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Subject: RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL
authorising the Commission to open negotiations with the Republic of
Moldova for a Deep and Comprehensive Free Trade Area (DCFTA) as part of
the Association Agreement

Delegations will find attached the partially declassified version of the above-mentioned document.

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EUROPEAN COMMISSION

Brussels, 9.3.2011
SEC(2011) 257 final

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RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL

**authorising the Commission to open negotiations with the Republic of Moldova for a
Deep and Comprehensive Free Trade Area (DCFTA) as part of the Association
Agreement**

DECLASSIFIED PART
on 24 MAR 2014

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A. EXPLANATORY MEMORANDUM

1. BACKGROUND

The present legal basis for the EU's cooperation with Moldova is the Partnership and Cooperation Agreement (PCA), which was signed on 28 November 1994 and entered into force on 1 July 1998 for an initial 10 year period (and, in line with its Article 98, has been automatically renewed given that none of the parties requested otherwise). It is comprehensive in its scope, covering all traditional areas of co-operation, including political dialogue, trade in goods and services (on a non-preferential basis), business, investment, etc. However, "new areas", such as Justice, Liberty and Security (JLS), are only partially covered. The PCA provides for the establishment of a free trade area, "when the Republic of Moldova has further advanced in the process of economic reform".

The EU-Moldova European Neighbourhood Policy (ENP) Action Plan was adopted on 22 February 2005 for a period of three years. In the meantime, the EU and Moldova have agreed to keep the ENP Action Plan in place as an instrument for reform. The Action Plan is based on the PCA and represents an important step in the overall process of developing an increasingly close relationship between Moldova and the EU.

The European Council of March 2009 adopted a new vision for the development of EU's relations with the Eastern partners through the establishment of an ambitious Eastern Partnership. It committed to "a deeper bilateral engagement and to a new multilateral framework ... aiming at accelerating reforms, legislative approximation and further economic integration". In its further declaration on the Eastern Partnership (19-20 March 2009), the European Council held out the perspective of concluding new Association Agreements, including, i.e. the establishment or the perspective of establishing Deep and Comprehensive Free Trade Areas (DCFTA), between the EU and those partners who make sufficient progress towards common values and principles and who are willing and able to comply with the resulting commitments.

The Joint Declaration of the Prague Eastern Partnership Summit of 7 May 2009 confirmed the commitment of Moldova to strive for the enhancement of its relations with the EU.

The General Affairs and External Relations Council (GAERC) of 16/17 June 2009 adopted the directives for the negotiation of a new, comprehensive agreement between the EU and the Republic of Moldova, which will go beyond the current PCA, and expressed its willingness to start negotiations as soon as circumstances allow.

These negotiating directives state in Title 4 "Trade and Trade-related Matters", that "the new Agreement should include the aim to establish a WTO compatible deep and comprehensive free trade area, if and when Moldova is deemed to be ready to take on and implement the commitments of an FTA and to sustain the effects of far-reaching Market access liberalisation and regulatory approximation. The FTA should be established under the chapter on trade and trade-related matters and it will be an integral part of the new Agreement", and that for the purpose of establishing an FTA "the current negotiating directives will need to be supplemented by additional negotiating directives at a later stage".

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Moldova currently benefits from Autonomous Trade Preferences, granted by Council Regulation (EC) 55/2008 of 21 January 2008¹, which entered into force on 31 January 2008 and are being applied as of 1 March 2008. It gives all products originating in Moldova free access to the European Union market, except for certain agricultural products listed in its Annex I for which limited concessions have been given either in the form of exemption from customs duties within the limit of tariff quotas or of reduction of customs duties.

2. NATURE AND SCOPE OF THE AGREEMENT

The negotiating directives of 16/17 June 2009 set out the nature and scope of the new agreement that will replace the existing Partnership and Cooperation Agreement. These directives state that one of the underlying principles and key objectives to be referred to in the Preamble of the agreement is *"the commitment of the parties to create a deep and comprehensive Free Trade Area, if and when the Republic of Moldova is deemed to be ready to take on and implement the commitments of an FTA and to sustain the effects of far-reaching regulatory approximation and market access liberalisation, in compliance with the rights and obligations arising out of the WTO; and to the transparent and non-discriminatory application of those rights and obligations"*.

In the lead up to the start of the negotiations of the non-trade parts of the new agreement it was decided to refer to it as the "EU-Republic of Moldova Association Agreement".

3. PREPARATION OF THE DRAFT NEGOTIATING DIRECTIVES AND LAUNCH OF THE NEGOTIATIONS

As regards the prerequisites for starting negotiations on a DCFTA, Moldova is already a WTO member. The economic viability of a DCFTA was proven by a thorough feasibility study finalised in September 2009. Moldova confirmed its agreement and political commitment to a deep and comprehensive approach for establishing a Free Trade Area (FTA), at the Trade and Investment Sub-Committee meeting in November 2009.

However, Moldova still needs to demonstrate a sufficient level of preparedness to take on and implement the commitments of a DCFTA and to sustain the effects of far-reaching market access liberalisation and regulatory approximation.

The EU has been engaged in a preparatory process with Moldova aiming at supporting the country's efforts to create the necessary conditions for a launch of DCFTA negotiations as soon as possible. In particular, the Commission sent Moldova a comprehensive questionnaire in December 2009 and received written replies in March 2010. The Commission submitted supplementary questions in April 2010, received replies in May 2010 and carried out a fact-finding mission to Moldova in June 2010. On this basis the Commission drafted a list of key reforms – *"Key Recommendations"* – that Moldova would need to implement to become able to engage in the DCFTA negotiating process. The *Key Recommendations* were discussed with and endorsed by the EU Member States in the relevant Council committees and working groups and then shared with Moldova on 28 October 2010. The Moldovan authorities presented a first draft of their Action Plan to address the Key Recommendations at the meeting of the Trade and Investment Sub-Committee, held on 11 November 2010. The

¹ OJ L 20, 24.1.2008, p. 1.

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Commission provided written comments to the Moldovan authorities by 19 November 2010, and on 3 December 2010 the Moldovan authorities officially submitted their Action Plan to Commission.

The Commission will continue monitoring the progress of Moldova towards meeting the *Key Recommendations*. The decision to launch the negotiations on the DCFTA part of the Agreement should be taken on the basis of a report prepared by the Commission indicating that Moldova has made sufficient progress in implementing the *Key Recommendations* and is therefore able to negotiate a DCFTA and subsequently implement the commitments undertaken in a sustainable manner.

Against this background, the Commission presents, in the annex, a draft of the additional detailed negotiating directives for the negotiation of a deep and comprehensive free trade area with Moldova, which supplements Title 4 of the Council's negotiating directives for the negotiation of a new Agreement between the EU and the Republic of Moldova of 16/17 June 2009 (10910/09).

The Commission will inform Parliament about developments in accordance with its commitments laid down in the framework agreement.

B. RECOMMENDATION

In light of the above, the Commission recommends that:

- The Council authorises the Commission to negotiate an EU-Republic of Moldova Deep and Comprehensive Free Trade Area as part of the new Association Agreement;
- The Council appoints a special Committee to assist it in this task;
- The Council issues the attached negotiating directives;
- Negotiations on a Deep and Comprehensive Free Trade Area (DCFTA) under Title 4 of the attached negotiating directives shall start only once Moldova is able to negotiate a DCFTA and implement the commitments undertaken in a sustainable manner. To this end, the negotiations shall be launched after consultation of the Trade Policy Committee on the basis of a report from the Commission, to be presented when the Commission considers that Moldova has made sufficient progress towards implementing the relevant Key Recommendations presented to Moldova on 28 October 2010.

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ANNEX (pages 6 to 13)

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