



EUROPEAN  
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ANNEX 7

## **ANNEX**

### **ANNEX VII**

**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**

**ANNEX XXIX**

**PUBLIC PROCUREMENT**

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## **ANNEX XXIX-A**

### **THRESHOLDS**

1. The value thresholds mentioned in Article 269(3) of this Agreement shall be for both Parties:
    - (a) EUR 130 000 for public supply and service contracts awarded by central government authorities, except for public service contracts defined in the third indent of Article 7(b) of Directive 2004/18/EC ;
    - (b) EUR 200 000 for public supply and public service contracts not covered by point a);
    - (c) EUR 5 000 000 for public works contracts and concessions;
    - (d) EUR 5 000 000 for works contracts in the utilities sector;
    - (e) EUR 400 000 for supply and service contracts in the utilities sector.
  2. The value thresholds referred to in paragraph 1 shall be adapted to reflect the thresholds applicable under Commission Regulation (EU) No 1336/2013 of 13 December 2013 amending Directives 2004/17/EC, 2004/18/EC and 2009/81/EC of the European Parliament and of the Council in respect of the application thresholds for the procedures for the awards of contract at the moment of the entry into force of this Agreement.
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## **ANNEX XXIX-B**

### **INDICATIVE TIME SCHEDULE FOR INSTITUTIONAL REFORM, LEGISLATIVE APPROXIMATION AND MARKET ACCESS**

Phase		Indicative time schedule	Market access granted to the EU by the Republic of Moldova	Market access granted to the Republic of Moldova by the EU	
1	Implementation of Article 271 of this Agreement Implementation of the Institutional reform set out in Article 270(2) of this Agreement Agreement of the Reform Strategy set out in Article 272 of this Agreement	9 months after the entry into force of this Agreement	Supplies for central government authorities	Supplies for central government authorities	

2	Approximation and implementation of basic elements of Directive 2004/18/EC and of Directive 89/665/EEC	3 years after the entry into force of this Agreement	Supplies for state, regional and local authorities and bodies governed by public law	Supplies for state, regional and local authorities and bodies governed by public law	Annexes XXIX-C and XXIX-D
3	Approximation and implementation of basic elements of Directive 2004/17/EC and of Directive 92 /13/EEC	4 years after the entry into force of this Agreement	Supplies for all contracting entities in the utilities sector	Supplies for all contracting entities	Annexes XXIX-E and XXIX-F

4	Approximation and implementation of other elements of Directive 2004/18/EC	6 years after the entry into force of this Agreement	Service and works contracts and concessions for all contracting authorities	Service and works contracts and concessions for all contracting authorities	Annexes XXIX-G, XXIX-H and XXIX-I
5	Approximation and implementation of other elements of Directive 2004/17/EC	8 years after the entry into force of this Agreement	Service and works contracts for all contracting entities in the utilities sector	Service and works contracts for all contracting entities in the utilities sector	Annexes XXIX-J and XXIX-K

## **ANNEX XXIX-C**

### **BASIC ELEMENTS OF DIRECTIVE 2004/18/EC**

of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts

(Phase 2)

TITLE I	Definitions and general principles
Article 1	Definitions (paragraphs 1, 2, 8, 9, 11(a), 11(b) and 11(d), 12, 13, 14, 15)
Article 2	Principles of awarding contracts
Article 3	Granting of special or exclusive rights: non-discrimination clause
TITLE II	Rules on public contracts
CHAPTER I	General provisions
Article 4	Economic operators
Article 6	Confidentiality
CHAPTER II	Scope
Section 1	Thresholds
Article 8	Contracts subsidised by more than 50 % by contracting authorities
Article 9	Methods for calculating the estimated value of public contracts, framework agreements and dynamic purchasing systems
Section 2	Specific situations
Article 10	Defence procurement
Section 3	Excluded contracts
Article 12	Contracts in the water, energy, transport and postal services sectors (only when basic rules of Directive 2004/17/EC have been approximated)

Article 13	Specific exclusions in the field of telecommunications
Article 14	Secret contracts and contracts requiring special security measures
Article 15	Contracts awarded pursuant to international rules
Article 16	Specific exclusions
Article 18	Service contracts awarded on the basis of an exclusive right
Section 4	Special arrangement
Article 19	Reserved contracts
 CHAPTER III	 Arrangements for public service contracts
Article 20	Service contracts listed in Annex II A
Article 21	Service contracts listed in Annex II B
Article 22	Mixed contracts including services listed in Annex II A and services listed in Annex II B
 CHAPTER IV	 Specific rules governing specifications and contract documents
Article 23	Technical specifications
Article 24	Variants
Article 25	Subcontracting
Article 26	Conditions for performance of contracts
Article 27	Obligations relating to taxes, environmental protection, employment protection provisions and working conditions
 CHAPTER V	 Procedures
Article 28	Use of open, restricted and negotiated procedures and of competitive dialogue
Article 30	Cases justifying use of the negotiated procedure with prior publication of a contract notice
Article 31	Cases justifying use of the negotiated procedure without publication of a contract notice



CHAPTER VI	Rules on advertising and transparency
Section 1	Publication of notices
Article 35	Notices: paragraph 1 <i>mutatis mutandis</i> ; paragraph 2; paragraph 4 first, third and fourth subparagraph
Article 36	Form and manner of publication of notices: paragraph 1; paragraph 7
Section 2	Time limits
Article 38	Time limits for receipt of requests to participate and for receipt of tenders
Article 39	Open procedures: Specifications, additional documents and information
Section 3	Information content and means of transmission
Article 40	Invitations to submit a tender, participate in the dialogue or negotiate
Article 41	Informing candidates and tenderers
Section 4	Communication
Article 42	Rules applicable to communication
CHAPTER VII	Conduct of the procedure
Section 1	General provisions
Article 44	Verification of the suitability and choice of participants and award of contracts
Section 2	Criteria for qualitative selection
Article 45	Personal situation of the candidate or tenderer
Article 46	Suitability to pursue the professional activity
Article 47	Economic and financial standing
Article 48	Technical and/or professional ability
Article 49	Quality assurance standards
Article 50	Environmental management standards
Article 51	Additional documentation and information
Section 3	Award of the contract
Article 53	Contract award criteria
Article 55	Abnormally low tenders

## ANNEXES

Annex I List of the activities referred to in Article 1(2)(b)

Annex II Services referred to in Article 1(2)(d)

Annex II A

Annex II B

Annex V

List of products referred to in Article 7 with regard to contracts awarded by contracting authorities in the field of defence

Annex V Definition of certain technical specifications

Annex VII Information to be included in notices

Annex VII A Information to be included in public contract notices

Annex X Requirements relating to equipment for the electronic receipt of tenders, requests to participate and plans and projects in design contests

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## **ANNEX XXIX-D**

### **BASIC ELEMENTS OF COUNCIL DIRECTIVE 89/665/EEC**

of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts as amended by Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and No 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts

(Phase 2)

Article 1	Scope and availability of review procedures
Article 2	Requirements for review procedures
Article 2a	Standstill period
Article 2b	Derogations from the standstill period Point (b) of the first paragraph of Article 2b
Article 2c	Time limits for applying for review
Article 2d	Ineffectiveness Paragraph 1(b) Paragraph 2 and 3
Article 2e	Infringements of this Directive and alternative penalties
Article 2f	Time limits

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## **ANNEX XXIX-E**

### **BASIC ELEMENTS OF DIRECTIVE 2004/17/EC**

of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors

(Phase 3)

TITLE I	General provisions applicable to contracts and design contests
CHAPTER I	Basic terms
Article 1	Definitions (paragraphs 2, 7, 9, 11, 12, 13)
CHAPTER II	Definition of the activities and entities covered
Section 1	Entities
Article 2	Contracting entities
Section 2	Activities
Article 3	Gas, heat and electricity
Article 4	Water
Article 5	Transport services
Article 6	Postal services
Article 7	Exploration for, or extraction of, oil, gas, coal or other solid fuels, as well as ports and airports
Article 9	Contracts covering several activities

CHAPTER III	General principles
Article 10	Principles of awarding contracts
TITLE II	Rules applicable to contracts
CHAPTER I	General provisions
Article 11	Economic operators
Article 13	Confidentiality
CHAPTER II	Thresholds and exclusion provisions
Section 1	Thresholds
Article 16	Contract thresholds
Article 17	Methods of calculating the estimated value of contracts, framework agreements and dynamic purchasing systems
Section 2	Contracts and concessions and contracts subject to special arrangements
Subsection 2	Exclusions applicable to all contracting entities and to all types of contract
Article 19	Contracts awarded for purposes of resale or lease to third parties
Article 20	Contracts awarded for purposes other than the pursuit of an activity covered or for the pursuit of such an activity in a third country: paragraph 1
Article 21	Contracts which are secret or require special security measures
Article 22	Contracts awarded pursuant to international rules
Article 23	Contracts awarded to an affiliated undertaking, to a joint venture or to a contracting entity forming part of a joint venture

Subsection 3	Exclusions applicable to all contracting entities, but to service contracts only
Article 24	Contracts relating to certain services excluded from the scope of this Directive
Article 25	Service contracts awarded on the basis of an exclusive right
Subsection 4	Exclusions applicable to certain contracting entities only
Article 26	Contracts awarded by certain contracting entities for the purchase of water and for the supply of energy or of fuels for the production of energy
CHAPTER III	Rules applicable to service contracts
Article 31	Service contracts listed in Annex XVII A
Article 32	Service contracts listed in Annex XVII B
Article 33	Mixed service contracts including services listed in Annex XVII A and services listed in Annex XVII B
CHAPTER IV	Specific rules governing specifications and contract documents
Article 34	Technical specifications
Article 35	Communication of technical specifications
Article 36	Variants
Article 37	Subcontracting
Article 39	Obligations relating to taxes, environmental protection, employment protection provisions and working conditions
CHAPTER V	Procedures
Article 40	(except paragraph 3 (i) and (l)) Use of open, restricted and negotiated procedures

CHAPTER VI	Rules on publication and transparency
Section 1	Publication of notices
Article 41	Periodic indicative notices and notices on the existence of a system of qualification
Article 42	Notices used as a means of calling for competition paragraphs 1 and 3
Article 43	Contract award notices (except for the second and third subparagraph of paragraph 1)
Article 44	Form and manner of publication of notices (except for the first subparagraph of paragraph 2 and paragraphs 4, 5, 7)
Section 2	Time limits
Article 45	Time limits for the receipt of requests to participate and for the receipt of tenders
Article 46	Open procedures: specifications, additional documents and information
Article 47	Invitations to submit a tender or to negotiate
Section 3	Communication and information
Article 48	Rules applicable to communication
Article 49	Information to applicants for qualification, candidates and tenderers
CHAPTER VII	Conduct of the procedure
Article 51	General provisions
Section 1	Qualification and qualitative selection
Article 52	Mutual recognition concerning administrative, technical or financial conditions, and certificates, tests and evidence
Article 54	Criteria for qualitative selection
Section 2	Award of the contract
Article 55	Contract award criteria
Article 57	Abnormally low tenders

Annex XIII	Information to be included in contract notices: A. Open procedures B. Restricted procedures C. Negotiated procedures
Annex XIV	Information to be included in the notice on the existence of a system of qualification
Annex XV A	Information to be included in the periodic indicative notice
Annex XV B	Information to be included in notices of publication of a periodic notice on a buyer profile not used as a means of calling for competition
Annex XVI	Information to be included in the contract award notice
Annex XVII A	Services within the meaning of Article 31
Annex XVII B	Services within the meaning of Article 32
Annex XX	Features concerning publication
Annex XXI	Definition of certain technical specifications
Annex XXIII	International labour law provisions within the meaning of Article 59(4)
Annex XXIV	Requirements relating to equipment for the electronic receipt of tenders, requests to participate, applications for qualification as well as plans and projects

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## **ANNEX XXIX-F**

### **BASIC ELEMENTS OF COUNCIL DIRECTIVE 92/13/EEC**

of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors as amended by Directive 2007/66/EC

(Phase 3)

Article 1	Scope and availability of review procedures
Article 2	Requirements for review procedures
Article 2a	Standstill period
Article 2b	Derogations from the standstill period Point (b) of the first paragraph of Article 2b
Article 2c	Time limits for applying for review
Article 2d	Ineffectiveness Paragraph 1 (b) Paragraphs 2 and 3
Article 2e	Infringements of this Directive and alternative penalties
Article 2f	Time limits

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## **ANNEX XXIX-G**

### **OTHER NON-MANDATORY ELEMENTS OF DIRECTIVE 2004/18/EC**

(Phase 4)

The elements of Directive 2004/18/EC set out in this Annex are not mandatory but recommended for approximation. The Republic of Moldova may approximate these elements within the time-frame set in Annex XXIX-B to this Agreement.

TITLE I	Definitions and general principles
Article 1	Definitions (paragraphs 5, 6, 7, 10, and 11(c))
TITLE II	Rules on public contracts
CHAPTER II	Scope
Section 2	Specific situations
Article 11	Public contracts and framework agreements awarded by central purchasing bodies
Section 4	Special arrangement
Article 19	Reserved contracts

CHAPTER V	Procedures
Article 29	Competitive dialogue
Article 32	Framework agreements
Article 33	Dynamic purchasing systems
Article 34	Public works contracts: particular rules on subsidised housing schemes
CHAPTER VI	Rules on advertising and transparency
Section 1	Publication of notices
Article 35	Notices: paragraph 3, and subparagraphs 2 and 3 of paragraph 4
CHAPTER VII	Conduct of the procedure
Section 2	Criteria for qualitative selection
Article 52	Official lists of approved economic operators and certification by bodies established under public or private law
Section 3	Award of the contract
Article 54	Use of electronic auctions

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## **ANNEX XXIX-H**

### **OTHER MANDATORY ELEMENTS OF DIRECTIVE 2004/18/EC**

(Phase 4)

TITLE I	Definitions and general principles
Article 1	Definitions (paragraphs 3, 4, and 11(e))
TITLE II	Rules on public contracts
CHAPTER II	Scope
Section 3	Excluded contracts
Article 17	Service concessions
TITLE III	Rules on public works concessions
CHAPTER I	Rules governing public works concessions
Article 56	Scope
Article 57	Exclusions from the scope (except the last paragraph)
Article 58	Publication of the notice concerning public works concessions
Article 59	Time limit
Article 60	Subcontracting
Article 61	Awarding of additional works to the concessionaire
CHAPTER II	Rules on contracts awarded by concessionaires which are contracting authorities
Article 62	Applicable rules

CHAPTER III	Rules applicable to contracts awarded by concessionaires which are not contracting authorities
Article 63	Advertising rules: threshold and exceptions
Article 64	Publication of the notice
Article 65	Time limit for the receipt of requests to participate and receipt of tenders
TITLE IV	Rules governing design contests
Article 66	General provisions
Article 67	Scope
Article 68	Exclusions from the scope
Article 69	Notices
Article 70	Form and manner of publication of notices of contests
Article 71	Means of communication
Article 72	Selection of competitors
Article 73	Composition of the jury
Article 74	Decisions of the jury
Annex VII B	Information which must appear in public works concession notices
Annex VII C	Information which must appear in works contracts notices of concessionaires who are not contracting authorities
Annex VII D	Information which must appear in design contest notices

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## **ANNEX XXIX-I**

### **OTHER ELEMENTS OF DIRECTIVE 89/665/EEC**

as amended by Directive 2007/66/EC

(Phase 4)

Article 2b	Derogations from the standstill period
	Point (c) of the first paragraph of Article 2b
Article 2d	Ineffectiveness
	Point (c) of the first paragraph of Article 2d
	Paragraph 5

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## **ANNEX XXIX-J**

### **OTHER NON-MANDATORY ELEMENTS OF DIRECTIVE 2004/17/EC**

(Phase 5)

The elements of Directive 2004/18/EC set out in this Annex are not mandatory but recommended for approximation. The Republic of Moldova may approximate these elements within the timeframe set in Annex XXIX-B to this Agreement.

TITLE I	General provisions applicable to contracts and design contests
CHAPTER I	Basic terms
Article 1	Definitions (paragraphs 4, 5, 6, 8)
TITLE II	Rules applicable to contracts
CHAPTER I	General provisions
Article 14	Framework agreements
Article 15	Dynamic purchasing systems
Section 2	Contracts and concessions and contracts subject to special arrangements
Subsection 5	Contracts subject to special arrangements, provisions concerning central purchasing bodies and the general procedure in case of direct exposure to competition
Article 28	Reserved contracts
Article 29	Contracts and framework agreements awarded by central purchasing bodies

CHAPTER V	Procedures
Article 40(3)(i) and (l)	
CHAPTER VI	Rules on publication and transparency
Section 1	Publication of notices
Article 42	Notices used as a means of calling for competition: paragraph 2
Article 43	Contract award notices (only for the second and the third subparagraphs of paragraph 1)
CHAPTER VII	Conduct of the procedure
Section 2	Award of the contract
Article 56	Use of electronic auctions
Annex XIII	Information to be included in contract notices:
	D. Simplified contract notice for use in a dynamic purchasing system

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## **ANNEX XXIX-K**

### **OTHER ELEMENTS OF DIRECTIVE 92/13/EEC**

as amended by Directive 2007/66/EC

(Phase 5)

Article 2b	Derogations from the standstill period
	Point (c) of the first paragraph of Article 2b
Article 2d	Ineffectiveness
	Point (c) of the first paragraph of Article 2d
	Paragraph 5

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## **ANNEX XXIX-L**

### **PROVISIONS OF DIRECTIVE 2004/18/EC OUTSIDE THE SCOPE OF APPROXIMATION**

The elements listed in this Annex are not subject to the process of approximation.

TITLE II	Rules on public contracts
CHAPTER I	General provisions
Article 5	Conditions relating to agreements concluded within the World Trade Organisation
CHAPTER VI	Rules on advertising and transparency
Section 1	Publication of notices
Article 36	Form and manner of publication of notices: paragraphs 2, 3, 4, 5, 6, 8
Article 37	Non-mandatory publication
Section 5	Reports
Article 43	Content of reports
TITLE V	Statistical obligations, executory powers and final provisions
Article 75	Statistical obligations
Article 76	Content of statistical report
Article 77	Advisory Committee
Article 78	Revision of the thresholds
Article 79	Amendments
Article 80	Implementation
Article 81	Monitoring mechanisms
Article 82	Repeals
Article 83	Entry into force
Article 84	Addressees

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Annex III	List of bodies and categories of bodies governed by public law referred to in the second subparagraph of Article 1(9)
Annex IV	Central Government authorities
Annex VIII	Features concerning publication
Annex IX	Registers
Annex IX A	Public works contracts
Annex IX B	Public supply contracts
Annex IX C	Public service contracts
Annex XI	Deadlines for transposition and application (Article 80)
Annex XII	Correlation table

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## **ANNEX XXIX-M**

### **PROVISIONS OF DIRECTIVE 2004/17/EC OUTSIDE THE SCOPE OF APPROXIMATION**

The elements listed in this Annex are not subject to the process of approximation.

TITLE I	General provisions applicable to contracts and design contests
CHAPTER II	Definition of the activities and entities covered
Section 2	Activities
Article 8	Lists of contracting entities
TITLE II	Rules applicable to contracts
CHAPTER I	General provisions
Article 12	Conditions relating to Agreements concluded within the World Trade Organisation
Section 2	Contracts and concessions and contracts subject to special arrangements
Subsection 1	
Article 18	Works and service concessions
Subsection 2	Exclusions applicable to all contracting entities and to all types of contract
Article 20	Contracts awarded for purposes other than the pursuit of an activity covered or for the pursuit of such an activity in a third country: paragraph 2
Subsection 5	Contracts subject to special arrangements, provisions concerning central purchasing bodies and the general procedure in case of direct exposure to competition

Article 27	Contracts subject to special arrangements
Article 30	Procedure for establishing whether a given activity is directly exposed to competition
CHAPTER IV	Specific rules governing specifications and contract documents
Article 38	Conditions for performance of contracts
CHAPTER VI	Rules on publication and transparency
Section 1	Publication of notices
Article 44	Form and manner of publication of notices (only for the first subparagraph of paragraph 2, and for paragraphs 4, 5 and 7)
Section 3	Communication and information
Article 50	Information to be stored concerning awards
CHAPTER VII	Conduct of the procedure
Section 3	Tenders comprising products originating in third countries and relations with those countries
Article 58	Tenders comprising products originating in third countries
Article 59	Relations with third countries as regards service contracts

TITLE IV	Statistical obligations, executory powers and final provisions
Article 67	Statistical obligations
Article 68	Advisory Committee
Article 69	Revision of the thresholds
Article 70	Amendments
Article 71	Implementation of the Directive
Article 72	Monitoring mechanisms
Article 73	Repeal
Article 74	Entry into force
Article 75	Addressees

## ANNEXES

Annex I	Contracting entities in the sectors of transport or distribution of gas or heat
Annex II	Contracting entities in the sectors of production, transport or distribution of electricity
Annex III	Contracting entities in the sectors of production, transport or distribution of drinking water
Annex IV	Contracting entities in the field of rail services
Annex V	Contracting entities in the field of urban railway, tramway, trolleybus or bus services
Annex VI	Contracting entities in the postal services sector
Annex VII	Contracting entities in the sectors of exploration for and extraction of oil or gas
Annex VIII	Contracting entities in the sectors of exploration for and extraction of coal and other solid fuels
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Annex X	Contracting entities in the field of airport installations
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Annex XXII	Summary table of the time limits laid down in Article 45
Annex XXV	Time limits for transposition and implementation
Annex XXVI	Correlation table

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## **ANNEX XXIX-N**

### **PROVISIONS OF DIRECTIVE 89/665/EEC AS AMENDED BY DIRECTIVE 2007/66/EC OUTSIDE THE SCOPE OF APPROXIMATION**

The elements listed in this Annex are not subject to the process of approximation.

Article 2b	Derogations from the standstill period
	Point (a) of the first paragraph of Article 2b
Article 2d	Ineffectiveness
	Point (a) of the first paragraph of Article 2d
	Paragraph 4
Article 3	Corrective Mechanisms
Article 3a	Content of the notice for voluntary ex ante transparency
Article 3b	Committee Procedure
Article 4	Implementation
Article 4a	Review

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## **ANNEX XXIX-O**

### **PROVISIONS OF DIRECTIVE 92/13/EEC AS AMENDED BY DIRECTIVE 2007/66/EC OUTSIDE THE SCOPE OF APPROXIMATION**

The elements listed in this Annex are not subject to the process of approximation.

Article 2b	Derogations from the standstill period
	Point (a) of the first paragraph of Article 2b
Article 2d	Ineffectiveness
	Point (a) of the first paragraph of Article 2b
	Paragraph 4
Article 3a	Content of the notice for voluntary ex ante transparency
Article 3b	Committee Procedure
Article 8	Corrective Mechanisms
Article 12	Implementation
Article 12a	Review

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## **ANNEX XXIX-P**

### **THE REPUBLIC OF MOLDOVA: INDICATIVE LIST OF ISSUES FOR COOPERATION**

1. Training, in the Union and in the Republic of Moldova, of officials of the Republic of Moldova from government bodies engaged in public procurement.
  2. Training of suppliers interested participating in public procurement.
  3. Exchange of information and experience on best practice and regulatory rules in the sphere of public procurement.
  4. Enhancement of the functionality of the public procurement website and establishment of a system of public procurement monitoring.
  5. Consultations and methodological assistance from the Union in application of modern electronic technologies in the sphere of public procurement.
  6. Strengthening the bodies charged with guaranteeing a coherent policy in all areas related to public procurement and the independent and impartial consideration (review) of contracting authorities' decisions. (Cf. Article 270 of this Agreement).
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