of goods other than primary products as defined in the GATT, or the provision of services, which distort or threaten to distort competition in so far as they

affect trade between the Community and the Republic of Moldova;

2.3. upon request by one Party, the other Party shall provide information on its aid schemes or on particular individual cases of State aid. No information needs to be provided which is covered by legislative requirements of the Parties on professional or commercial secrets;

2.4. in the case of State monopolies of a commercial character, the Parties declare their readiness, as from the fourth year from the date of entry into force of their Agreement, to ensure that there is no discrimination between nationals of the Parties regarding the conditions under which goods are procured or marketed;

2.5. in the case of public undertakings or undertakings to which Member States of the European Union or the Republic of Moldova grant exclusive rights, the Parties declare their readiness, as from the fourth year from the date of entry into force of this Agreement, to ensure that there is neither enacted nor maintained any measure distorting trade between the Community and the Republic of Moldova to an extent contrary to the Parties' respective interests. This provision shall not obstruct the performance, in law or fact, of the particular tasks assigned to such undertakings;

2.6. the period defined in paragraphs 2.4 and 2.5 may be extended by agreement of the Parties.

3. Consultations may take place within the Joint Committee at the request of the Community or the Republic of Moldova on the restrictions or distortions of competition referred to in paragraph 1 and 2 and on the enforcement of their competition rules, subject to limitations imposed by laws regarding disclosure of

information, confidentiality and business secrecy. Consultations may also comprise questions on the interpretation of paragraphs 1 and 2.

4. The Parties with experience in applying competition rules shall give full consideration to providing other Parties, upon request and within available resources, technical assistance for the development and implementation of competition rules.

5. The above provisions in no way affect the Parties' rights to apply adequate measures, notably those referred to in Article 10, in order to address distortions of trade in goods or services.

Article 17

[PCA Moldova: Article 49]

Pursuant to the provisions of this Article and of Annex III, the Republic of Moldova shall continue to improve the protection of intellectual, industrial and commercial property rights in order to provide, by the end of the fifth year after the entry into force of this Agreement, for a level of protection similar to that provided in the Community by Community acts, in particular those referred to in Annex III, including comparable means of enforcing such rights.

Article 18

[PCA Moldova: Article 73]

Mutual assistance between administrative authorities in customs matters of the Parties shall take place in accordance with the Protocol annexed to the Agreement.

TITLE IV

INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

[PCA Moldova: Title X]

Article 19

The Joint Committee set up by the Agreement between the European Economic Community and the European Atomic Energy Community and the Union of Soviet Socialist Republics on trade and commercial and economic cooperation, signed on 18 December 1989, shall perform the duties assigned to it by this Agreement until the Cooperation Council provided for in Article 82

of the Partnership and Cooperation Agreement is established.

Article 20

The Joint Committee may, for the purposes of attaining the objectives of this Agreement, make recommendations in the cases provided for therein.

It shall draw up its recommendations by agreement between the two Parties.

Article 21

[PCA Moldova: Article 86]

When examining any issue arising within the framework of this Agreement in relation to a provision referring to an Article of the GATT, the Joint Committee shall take into account to the greatest extent possible the interpretation that is generally given to the Article of the GATT in question by the Contracting Parties to the GATT.

Article 22

[PCA Moldova: Article 90]

1. Within the scope of this Agreement, each Party undertakes to ensure that natural and legal persons of the other Party have access free of discrimination in relation to its own nationals to the competent courts and administrative organs of the Parties to defend their individual rights and their property rights, including those concerning intellectual, industrial and commercial property.

2. Within the limits of their respective powers, the Parties:

- shall encourage the adoption of arbitration for the settlement of disputes arising out of commercial and cooperation transactions concluded by economic operators of the Community and those of the Republic of Moldova,
- agree that where a dispute is submitted to arbitration, each Party to the dispute may, except where the rules of the arbitration centre chosen by the Parties provide otherwise, choose its own arbitrator, irrespective of his nationality, and that the presiding third arbitrator or the sole arbitrator may be a citizen of a third State,
- will recommend their economic operators to choose by mutual consent the law applicable to their contracts,
- shall encourage recourse to the arbitration rules elaborated by the United Nations Commission on International Trade Law (Uncitral) and to arbitration by any centre of a State signatory to the Convention on Recognition and Enforcement of Foreign Arbitral Awards done at New York on 10 June 1958.

Article 23

[PCA Moldova: Article 91]

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;
- (b) which relate to the production of, or trade in, arms, munitions or war materials 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;
- (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;
- (d) which it considers necessary to respect its international obligations and commitments in the control of dual use industrial goods and technology.

Article 24

[PCA Moldova: Article 92]

1. In the fields covered by this Agreement and without prejudice to any special provisions contained therein:

- the arrangements applied by the Republic of Moldova in respect of the Community shall not give rise to any discrimination between the Member States, their nationals or their companies or firms,
- the arrangements applied by the Community in respect of the Republic of Moldova shall not give rise to any discrimination between Moldovan nationals, or its companies or firms.

2. The provisions of paragraph 1 are without prejudice to the right of the Parties to apply the relevant provisions of their fiscal legislation to tax payers who are not in identical situations as regards their place of residence.

Article 25

[PCA Moldova: Article 93]

1. Each of the two Parties may refer to the Joint Committee any dispute relating to the application or interpretation of this Agreement.

2. The Joint Committee may settle the dispute by means of a recommendation.

3. In the event of it not being possible to settle the dispute in accordance with paragraph 2, either Party may notify the other of the appointment of a conciliator; the other Party must then appoint a second conciliator within two months. For the application of this procedure, the Community and the Member States shall be deemed to be one Party to the dispute.

The Joint Committee shall appoint a third conciliator.

The conciliators' recommendations shall be taken by majority vote. Such recommendations shall not be binding upon the Parties.

Article 26

[PCA Moldova: Article 94]

The Parties agree to consult promptly through appropriate channels at the request of either Party to discuss any matter concerning the interpretation or implementation of this Agreement and other relevant aspects of the relations between the Parties.

The provisions of this Article shall in no way affect and are without prejudice to Articles 9, 10, 25 and 30.

Article 27

[PCA Moldova: Article 95]

Treatment granted to the Republic of Moldova hereunder shall in no case be more favourable than that granted by the Member States to each other.

Article 28

[PCA Moldova: Article 97]

In so far as matters covered by this Agreement are covered by the European Energy Charter Treaty and Protocols thereto, such Treaty and Protocols shall upon entry into force apply to such matters but only to the extent that such application is provided for therein.

Article 29

1. This Agreement shall be applicable until the entry into force of the Partnership and Cooperation Agreement signed on 28 November 1994.

2. Either Party may denounce this Agreement by notifying the other Party. This Agreement shall cease to apply six months after the date of such notification.

Article 30

[PCA Moldova: Article 99]

1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are attained.

2. If either Party considers that the other Party has failed to fulfil an obligation under this Agreement, it may take the appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In the selection of these measures, priority must be given to those which least disturb the functioning of the Agreement. These measures shall be notified immediately to the Joint Committee if the other Party so requests.

Article 31

Annexes I, II, III and the Protocol shall form an integral part of this Agreement.

Article 32

[PCA Moldova: Article 102]

This Agreement shall apply, on the one hand, to the territories in which the Treaties establishing the European Community, the European Coal and Steel Community and the European Atomic Energy Community are applied and under the conditions laid down in those Treaties and, on the other hand, to the territory of the Republic of Moldova.

Article 33

[PCA Moldova: Article 103]

The Secretary-General of the Council of the European Union shall be the depositary of this Agreement.

Article 34

[PCA Moldova: Article 104]

This Agreement is drawn up in one copy in the Danish, Dutch, English, Finnish, French, German, Greek, Italian,

Portuguese, Spanish, Swedish and Moldovan languages, each of these texts being equally authentic.

notify the Secretary-General of the Council of the European Union that the procedures referred to in the first paragraph have been completed.

Article 35

[PCA Moldova: Article 105]

This Agreement will be approved by the Parties in accordance with their own procedures.

This Agreement shall enter into force on the first day of the second month following the date on which the Parties

Upon its entry force, and as far as relations between the Republic of Moldova and the Community are concerned, this Agreement shall replace Article 2, Article 3, except for the fourth indent thereof, and Articles 4 to 16 of the Agreement between the European Economic Community, the European Atomic Energy Community and the Union of Soviet Socialist Republics on trade and economic and commercial cooperation signed in Brussels on 18 December 1989.

Hecho en Luxemburgo, el dos de octubre de mil novecientos noventa y cinco.

Udfærdiget i Luxembourg, den anden oktober nitten hundrede og femoghalvfems.

Geschehen zu Luxemburg am zweiten Oktober neunzehnhundertfünfundneunzig.

Έγινε στο Λουξεμβούργο, στις δύο Οκτωβρίου χίλια εννιακόσια ενενήντα πέντε.

Done at Luxembourg on the second day of October in the year one thousand nine hundred and ninety-five.

Fait à Luxembourg, le deux octobre mil neuf cent quatre-vingt-quinze.

Fatto a Lussemburgo, addì due ottobre millenovecentonovantacinque.

Gedaan te Luxemburg, de tweede oktober negentienhonderd vijffennegentig.

Feito em Luxemburgo, em dois de Outubro de mil novecentos e noventa e cinco.

Tehty Luxemburgissa toisena päivänä lokakuuta vuonna tuhatyhdeksänsataayhdeksänkymmentäviisi.

Som skedde i Luxemburg den andra oktober nittonhundranittiofem.

Intocmit in Luxemburg, in a doua zi a lunii octombrie a anului o mie noua sute nouazeci si cinci.

Por el Consejo de la Unión Europea

For Rådet for Den Europæiske Union

Für den Rat der Europäischen Union

Για το Συμβούλιο της Ευρωπαϊκής Ένωσης

For the Council of the European Union

Pour le Conseil de l'Union européenne

Per il Consiglio dell'Unione europea

Voor de Raad van de Europese Unie

Pelo Conselho da União Europeia

Euroopan yhteisöjen neuvoston puolesta

På Europeiska unionens råds vägnar



Por la Comisión de las Comunidades Europeas

For Kommissionen for De Europæiske Fællesskaber

Für die Kommission der Europäischen Gemeinschaften

Για την Επιτροπή των Ευρωπαϊκών Κοινοτήτων

For the Commission of the European Communities

Pour la Commission des Communautés européennes

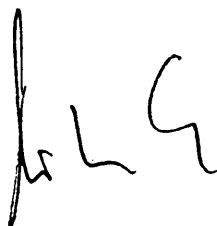
Per la Commissione delle Comunità europee

Voor de Commissie van de Europese Gemeenschappen

Pela Comissão das Comunidades Europeias

Euroopan yhteisöjen komission puolesta

På Europeiska gemenskapernas kommissions vägnar



Pentru Guvernul Republicii Moldova



List of Documents attached

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ANNEX I

Indicative list of advantages granted by the Republic of Moldova to the Independent States in accordance with Article 2 (3)

1. *Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan:*

No import duties are implemented

No export duties are implemented as regards goods delivered under clearing and interstate agreements within the volumes stipulated in these agreements

No VAT is applied on export and import. No excise is applied on export

Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan:

Export quotas for deliveries of products under annual interstate trade and cooperation agreements are opened in the same way as for deliveries for state needs.

2. *Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan:*

Payments could be made in national currency of these countries or any other currencies accepted by the Republic of Moldova or these countries.

Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Lithuania, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan:

Special system of non-commercial operations, including payments resulting from these operations.

3. *Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan:*

Special system of current payments.

4. *Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan:*

Special price system in trade with some raw materials and semi-finished products.

5. *Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan:*

Special conditions of transit.

6. *Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan:*

Special conditions of customs procedures.

*ANNEX II***Exceptional measures which derogate from the provisions of Article 5**

1. Exceptional measures which derogate from the provisions of Article 5 may be taken by the Republic of Moldova in the form of quantitative restrictions on a non-discriminatory basis.
2. These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.
3. The total value of imports of the products which are subject to these measures may not exceed 15 % of total imports from the Community during the last year, prior to the introduction of any quantitative restrictions for which statistics are available.

These provisions shall not be circumvented by increased tariff protection on the imported goods concerned.

4. These measures may only be applied during a transitional period ending 31 December 1998 unless Parties agree otherwise, or when the Republic of Moldova becomes a Contracting Party to the GATT, whichever is earlier.
5. The Republic of Moldova shall inform the Joint Committee of any measures it intends to take under the terms of this Annex, and, at the request of the Community, consultations shall be held in the Joint Committee on such measures and the sectors to which they apply before they enter into force.

ANNEX III

**Community Acts concerning intellectual, industrial and commercial property rights referred to in
Article 17**

1. Community Acts referred to in Article 17:

- First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks,
- Council Directive 87/54/EEC of 16 December 1986 on the legal protection of topographies of semi-conductor products,
- Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs,
- Council Regulation (EEC) No 1768/92 of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products,
- Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs,
- Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission,
- Council Directive 93/98/EEC of 29 October 1993 harmonizing the term of protection of copyright and certain related rights,
- Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property.

2. If problems in the area of intellectual, industrial and commercial property as addressed in the above Community Acts and affecting trading conditions were to occur, urgent consultations will be undertaken, at the request of the Community or the Republic of Moldova, with a view to reaching mutually satisfactory solutions.

PROTOCOL

on mutual assistance between administrative authorities in customs matters

Article 1

Definitions

For the purposes of this Protocol:

- (a) 'customs legislation' shall mean provisions applicable in the territories of the Parties and governing the import, export, transit of goods and their placing under any customs procedure, including measures of prohibition, restriction and control and adopted by the said Parties;
- (b) 'customs duties' shall mean all duties, taxes, fees or any other charges which are levied and collected in the territories of the Parties, in application of customs legislation, but not including fees and charges which are limited in amount to the approximate costs of services rendered;
- (c) 'applicant authority' shall mean a competent administrative authority which has been appointed by a Party for this purpose and which makes a request for assistance in customs matters;
- (d) 'requested authority' shall mean a competent administrative authority which has been appointed by a Party for this purpose and which receives a request for assistance in customs matters;
- (d) 'contravention' shall mean any violation of the customs legislation as well as any attempted violation of such legislation.

Article 2

Scope

1. The Parties shall assist each other, within their competences, in the manner and under the conditions laid down in this Protocol, in ensuring that customs legislation is correctly applied, in particular by the prevention, detection and investigation of contraventions of this legislation.
2. Assistance, in customs matters, as provided for in this Protocol, applies to any administrative authority of the Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of the judicial authority, unless those authorities so agree.

Article 3

Assistance on request

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

information to enable it to ensure that customs legislation is correctly applied, including information regarding operations noted or planned which contravene or would contravene such legislation.

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

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

- (a) natural or legal persons of whom there are reasonable grounds for believing that they are contravening or have contravened customs legislation;
- (b) movements of goods notified as possibly giving rise to substantial contraventions of customs legislation;
- (c) means of transport for which there are reasonable grounds for believing that they have been, are or may be used in the contravening of customs legislation;
- (d) places where stocks of goods have been assembled in such a way that there are reasonable grounds to suppose that they are intended as supplies for operations contrary to the customs legislation of the other Party.

Article 4

Spontaneous assistance

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

- operations which have contravened, contravene or would contravene such legislation and which may be of interest to other Parties,
- new means or methods employed in realizing such operations,
- goods known to be subject to substantial contravention of customs legislation.

*Article 5***Delivery/notification**

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

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

falling within the scope of this Protocol to an addressee, residing or established in its territory. In such a case Article 6, point 3 is applicable.

*Article 6***Form and substance of requests for assistance**

1. Requests pursuant to this Protocol shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.

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

- (a) the applicant authority making the request;
- (b) the measure requested;
- (c) the object of and the reason for the request;
- (d) the laws, rules and other legal elements involved;
- (e) indications as exact and comprehensive as possible on the natural or legal persons being the target of the investigations;
- (f) a summary of the relevant facts and of the enquiries already carried out, except in cases provided for in Article 5.

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

4. If a request does not meet the formal requirements, its correction or completion may be demanded; the ordering of precautionary measures may, however, take place.

*Article 7***Execution of requests**

1. In order to comply with a request for assistance, the requested authority or, when the latter cannot act on its own, the administrative department to which the request

has been addressed by this authority, shall proceed, within its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out.

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

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

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

*Article 8***Form in which information is to be communicated**

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

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

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

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

- (a) be likely to prejudice sovereignty, public policy, security or other essential interests; or
- (b) involve currency of tax regulations other than regulations concerning customs duties; or
- (c) violate an industrial, commercial or professional secret.

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

3. If assistance is withheld or denied, the decision and the reasons therefor must be notified to the applicant authority without delay.

Article 10

Obligation to observe confidentiality

1. Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential nature. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to like information under the relevant laws of the Party which received it and the corresponding provisions applying to the Community authorities.

2. Nominative data shall not be transmitted whenever there are reasonable grounds to believe that the transfer or the use made of the data transmitted would be contrary to the basic legal principles of one of the Parties, and, in particular, if the person concerned would suffer undue disadvantages. Upon request, the receiving Party shall inform the furnishing Party of the use made of the information supplied and of the results achieved.

3. Nominative data may only be transmitted to customs authorities and, in the case of need for prosecution purposes, to public prosecution and judicial authorities. Other persons or authorities may obtain such information only upon previous authorization by the furnishing authority.

4. The furnishing Party shall verify the accuracy of the information to be transferred. Whenever it appears that the information supplied was inaccurate or to be deleted, the receiving Party shall be notified without delay. The latter shall be obliged to carry out the correction or deletion.

5. Without prejudice to cases of prevailing public interest, the person concerned may obtain, upon request, information on the data stores and the purpose of this storage.

Article 11

Use of information

1. Information obtained shall be used solely for the purposes of this Protocol and may be used within each Party for other purposes only with the prior written consent of the administrative authority which furnished the information and shall be subject to any restrictions laid down by that authority.

2. Paragraph 1 shall not impede the use of information in any judicial or administrative proceedings subsequently instituted for failure to comply with customs legislation.

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

Article 12

Experts and witnesses

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

Article 13

Assistance expenses

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

Article 14

Implementation

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

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

*Article 15***Complementarity**

1. This Protocol shall complement and not impede the application of any agreements on mutual assistance which have been concluded or may be concluded between individual or several Member States of the European Union and the Republic of Moldova. Nor shall it

preclude more extensive mutual assistance granted under such agreements.

2. Without prejudice to Article 11, these agreements do not prejudice Community provisions governing the communication between the competent services of the Commission and the customs authorities of the Member States of any information obtained in customs matters which could be of Community interest.

FINAL ACT

The plenipotentiaries of the EUROPEAN COMMUNITY, the EUROPEAN COAL AND STEEL COMMUNITY and the EUROPEAN ATOMIC ENERGY COMMUNITY, hereinafter referred to as 'the Community', of the one part, and

the plenipotentiaries of THE REPUBLIC OF MOLDOVA, of the other part,

meeting at Luxembourg on 2 October 1995 for the signature of the Interim Agreement on trade and trade-related matters between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Moldova, of the other part, hereinafter referred to as 'the Agreement', have adopted the following texts:

the Agreement and the Protocol on mutual assistance between administrative authorities in customs matters.

The plenipotentiaries of the Community and the plenipotentiaries of the Republic of Moldova have adopted the texts of the Joint Declarations listed below and annexed to this Final Act:

Joint Declaration concerning Article 9 of the Agreement

Joint Declaration concerning Article 10 of the Agreement

Joint Declaration concerning Article 17 of the Agreement

Joint Declaration concerning Article 30 of the Agreement.

The plenipotentiaries of the Community have taken note of the declaration listed below and annexed to this Final Act:

Unilateral Declaration by the Republic of Moldova concerning the protection of intellectual, industrial and commercial property rights.

Hecho en Luxemburgo, el dos de octubre de mil novecientos noventa y cinco.

Udfærdiget i Luxembourg, den anden oktober nitten hundrede og femoghalvfems.

Geschehen zu Luxemburg am zweiten Oktober neunzehnhundertfünfundneunzig.

Έγινε στο Λουξεμβούργο, στις δύο Οκτωβρίου χίλια εννιακόσια ενενήντα πέντε.

Done at Luxembourg on the second day of October in the year one thousand nine hundred and ninety-five.

Fait à Luxembourg, le deux octobre mil neuf cent quatre-vingt-quinze.

Fatto a Lussemburgo, addì due ottobre millenovecentonovantacinque.

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Intocmit in Luxemburg, in a doua zi a lunii octombrie a anului o mie noua sute nouazeci si cinci.

Por el Consejo de la Unión Europea

For Rådet for Den Europæiske Union

Für den Rat der Europäischen Union

Για το Συμβούλιο της Ευρωπαϊκής Ένωσης

For the Council of the European Union

Pour le Conseil de l'Union européenne

Per il Consiglio dell'Unione europea

Voor de Raad van de Europese Unie

Pelo Conselho da União Europeia

Euroopan yhteisöjen neuvoston puolesta

På Europeiska unionens råds vägnar

Por la Comisión de las Comunidades Europeas

For Kommissionen for De Europæiske Fællesskaber

Für die Kommission der Europäischen Gemeinschaften

Για την Επιτροπή των Ευρωπαϊκών Κοινοτήτων

For the Commission of the European Communities

Pour la Commission des Communautés européennes

Per la Commissione delle Comunità europee

Voor de Commissie van de Europese Gemeenschappen

Pela Comissão das Comunidades Europeias

Euroopan yhteisöjen komission puolesta

På Europeiska gemenskapernas kommission vägnar

Pentru Guvernul Republicii Moldova

Joint Declaration concerning Article 9

The Community and the Republic of Moldova declare that the text of the safeguard clause does not grant GATT safeguard treatment.

Joint Declaration concerning Article 10

It is understood that the provisions of Article 10 are neither intended to, nor shall slow down, hinder or impede the procedures provided for in the respective legislation of the Parties regarding anti-dumping and subsidies investigations.

Joint Declaration concerning Article 17

Within the limits of their respective competences, the Parties agree that, for the purpose of the Agreement, intellectual, industrial and commercial property includes in particular copyright, including the copyright in computer programs, and neighbouring rights, the rights relating to patents, industrial designs, geographical indications, including appellations of origin, trademarks and service marks, topographies of integrated circuits as well as protection against unfair competition as referred to in Article 10 bis of the Paris Convention for the protection of industrial property and protection of undisclosed information on know-how.

Joint Declaration concerning Article 30

The Parties agree, for the purpose of its correct interpretation and its practical application, that the term 'cases of special urgency' included in Article 30 of the Agreement mean cases of material breach of the Agreement by one of the Parties. A material breach of the Agreement consists in

- (a) repudiation of the Agreement not sanctioned by the general rules of international law; or
 - (b) violation of the essential elements of the Agreement set out in Article 1.
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Unilateral declaration by the Republic of Moldova concerning the protection of intellectual, industrial and commercial property rights

The Republic of Moldova declares that:

1. By the end of the fifth year after entry into force of the Agreement, the Republic of Moldova shall accede to the multilateral conventions on intellectual, industrial and commercial property rights referred to in paragraph 2 of this Declaration to which Member States of the Community are parties or which are *de facto* applied by Member States according to the relevant provisions contained in these conventions.
 2. Paragraph 1 of this Declaration concerns the following multilateral conventions:
 - Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971),
 - International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome, 1961),
 - Protocol relating to the Madrid Agreement concerning the International Registration of Marks (Madrid, 1989),
 - Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks (Geneva 1977 and amended in 1979),
 - International Convention for the Protection of New Varieties of Plants (UPOV) (Geneva Act, 1991).
 3. The Republic of Moldova confirms the importance it attaches to the obligations arising from the following multilateral conventions:
 - Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the purposes of Patent Procedures (1977, modified in 1980),
 - Paris Convention for the Protection of Industrial Property (Stockholm Act, 1967, and amended in 1979),
 - Madrid Agreement concerning the International Registration of Marks (Stockholm Act, 1967, and amended in 1979),
 - Patent Cooperation Treaty (Washington 1970, amended and modified in 1979 and 1984).
 4. From the entry into force of this Agreement the Republic of Moldova shall grant to Community companies and nationals, in respect of the recognition and protection of intellectual, industrial and commercial property, treatment no less favourable than that granted by it to any third country under bilateral agreements.
 5. The provisions of paragraph 45 shall not apply to advantages granted by the Republic of Moldova to any third country on an effective reciprocal basis or to advantages granted by the Republic of Moldova to another country of the former USSR.
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