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ANNEX 13

ANNEX

ANNEX XIII

Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part

to the

Proposal for a Council Decision

on the conclusion of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part

PROTOCOL IV

DEFINITIONS

For the purposes of this Agreement:

1. "*Irregularity*" means any infringement of a provision of EU law, of this Agreement or ensuing agreements and contracts, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the EU or budgets managed by it, either by reducing or losing revenue accruing from own resources collected directly on behalf of the EU, or by an unjustified item of expenditure.

2. "*Fraud*" means

(a) in respect of expenditure, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the EU or budgets managed by, or on behalf of, the EU;
- the non-disclosure of information in violation of a specific obligation, with the same effect as described in the first indent of this point;
- the misapplication of funds referred to in the first indent of this point for purposes other than those for which they were originally granted;

(b) in respect of revenue, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the EU or budgets managed by, or on behalf of, the EU;

- the non-disclosure of information in violation of a specific obligation, with the same effect as described in the first indent of this point;
- the misapplication of a legally obtained benefit, with the same effect as described in the first indent of this point.

3. "*Active corruption*" means the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official, for himself or for a third party, for him to act or refrain from acting in accordance with his duty or, in the exercise of his functions, in breach of his official duties in a way which damages or is likely to damage the financial interests of the EU.

4. "*Passive corruption*" means the deliberate action of an official who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such an advantage, to act or refrain from acting in accordance with his duty or, in the exercise of his functions, in breach of his official duties in a way which damages or is likely to damage the financial interests of the EU.

5. "*Conflict of interest*" means any situation that could cast doubt on the ability of staff to act in an impartial and objective manner for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with a tenderer, applicant or beneficiary, or that could reasonably appear to do so in the eyes of an external third party.

6. "*Unduly paid*" means paid in breach of the rules governing EU funds.

7. "*European Anti-Fraud Office (OLAF)*" means the European Commission's specialised anti-fraud department. OLAF has operational independence and is responsible for carrying out administrative investigations intended to combat fraud, corruption and any other illegal activity adversely affecting the financial interests of the EU, as provided for in Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-fraud Office (OLAF), Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations by the European Anti-Fraud Office (OLAF) and Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.
