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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	17 June 2022
To:	Secretariat-General of the Council of the European Union
No. Cion doc.:	ANNEX to COM(2022) 309 final
Subject:	ANNEX to the Council Decision **on the conclusion, on behalf of the European Union, of the Agreement between the European Union and the Republic of Moldova on the carriage of freight by road**

Delegations will find attached document ANNEX to COM(2022) 309 final.

Encl.: ANNEX to COM(2022) 309 final

EUROPEAN
COMMISSION

Brussels, 17.6.2022
COM(2022) 309 final

ANNEX

ANNEX

to the

Council Decision

on the conclusion, on behalf of the European Union, of the Agreement between the European Union and the Republic of Moldova on the carriage of freight by road

ANNEX

AGREEMENT
BETWEEN THE EUROPEAN UNION
AND MOLDOVA
ON THE CARRIAGE OF FREIGHT BY ROAD

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

of the one part,

and THE EUROPEAN UNION,

hereinafter also referred to as “the Union”,

of the one part,

and

THE REPUBLIC OF MOLDOVA,

of the other part,

hereinafter referred to individually as a "Party" and collectively as the "Parties",

1. ACKNOWLEDGING the important disruptions faced by the transport sector in the Republic of Moldova following Russia's war of aggression against Ukraine.

2. RECOGNISING the unavailability of essential transport routes through Ukraine for Moldovan exports and the urgent need to protect supply chains and food security by using alternative routes from the Republic of Moldova via the territory of the European Union.

3. DESIRING to support the Moldovan society and economy, by allowing Union and Moldovan road haulage operators to carry out freight transport operations to and through the Moldovan territory when needed, and by enabling the Republic of Moldova to further adjust its economic and transport patterns in order to respond to the impact on international markets of Russia’s war of aggression.

4. NOTING that the current system based on a limited number of Member States’ permits does not allow the necessary flexibility for Moldovan road haulage operators to increase their operations through and with the Union.

5. DETERMINED to ensure for the future that the conditions of market access in transport of goods by road between the Parties currently available to road transport operators established in any of the Parties will in any case not be more restrictive as compared to the situation currently existing.

6. DETERMINED to help the Moldovan economy by liberalising transit and bilateral international carriage operations between the Union and the Republic of Moldova to allow for the necessary transport of goods and to give the same reciprocal rights to both Parties to carry out transit and bilateral international carriage operations between those territories.

7. NOTING that in Annex X of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States and the Republic

of Moldova (hereinafter the "Association Agreement") undertakes to gradually approximate its road transport legislation to the Union legislation and international instruments enumerated in that Annex.

8. DESIRING to subject the provisions of this Agreement to the dispute settlement chapter of the Association Agreement.

9. RECOGNISING the impossibility of anticipating the duration of the impact of the Russian war of aggression on the transport sector and infrastructures in Ukraine which also affect Moldovan operators, for which reason the Parties shall, at the latest three months before the expiry of this Agreement, consult within the Joint Committee in order to assess the need for its renewal.

10. ACKNOWLEDGING that the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) will ensure that the transport operations under this Agreement respect drivers' working conditions, fair competition and not jeopardise road safety,

HAVE AGREED AS FOLLOWS:

Article 1
Objectives

1. The aim of this Agreement is to temporarily facilitate road freight transport between and through the territory of the European Union and the Republic of Moldova by granting additional rights of transit and carriage of goods between the Parties to operators established in one of the Parties following the repercussions of Russia's war of aggression against Ukraine and the significant disruptions it brings for the road transport sector in the Republic of Moldova.

2. This Agreement shall not be construed as having the effect of diminishing or otherwise rendering the conditions of market access to international road transport services between the Parties more restrictive as compared to the situation existing on the day preceding the day of entry into force of this Agreement.

Article 2
Scope

This Agreement shall apply to the transit and international carriage of goods by road between the Parties for hire or reward and is without prejudice to the application of the rules established by the European Conference of Ministers of Transport multilateral quota system within the International Transport Forum. The carriage of goods by road within a Member State of the European Union or between Member States of the European Union is outside the scope of this Agreement. Transit through the territory of the other Party for the carriage of goods between third countries is not covered by this Agreement.

Article 3
Definitions

For the purposes of this Agreement, the following definitions apply:

(1) 'party of establishment' means the Party in which the road haulage operator is established;

(2) 'road haulage operator' means any natural or legal person engaged in the transport of freight with a commercial purpose established in a Party in conformity with the law of that Party and authorised by the same Party to carry out the international transport of goods for hire or reward by means either of motor vehicles or combinations of vehicles;

(3) 'vehicle' means a motor vehicle registered in one of the Parties, or a coupled combination of vehicles the motor vehicle of which at least is registered in one of the Parties, used exclusively for the carriage of goods;

(4) 'transit' means the movement of vehicles, without loading or unloading goods, in the territory of a Party by a road haulage operator established in the other Party;

(5) 'bilateral international carriage' means laden journeys with a vehicle, from the territory of the Party of establishment to the territory of the other Party, and vice versa, with or without transit through the territory of a third country.

Article 4

Access to road transport services

Road haulage operators shall be entitled to carry out the following road haulage operations:

(a) laden journeys undertaken by a vehicle the point of departure and the point of arrival of which are in the territory of two different Parties, with or without transit through the territory of a third country;

(b) laden journeys undertaken by a vehicle from the territory of the Party of establishment to the territory of the same Party with transit through the territory of the other Party;

(c) laden journeys undertaken by a vehicle to or from the territory of the Party of establishment to a third country with transit through the territory of the other Party;

(d) unladen journeys undertaken by a vehicle in conjunction with the journeys referred to in points (a), (b) and (c).

Article 5

Duration

1. This Agreement shall apply until 31 March 2023.

2. At the latest three months before the expiry of the Agreement, the Parties shall consult in order to assess the need for its renewal. For this purpose, the Parties shall consult within the Joint Committee as set out in Article 6(2).

Article 6

Joint Committee

1. A Joint Committee is hereby established. It shall supervise and monitor the application and implementation of this Agreement and periodically review the functioning of this Agreement in light of its objectives.

2. The Joint Committee shall be convened at the request of either of its co-chairs. It shall also be convened at the latest three months before the expiry of the Agreement, in order to assess and decide the need for the continuation of this Agreement in accordance with Article 5(2). The Joint Committee shall take a decision on such continuation, including the duration thereof, as appropriate, in accordance with paragraph 5 of this Article.

3. The Joint Committee shall be composed of representatives of the Parties. The representatives of the Member States of the European Union may attend the meetings of the Joint Committee as observers.

4. The Joint Committee shall be chaired in turn by a representative of the European Union and a representative of the Republic of Moldova.

5. The Joint Committee shall adopt its decisions by consensus. The decisions shall be binding on the Parties, which shall take all necessary measures to implement them.

6. The Joint Committee shall adopt its rules of procedure.

Article 7

Dispute settlement[1]

When a dispute arises between the Parties concerning the interpretation and application of this Agreement, the provisions of Chapter 14 of Title V of the Association Agreement shall apply *mutatis mutandis*.

Article 8

Fulfilment of obligations

[1] For the avoidance of doubt, neither this Article nor this Agreement shall be construed as conferring rights or imposing obligations which can be directly invoked before the domestic courts of the Parties.

1. Each Party is fully responsible for the observance of all provisions of this Agreement.

2. Each Party shall ensure that all necessary measures are taken to give effect to the provisions of this Agreement, including their observance at all levels of government, as well as by persons exercising delegated governmental authority. Each Party shall act in good faith to ensure that the objectives set out in this Agreement are attained.

3. This Agreement is a specific agreement within the meaning of Article 458(1) of the Association Agreement. A Party may take appropriate measures relating to this Agreement in the event of a particularly serious and substantial violation of any of the obligations described in Article 2(1) of the Association Agreement as essential elements, which threatens international peace and security so as to require an immediate reaction. Such appropriate measures shall be taken in accordance with Article 455 of the Association Agreement.

Article 9
Safeguard measures

1. Either Party may take appropriate safeguard measures if it considers that transport operations carried out by road haulage operators of the other Party pose a threat to road safety. Safeguard measures shall be taken in full respect of international law, shall be proportionate and limited with regard to their scope and duration to what is strictly necessary in order to remedy the situation or maintain the balance of this Agreement. Priority shall be given to such measures that least disturb the functioning of this Agreement.

2. The Party concerned shall, before entering into consultations, notify the measures taken to the other Party and shall provide all relevant information.

3. The Parties shall immediately enter into consultations in the Joint Committee with a view to finding a mutually acceptable solution.

4. Any action taken under the terms of this Article shall be suspended, as soon as the Party at fault again complies with the provisions of this Agreement or when the threat to road safety ceases to exist.

Article 10
Territorial application

This Agreement shall apply, of the one part, to the Territory in which the Treaty on the European Union and the Treaty on the Functioning of the European Union apply and under the conditions laid down in those Treaties, and, of the other part, to the territory of the Republic of Moldova.

Its application is temporarily suspended in those areas in which the Government of the Republic of Moldova does not exercise effective control. Its application may be resumed following a Decision of the Association Council or an Association Joint Committee decision, confirming that the Republic of Moldova can ensure full compliance with the Agreement.

Article 11
Termination

1. Either Party may, at any time, give notice in writing, through diplomatic channels, to the other Party of its decision to terminate this Agreement. The Agreement shall be terminated two weeks after such notification, unless the notifying party indicates a later date for such notification to take effect. In the latter case, the date shall not be more than two months after the date of the notification.

2. Road haulage operators whose vehicle is in the territory of the other Party upon expiry of this Agreement shall be allowed to transit through the territory of that Party to return to the territory of the Party where they are established.

3. For greater certainty, the date of notification referred to in paragraph 1 means the date the notification is delivered to the other Party.

4. The expiry pursuant to Article 5, or the termination of this Agreement pursuant to paragraph 1 of this Article, shall not have the effect of restricting the conditions for market access in road transport services between the Parties as compared to the situation existing on the day before the entry into force of this Agreement. To that effect, in the absence of a subsequent agreement between the Parties, the market access entitlements set under the bilateral agreements existing between Member States of the European Union and the Republic of Moldova on that day shall apply again as of the date of expiry or termination of this Agreement.

Article 12
Entry into force and provisional application

1. The Parties shall ratify or approve this Agreement in accordance with their own procedures. This Agreement shall enter into force on the day on which the Parties have notified each other of the completion of their respective internal legal procedures necessary for this purpose.

2. Notwithstanding paragraph 1, the Union and the Republic of Moldova agree to provisionally apply this Agreement as from the day of its signature.

3. For the purposes of the relevant provisions of this Agreement, 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 2 of this Article.

Done in Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish, each of these texts being equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorised to this effect, have signed this Agreement.

Done at Brussels, this …… day of … in the year … .

For the European Union

For the Republic of Moldova