



This action is funded by the European Union

**ANNEX IV**

of the Commission Implementing Decision on the ENI East Regional Action Programme 2015  
part.2

**Action Document for European Union Border Assistance Mission to the Republic of  
Moldova and Ukraine (EUBAM 11)**

<b>1. Title/basic act/ CRIS number</b>	European Union Border Assistance Mission to the Republic of Moldova and Ukraine (EUBAM 11)  CRIS number: ENI/2015/038-159 + ENI/2016/038-356  financed under European Neighbourhood Instrument
<b>2. Zone benefiting from the action/location</b>	Republic of Moldova and Ukraine
<b>3. Programming document</b>	Programming of the European Neighbourhood Instrument (ENI) 2014-2020  Regional East Strategy Paper (2014-2020) and Multiannual Indicative Programme (2014-2017)
<b>4. Sector of concentration/ thematic area</b>	Civilian peace-building, conflict prevention and resolution
<b>5. Amounts concerned</b>	Total estimated cost: EUR 16 million  Total amount of EU budget contribution: EUR 16 million  - EUR 8 million from the general budget of the European Union for 2015; and  - EUR 8 million from the general budget of the European Union for 2016, subject to the availability of appropriations following the adoption of the relevant budget
<b>6. Aid</b>	Project Modality

<b>modality(ies) and implementation modality(ies)</b>	Indirect management with the International Organization for Migration (IOM)			
<b>7. DAC code(s)</b>	15220 - Civilian peace-building, conflict prevention and resolution			
<b>8. Markers (from CRIS DAC form)</b>	<b>General policy objective</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Main objective</b>
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Aid to environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality (including Women In Development)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Trade Development	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Reproductive, Maternal, New born and child health	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Main objective</b>
	Biological diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>9. Global Public Goods and Challenges (GPGC) thematic flagships</b>	N/A		

*SUMMARY*

In 2005, the EU Border Assistance Mission (EUBAM) began its operations as an emergency, Rapid Response Mission, funded on a six months basis. Since then, it has developed into a complex and unique undertaking, whose mandate includes providing technical advice, development of partner services, and organising confidence-building measures related to the technical aspects of the settlement of the Transnistrian conflict.

The Mission is a technical assistance, monitoring and advisory body focused on improved functioning at all levels in favour of national institutions from the Republic of Moldova<sup>1</sup> and Ukraine that are responsible for border management, customs control and related work. The basis of its intervention is a Memorandum of Understanding (MoU) concluded among Moldova, Ukraine and the European Commission in 2005. In line with the MoU, the main areas of Mission's activity were focused on enhancing border management, advancing on the settlement of the Transnistrian conflict, aligning the national standards in Moldova and Ukraine to those of the European Union, building capacities to counteract trans-national organised and cross-border crime, contributing to compliance and trade facilitation, the implementation of trade policy measures and the modernization of customs procedures, and supporting the anti-corruption efforts of partners, focusing on the implementation of EU principles of good governance.

The 11<sup>th</sup> phase of the Mission which should start its implementation after the expiration of the previous phase on 30 November 2015 will give particular emphasis to further work on promoting border and customs cooperation between Moldova and Ukraine, stronger involvement of EUBAM in Confidence Building Measures, enhancement of border monitoring activities on the Transnistrian segment, monitoring of the implementation of Visa Liberalisation and of the Deep and Comprehensive Free Trade Area (DCFTA) agreements, including facilitation of the external trade from Ukraine and Moldova and verification of normative and legislative initiatives impacting on the Transnistrian region.

Moreover, EUBAM tripartite MoU is in the process of being adapted to a changed reality since 2005 and proposed changes are expected to be agreed by national authorities of the partner countries before the start of the new project phase. The new MoU also foresees the preparation of an exit strategy and transition for long-term sustainability. This should be based on a mid-term evaluation (to take place towards the end of 2016).

## **1 CONTEXT**

### **1.1 Sector/Country/Regional context/Thematic area**

After the demise of the Soviet Union in early 90's of the past century, Ukraine and Moldova have encountered similar development challenges, such as political instability, limited economic growth, demise of socio-economic infrastructure, corruption, just to name a few. Moldova and Ukraine are, reportedly, among the poorest countries in Europe.

The region of Transnistria unilaterally proclaimed independence from Moldova in 1992, one year after the dissolution of the Soviet Union. A short conflict ensued, with some 1,000 casualties. A ceasefire brokered with Russian mediation left Tiraspol in control of the region east of Nistru River in a self-proclaimed Republic of Transnistria. Since then, the conflict has

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<sup>1</sup> Hereinafter referred to as Moldova.

been “frozen”. Since September 2005, the EU and the United States have been participating as observers in the negotiation process in the enlarged format "5+2".

Following a request from Moldova and Ukraine in June 2005, the EU decided to launch an EU Border Assistance Mission (EUBAM) which was inaugurated on 30 November 2005 after the Commission had signed a Memorandum of Understanding with Moldova and Ukraine on 7 October 2005. Since then, EUBAM enjoyed high political support from all stakeholders. Importantly, the Mission has also enjoyed continued attention and political and financial support from the EU, including not only the Commission but also EU Member States. The latter's active involvement as stakeholders in, and contributors to, EUBAM, has been a key element in the Mission's success to date. This has enabled EUBAM to operate effectively and help achieve improvements in cross-border cooperation and the fight against cross-border criminal activities, especially against large-scale smuggling and fraud. EUBAM's activities also proved that much needs to be done in order to bring border and customs control procedures in line with EU standards.

In 2010 passenger traffic was resumed between Chisinau and Odessa via Tiraspol and the Transnistria region. In 2012, rail freight was resumed between Moldova and Ukraine via Transnistria.

#### ***1.1.1 Public Policy Assessment and EU Policy Framework***

A decisive step in upgrading EU bilateral relations with each of the partner countries was made by concluding in 2014 the Association Agreements, including a Deep and Comprehensive Free Trade Area (DCFTA). In addition to these, as of April 2014 Moldova enjoys a visa-free regime with the EU.

The EU's involvement increased trust and cooperation between Moldova and Ukraine and led to important results: (i) a Joint Declaration signed by the Prime Ministers of Moldova and Ukraine on 30 December 2005, set in place the May 2003 bilateral customs agreement which enforcement started on 3 March 2006; (ii) two Protocols on mutual exchange of preliminary, analytical, operational and statistical information on goods and persons were signed, one between the customs services and another between the border guard services at the 5<sup>th</sup> Trilateral meeting in Brussels on 21 November 2006; (iii) Moldova simplified the registration of Transnistrian enterprises with the State Registration Chamber in March 2006 and extended access to preferential trade certificates of origin to temporarily registered Transnistrian-based companies which has been an important step forward towards reintegration between the two banks of Nistru river. In December 2009, important progress was made with the start of the demarcation of the central segment of the Moldovan-Ukrainian state border. The technical process of demarcation is close to completion.

In Ukraine, the cabinet of Ministers of Ukraine approved the Integrated Border Management (IBM) Concept on 27 October 2010 and its Action Plan on 5 January 2011. By listing its five main dimensions, the IBM Concept contained a clear reference to the EU IBM Strategy approved by the Council Conclusions in December 2006. The IBM Concept of Ukraine is very closely linked to the implementation of the action plan on visa liberalization (in particular block II of the visa liberalization action plan “Illegal Migration including Readmission”), as well as to the Development Concept of the State Border Guard Service of Ukraine for the period till 2015 and the Concept of Reforming the Performance of the State Customs Service of Ukraine "Facing the People".

In Moldova, the Government approved the National Strategy on Integrated State Border Management by a decision on the 27 December 2010 for the period of 2011-2013. The Action Plan for the implementation of the National Strategy on Integrated State Border Management was approved by a government decree on 16 May 2011. The IBM Strategy clearly referred to the dimensions of the EU IBM Strategy. The overall responsibility to implement tasks arising from the Strategy and action plan is vested in the National Council on IBM, which coordinates the activity of the agencies involved in the implementation of the IBM. Moldovan authorities have issued a new IBM Strategy for 2015-2018.

As a result of the reform process from 1 July 2012 the former Border Guard Service of Moldova has been integrated under the Ministry of Internal Affairs (MoI), remaining a separate authority with the name of MoI Border Police Department. The new agency is carrying out its tasks based on the new law on State Border and law on Border Police, which entered into force on 1 July 2012.

Both Ukraine and Moldova continued working towards a peaceful settlement of the Transnistria conflict and the effective implementation of the 2003 bilateral customs regime. Moreover, both countries expressed their satisfaction with EUBAM's work and the assistance which is provided by the Mission on numerous occasions; this resulted in a tripartite agreement to extend the Mission's mandate for further two years until November 2011. Moldova and Ukraine indicated their interest in an extension focused on a number of issues, most of which are already covered by the current mandate. Consequently, the mandate of the Mission was extended until November 2015. All relevant authorities cooperate with the Mission which is an important indicator regarding the project's consistency with the partner Government's policies and strategies.

The "5+2" negotiation process on the resolution of the Transnistrian conflict was resumed in 2011, although no significant outcome has been seen so far. The situation in the field remains very much as it has been for the last few years. The need for practical confidence-building measures is recognised by all parties and EUBAM should continue to propose and contribute to implementation of such measures in coordination with the current Confidence Building Measures programme implemented by the EU Delegation to Moldova (CBM IV programme under Annual Action Programme 2013 in favour of Moldova).

### ***1.1.2 Stakeholder analysis***

The project priorities are based on the MoU and have been discussed with the national stakeholders in the EUBAM Advisory Board meetings held twice a year, as well as in the meetings between the Head of Mission and national partners in Ukraine and since October 2009 with the authorities in Moldova.

The key stakeholders of the project are the Customs Service under the Ministry of Finance of the Republic of Moldova (Moldova CS), the State Fiscal Service of Ukraine (Ukraine SFS), the Border Police under the Ministry of Internal Affairs of the Republic of Moldova (Moldova BP), the State Border Guard Service of Ukraine (Ukraine SBGS), the Reintegration Bureau of the Republic of Moldova, selected law enforcement authorities, as well as food safety authorities (veterinary, sanitary, and phytosanitary agencies) from both countries.

Moldova CS is directly subordinated to the Ministry of Finance. Its organizational structure consists of the Headquarters, which includes the management, represented by Director General,

2 departments, formed by divisions and sections and separate divisions. Each division includes sections and/or sectors. On the territorial level there are 7 customs houses and 106 customs posts (internal and border ones). Customs houses and customs posts operate in the field, levy the import/export duties, conduct the customs control, fight the customs frauds and carry out other duties. Total manpower of Moldova CS is about 1,614 customs officers, 300 in the Central Apparatus and 1314 in the customs houses.

Border Police of the Republic of Moldova is the autonomous national authority subordinated to the Ministry of Interior of the Republic of Moldova. The Border Police is created on basis of reorganization of the Border Guards Service of Moldova (from 1 July 2012), which has at the moment a total manpower of 3,553 persons that were demilitarized and granted a special status.

The total manpower of the State Border Guard Service of Ukraine is about 50,000, including 8,000 civilians. The Ukraine SBGS switched to a contracted personnel system in 2008. The organisational structure of the Ukraine SBGS has four levels: Central Administration in Kiev, Regional Directorates (5), Border Guard Detachments (26 geographical and 10 mobile) under command of the Regional Directorates, and Border Guard (BG) Units (Border Crossing Points - BCPs, Border Surveillance Posts and Marine Guards).

After repetitive re-structuring of the customs administration, in 2014 the customs authorities were merged in the newly created State Fiscal Service (together with tax authorities). The service consists of 27 administration departments (of which 4 are directly devoted to customs matters), and 27 regional customs departments.

The National Food Safety Agency of the Republic of Moldova under the Prime Minister of Republic of Moldova had been established on January 16, 2013 on the basis of the Law No.113 from May 18, 2012 through the reorganisation of a number of institutions responsible for the control and supervision in the food safety area. It is responsible for the implementation of the state policies related to the food safety in the sanitary-veterinary, animal breeding and plants protection standards. The Agency is also responsible for the control of the exports and imports of the food and animal and plant related products to ensure their compliance to the EU norms and food safety standards as per the EU- Moldova DCFTA commitments.

Ukraine's manpower in the food safety domain is about 32,000, among which 4,065 state officials. The organisational structure has three levels: central in Kiev, main Departments of Veterinary Medicine in the Autonomous Republic of Crimea, oblasts, Kyiv, and Sevastopol (27); departments of Veterinary Medicine in districts (486), Departments of Veterinary Medicine in cities of oblast level (100). Also there are Regional Services of State Veterinary and Sanitary Control at the State Border and Transport (6) and their structural units – border posts of state veterinary control (119). A number of hospitals and state laboratories also belong to the service.

The businesses, trade/travel-related organisations (traders, freight forwarders, customs brokers, and transportation industry and travel companies) and the population at large are the final beneficiary of the project. With the introduction of visa liberalisation in Moldova (2014) and hopefully Ukraine in 2015-2016, as well as the start of implementation of DCFTA in both countries in 2016, EU-aligned principles and practices of integrated border management should benefit the mobility and trade facilitation of passengers/businesses.

### *1.1.3 Priority areas for support/problem analysis*

EUBAM's efforts to assist the four primary partner services in Ukraine and Moldova (and possibly other control agencies present at the border) in the adoption and application of EU standards in their operational capacities have been highly relevant and largely effective. After 10 years of implementation, however, EUBAM needs to redirect resources and efforts to new functions of verification and rectification of implementation of these EU standards, norms and practices on the ground (task for which it is uniquely qualified and placed alongside Frontex) rather than repetitively transferring these via new theoretical trainings.

Streamlining of the programme should not prevent EUBAM to intervene introducing EU innovations and updates (e.g. modifications as per the newly introduced Schengen Border Code in 2013). Moreover, the Mission shall focus on capacity development and not on capacity substitution. Therefore, measurable results should be entrenched in a revised action plan.

Monitoring, verification and correction could be a mid-term transitional measure to pave the way to an exit strategy, when the partner services have reached a sufficient sustainability point. In the transition period, certain activity domains should be transferred to other projects and programmes of regional or bilateral scope, which are not limited locally. An exit strategy would combine final monitoring, verification and rectification interventions with gradual handover of the ownership of certain activities to partner institutions (e.g. border situation reports drafting, sustaining various thematic working groups, preparation of risk profiles, etc.).

In this respect, Phase 11 of EUBAM shall be focused on the following areas of support:

1. Contribution to promoting border and customs cross-border and interagency cooperation between Moldova and Ukraine in line with the Integrated Border Management principles and respective strategies of both countries, as well as stronger links with other stakeholders (business community, trade-related professional organisations, etc.); EUBAM needs to assist the two countries in planning on how to continue the approximation, to the extent possible, towards the EU border management standards and the Schengen acquis, as well as to facilitate if necessary the establishment of a cooperation with EUROSUR;
2. Stronger involvement in the settlement of the Transnistrian conflict and promotion of the Confidence Building Measures; EUBAM needs to make sure that Moldova and Ukraine have established and are using all the necessary tools and dialogues to cooperate operationally on tackling the illegal movement of goods and people from and to the Transnistria region, and from and to the Odessa region. These are hubs of organised crime, probably the most prominent in the Black Sea, and are a clear crime threat for Ukraine and Moldova as well as the European Union;
3. Support to the implementation of border-related aspects of DCFTA in Ukraine and Moldova, including monitoring and assistance to facilitate the external trade from the Transnistrian region;
4. Support to the implementation of sanitary and phytosanitary import/export controls at the border from partner services on both sides through advanced tools (risk analysis, proportion of e-customs, simplified procedures, etc.);

5. Contribution to verification of normative and legislative initiatives impacting on the Transnistrian region;
6. Further enhancement of on-the-job operational capacities of partner services; EUBAM needs to make sure that Moldova and Ukraine understand and plan how to make the best use of the Frontex EaP regional project;
7. Monitoring of Visa Liberalisation implementation in Moldova and Ukraine.

## 2 RISKS AND ASSUMPTIONS

<b>Risks</b>	<b>Risk level (H/M/L)</b>	<b>Mitigating measures</b>
Geopolitical tensions and less favourable economic performance hamper political stability and post-electoral governments' actions. Lack of commitment and weaknesses in decision making to implement targeted reforms by Governments.	H/M	Intensified policy dialogue with the Governments following (and within) the framework of the Association Agreements, including DCFTA. Advocacy and awareness raising before the benefiting services on the benefits of the targeted reforms
Impact of adverse economic performance and trends. Loose fiscal policies. Weakened financial and budgetary basis.	M	Enhanced governments' capacity to develop, implement and monitor stability-oriented macro-economic policies. Donors' continued commitment and support to maintain or enhance existing external aid levels.
Lack of progress in the "5+2" negotiation process. Reluctance by the government of Moldova to engage with the Transnistrian region. Unwillingness of Transnistrian region authorities to cooperate.	M	Utilisation of alternative channels for intensified policy dialogue with all the partners within the "5+2" negotiation process.
Slow progress of extension of legislation and rules. Resistance to implementing anti-corruption measures.	M	Political pressure by EU and EU Member States and reinforced dialogue with governments based on extended performance monitoring enforced, on efforts of extended anti-corruption legislation and rules, as well as on corruption cases, their legal consequences and achievements.
Certain legislative primary and sub-acts, as well as other government	L	The mission will engage with counterparts, as well as other

documents prevent the implementation of advocated standards and practices		complementary national/regional assistance projects in order to address/resolve legislative pitfalls.
Beneficiary agencies do not employ standards and practices advocated and transferred by the mission due to internal and external factors	M	Mission will engage in constant cycle of transfer-monitoring-evaluation of implementing of practices and standards and will engage in more intensified corrective action in problematic areas.
Security Situation of the key area of operation of EUBAM significantly deteriorates, which will obstruct/suspend the activities of the mission	M	Implementing partner will take all measures guaranteeing the security of personnel and premises, and will have contingency plan in the description of actions
<b>Assumptions</b>		
<ul style="list-style-type: none"> <li>• Ukrainian and Moldovan authorities will remain committed to the reform of their border and customs services, as well as food safety authorities, the fight against corruption, and bilateral co-operation, and will accept (at central, regional and local level) the presence and tasks of the Mission personnel throughout its duration.</li> <li>• EU Member States customs and border police administrations will accept to prolong the secondment of the staff currently engaged in the Mission as well as to suggest further suitably qualified personnel for food safety border controls for reinforcing the Mission; EU Member States will continue contributing towards the successful operation of this Mission, notably through exchange of information.</li> <li>• The engagement of the Mission personnel at all levels of the partner services organisation will improve the management of the border between Moldova and Ukraine and will contribute to improving the effectiveness of controls towards EU standards and best practices, to diminishing risks of corruption, and to curbing the main illegal cross-border flows.</li> <li>• Improved border and customs controls and border surveillance along the whole border as well as inclusive approach towards Tiraspol authorities will be a crucial element in the peaceful resolution of the Transnistrian conflict.</li> </ul>		

### **3 LESSONS LEARNT, COMPLEMENTARITY AND CROSS-CUTTING ISSUES**

#### **3.1 Lessons learnt**

1. EUBAM has demonstrated that the innovative institutional compromise under which it was established is able to deliver significant results. The integrated interface between this European Commission Mission and the European External Action Service (EEAS), and the enhanced border team which includes personnel seconded directly by EU Member States has provided an excellent framework for the Mission.
2. EUBAM benefits from the mix of professional and national backgrounds and their authentic experience. Increased contextual awareness and attention to linguistic and cultural integration into the communities where mission members live and work has facilitated institutional links/partnerships between Ukraine and Moldova beneficiary services and those of EU member states.

3. The tasks of a mission such as EUBAM are challenging, particularly in scenarios where there is no immediate accession perspective. The framing of the role of a mission as a partner was carefully created to make it perceived as an opportunity, not a threat. The Mission has an advisory nature and is assisting the partner services. In Phase 11, the EUBAM organisational structure and the number of the staff will be updated to correspond to the specific objectives and to optimise the usage of the Mission's human and administrative resources.
4. After the re-establishing of the May 2003 customs agreement based on the Joint Statement of Moldova's and Ukraine's Prime Ministers, dated 30 December 2005 and enforced as of 3 March 2006, another major success in the settlement process was the issuing of Decree no. 301 by Moldova Government on 17 March 2007 (later replaced by Decree no. 743/2007, establishing more favourable implementing procedures). This new decree amended the Decree no. 815 of 2 August 2005 extending access to preferential trade certificates of origin to companies located in the Transnistrian region of Moldova and temporarily registered in the Moldovan State Registration Chamber. Continued EU technical support to the implementation of the Joint Declaration is required (inter alia, through facilitating dialogue between the two countries, facilitating the exchange of information, risk analysis).
5. EUBAM has successfully contributed to the resumption of customs cooperation between Chisinau and Tiraspol customs structure, and the railway freight traffic across Transnistria, by providing technical analyses and proposals to both sides.
6. Targeting assistance to different law enforcement agencies in the country proved a good tool in facilitating trade and curbing border security risks (smuggling, trafficking in human beings, controlling food safety and countering public health threats, etc.). A more inclusive approach by partner services in line with IBM principles needed to be promoted, notably in the fight against organised crime.
7. Corruption continues to be a serious issue, notably in transport and trade facilitation hubs such as Odessa and Ilichivsk ports.
8. After significant issues with EU visibility under the EUBAM previous implementer (United Nations Development Programme - UNDP), the current one (IOM), agreed to all requirements of EU Delegation, including on the status of senior staff and visibility issues. The visibility of the implementing partner is currently extremely limited in favour of that of the EU. Only EU flags are displayed on stationery and publications of EUBAM, as well as on vehicles and premises.
9. An evaluation of the EUBAM was conducted in the late 2012. The evaluation raised the issue of EUBAM cost effectiveness as regards administrative and financial management. As proposed since 2013, the Mission applies multi-annual budget planning.

### **3.2 Complementarity, synergy and donor coordination**

The Commission has been financing EUBAM-flanking measures under the Regional Action Programmes (RAPs) 2003, 2005 and 2006 as well as under the Cross Border Cooperation (CBC) 2006 with a total of EUR 11.5 million; furthermore, under the Annual Action Programmes (AAPs) 2007 and 2008 in favour of Moldova and Ukraine amounting to EUR 19

million and EUR 5 million respectively. The major objective of these projects is to support Moldovan and Ukrainian partner services in their efforts to approximate to EU standards.

From 2006 to 2010, the Commission was funding IOM implemented and United States co-funded projects aiming at reforming the Ukrainian State Border Guard Service's human resources management (AAP 2003, EUR 4.3 million; AAP 2006, EUR 1 million; HUREMAS projects). The projects targets border management legislation, as well as recruitment, training and career development of border guard personnel. The projects were supported by the Border Guard Services from Hungary and Poland.

At the Ukrainian-Moldovan state border, the United States Defence and Threat Reduction Agency is funding a programme amounting to USD 28 million targeting the fight against proliferation of weapons of mass destruction, nuclear material and components of dual use. Under the United States Millennium Challenge Account, USD 46 million was made available for anti-corruption measures in Ukraine until the end of 2009.

Under the AAP 2010 in favour of Ukraine, a EUR 60 million Sector Policy Support Programme is implemented in the field of border management, in support to the improvement of the sector's management in Ukraine, in particular of the integrated border management strategy. The general objective is to support the efforts of the Ukrainian government to achieve an effective balance between secure borders and the facilitation of legal movements of persons and goods, according to EU standards. As complementary measures, a Twinning project for the State Border Guards Service and customs administration are under preparation in attempt to further support the implementation of IBM elements in Ukraine and bringing state services to EU standards and norms. Several supply contracts for and the border guards are ongoing (EUR 6 million of surveillance and patrolling equipment).

As part of the 2013 AAP in favour of Moldova and in line with the priorities of the EU - Moldova political dialogue, EU allocated EUR 21 million through the Sector Policy Support Programme for the implementation of the EU – Moldova Visa Liberalisation Action Plan (VLAP). The overall objective of this programme is to contribute to the improvement of the mobility of Moldovan nationals, while ensuring public order and security, consolidating the rule of law and strengthening human rights protection in line with European standards and best comparative practices. Besides this, EU has funded the implementation of the "Fixed and mobile network communications system for Moldovan Border Police", for a total amount of approximately EUR 22 million.

Under the Eastern Partnership - IBM - Flagship Initiative a substantial regional capacity building project is now being implemented, by Frontex in cooperation with the World Customs Organization (WCO), IOM and the International Centre for Migration Policy Development (ICMPD). EUBAM will pay special attention to coordination of activities with this project. Under the Flagship Initiative so-called pilot projects on IBM also target the Moldovan-Ukrainian border (projects on joint patrolling and the construction of a jointly operated BCP at Palanca were launched in December 2014).

Ukraine's and Moldova's state services benefit from large array of events within the TAIEX instrument.

The EU started developing a long-term policy in the field of justice, freedom and security with both countries since at least 2000. Besides the EU, the international actors involved in border-

related assistance in Moldova and Ukraine include the Organisation for Security and Co-operation in Europe (OSCE) and the United States (including a programme to support customs and border guards in Moldova and Ukraine), as well as IOM and the United Nations System Agencies (United Nations High Commissioner for Refugees - UNHCR and UNDP). The EU and the United States are the biggest donors in the border management sphere in both countries. Close cooperation and coordination of activities are ongoing on a permanent basis in order to ensure synergy effects.

In Moldova, EUBAM will work with the European Union High Level Policy Advice Mission (EUHLPAM) in particular in terms of supporting the implementation of policies related to the work of the Border Police and Customs Service, National Anti-corruption Centre, Ministry of Economy, National Food Safety Agency and others. EUBAM should also, in close coordination with the EU Delegation to Moldova, participate in the overall and sector donor coordination meetings, as General Donor Coordination meetings, the anti-corruption and law enforcement donors meeting, as well as in the Donor Coordination meetings on Transnistria. Moreover, in case of border and customs management donor coordination meetings, EUBAM should take the lead in chairing and organisation of these.

In Ukraine, EUBAM will build coordination with the European Union Advisory Mission to Ukraine (EUAM) which main objective is to support the Government of Ukraine in the preparation and implementation of comprehensive civil sector security sector reform, including aspects of border management and customs affairs, good governance and anticorruption.

EUBAM will participate in donor coordination in the area of border management capacity-development under national ownership by offering a platform for information exchange. This will not duplicate but assist national efforts of donor coordination.

Moldova and Ukraine were among the countries involved in the Söderköping process, aimed at facilitating cross-border co-operation between EU Member States and the Western NIS on asylum, migration and border management issues. Although the EU support to the Söderköping process has come to an end, the Secretariat of the Eastern Partnership Panel on Migration and Asylum managed by IOM continues acting as a resource centre for all countries and international organisations participating in the process.

### **3.3 Cross-cutting issues**

The programme has a strong good governance dimension since prevention of and fight against corruption is targeted. EUBAM has placed a special focus on providing advice to the partner services in this area. Proper border management allows a better protection of victims of trafficking, and proper compliance with human rights standards, notably when dealing with vulnerable groups.

The project will promote and advocate professionalization of the border management in line with best EU practices, thus building of increasingly service-oriented administration based on professional and ethical standards and norms and respect of human rights.

Again by promoting inter-agency cooperation, the project will increase of level of accountability and supervision among services, thus decreasing corruption and other negative practises. The project will fall in the domain of the overall administrative reform.

The dimension of equal opportunity and gender equality will be integrated into all levels of the project. The project will establish a suitable foundation for mainstream gender equality in the future, treating both service women and female travellers/traders. Equal treatment of travellers and businesses should be further promoted by EUBAM.

Environmental aspects are not directly relevant to the project, but promoting e-communication tools and e-based systems (exchange of information, declaration, and learning) will ultimately benefit the environment. Increased capacities of customs/border officers as well as practices such as pre-arrival information could decrease waiting times at borders (notably land ones), which can ultimately result in less air pollution of vehicles fumes. Improvement of border control and management would also have positive impacts on the fight against environment related illegal trafficking (for example wildlife trafficking and illegal movements of waste and chemicals, including pesticides).

## **4 DESCRIPTION OF THE ACTION**

### **4.1 Objectives/results**

#### ***4.1.1 Main objective***

The main objective of the Mission is to monitor, evaluate and provide advice on border and customs control measures and procedures implemented by Moldova and Ukraine, including in particular actively contributing to the settlement of the Transnistrian conflict.

#### ***4.1.2 Specific objectives (SO)***

SO 1: To contribute to further improvement of border and customs cross-border and interagency cooperation between Moldova and Ukraine, including stronger links with other national and international stakeholders, in line with IBM strategies of both countries;

SO 2: Further enhancement of operational capacities of the partner services in line with the Integrated Border Management principles, including robust internal good governance and anti-corruption measures;

SO 3: Actively contribute to the settlement of the Transnistrian conflict through monitoring and reporting on developments at the border and technical support for the implementation and proactive coordination of Confidence Building Measures; to engage in drafting, verification and rectification of Moldova's legal acts having an impact on the Transnistrian region;

SO 4: To support the smooth implementation of border and customs related aspects of DCFTA in Ukraine and Moldova, including monitoring, technical advice and assistance to facilitate the external trade from the Transnistrian region;

SO 5: To support the effective implementation of efficient veterinary, sanitary and phytosanitary import/export controls at border from partner services on both sides through advanced tools (risk analysis, proportion of e-systems, simplified procedures, etc.)

SO 6: To monitor Visa Liberalisation implementation in Ukraine and post-visa liberalisation in Moldova.

SO 7: To inform and provide timely advice to various types of initiatives (EaP IBM Panel, high level meetings with national partner services, etc.) and in the preparation of an exit strategy and transition for long-term sustainability.

#### **4.1.3 Expected results (ER)**

##### **SO 1**

ER 1: Efficiency of cross border and customs controls increased as a result of simplified transparent procedures and interagency cooperation at central, regional and local level.

ER 2: Pilot models of IBM successfully replicated and institutionalised along the Ukraine-Moldova border (jointly operated border crossing points - JOBCP, joint control, real-time exchange of information, single window, one-stop shop, interagency mobile groups, etc.).

ER 3: Moldova and Ukraine are able to manage effective networks of cooperation with international partners to combat transnational and cross-border crime.

##### **SO 2**

ER 4: Veterinary, phytosanitary/sanitary, border and customs officials at BCPs and entry/exit air and sea-ports utilise correctly and efficiently modern tools for comprehensive situation analysis, risk analysis and profiling (common integrated risk analysis model - CIRAM) and border checks/clearance, in line with EU standards and norms.

##### **SO 3**

ER 5: Contribution to settlement of the Transnistrian conflict is achieved, including by enhancing EUBAM's mediator/facilitator role to all stakeholders.

ER 6: Normative and legislative initiatives impacting on Transnistrian region regularly verified.

ER 7: Promotion of Confidence Building Measures by encouraging contacts between both banks of the Nistru River at various levels and fostering dialogue at a technical level.

ER 8: Security measures at the Transnistria segment of the border comply with EU standards and factual information is provided on the movement of people and goods and other relevant developments.

##### **SO 4**

ER 9: External trade from Ukraine and Moldova, including from the Transnistrian region, permanently monitored and facilitated, contributing to smooth implementation of DCFTAs.

##### **SO 5**

ER 10: Harmonization of border and customs systems between Moldova and Ukraine is strengthened.

ER 11: Moldovan and Ukrainian customs, veterinary, sanitary and phytosanitary regulations, procedures and operations adapted and improved in line with the DCFTA, as well as EU rules and best practices in the area.

## **SO 6**

ER 12: Travellers' checks/control at international and local BCPs are client-oriented and promote mobility while in line with the principles of VLAP, human rights and dignity, as well as replicating best EU standards and practices.

## **SO 7**

ER 13: Comprehensive transition and phase-out Strategy of EUBAM designed and implemented.

### **4.2 Main activities (indicative)**

The main activities will be developed with a global objective of aligning as far as possible with EU standards and best practices, and also in view of sustainability, meaning the progressive development of an exit strategy.

#### **SO 1:**

- To mobilise partner services in implementation and further development of Integrated Border Management rules and procedures (pre-arrival information exchange systems, single window, real-time exchange of information, one-stop shop, joint controls, etc.);
- To monitor and correct/adjust implementation of effective border and customs control measures in Moldova and Ukraine with particular attention to the Transnistrian segment (joint patrols, joint border control operations, etc.);
- To support Moldova's and Ukraine's authorities in strengthening bilateral and international cooperation through, among others, the development, implementation and monitoring of border control legislation in relation to the Schengen Acquis;
- To support partners in strengthening their law-enforcement and mutual legal assistance networks of international cooperation to combat transnational and cross-border crime, including IPR violations;
- To advise in the implementation and replication of jointly operated border crossing points;
- To assist in annual evaluation of implementation of IBM principles at Moldova-Ukraine border;
- To support partner services in the implementation of the Smart Border (Intelligent Borders) and e-border principles.

#### SO 2:

- To ensure the preparation of analytical products by partner services (Common Border Security Assessment Report - CBSAR etc.);
- Together with local partners assess current knowledge of EU practices (IBM principles) and technical capabilities of border agencies at local level;
- To fight corruption by adequate monitoring and by advising Border Guards (Border Police), Customs, other law enforcement agencies and other relevant state agencies on institutional and human resources aspects to prevent corruption;
- To advise on corrective actions local Moldovan and Ukrainian trainers in conducting local on-the-job trainings;

#### SO 3:

- To closely follow and actively support the "5+2" negotiation process, including participation in the activity and meetings of the thematic working groups;
- To monitor and advise on the implementation of the Joint Declaration and to monitor and assist the control of travellers and goods at the central segment along the Transnistrian segment of the border with Ukraine and the boundary line between the two banks of the Dniester;
- To support confidence building measures and visibility;
- External trade of the Transnistrian region permanently monitored and facilitated on local level with all parties;
- To contribute the process of drafting, verification, rectification and approval of normative and legislative initiatives impacting on the Transnistrian region;

#### SO4:

- To monitor compliance of the implementation of trade policy measures, especially in the field of veterinary, sanitary and phytosanitary (SPS) and the modernization of customs procedures aiding to the fulfilment of relevant EU requirements in line with DCFTA and EU Customs Blueprints (harmonization and simplification of customs procedures, rules of origin, classification and valuation, accession to relevant EU and international conventions); corrective actions in cases of non-fulfilment;
- To assist partner services in the implementation of the Single Window concept;
- To mediate mutual recognition of standards, procedures and categories of economic actors (Authorised Economic Operator - AEO etc.) between Ukraine, Moldova and Transnistria, and ultimately with EU

#### SO 5:

- To contribute to the implementation of effective sanitary and phytosanitary (SPS) controls based on risk assessment of goods (with animal or plant origin) at the border with particular attention to the Transnistrian segment;
- To contribute to the implementation of reliable testing, diagnostics and quarantine/destruction measures of goods (with animal or plant origin) by both food safety authorities;
- To contribute to the effective exchange of information (on presence of diseases and pests) between the partner services.

SO 6:

- To support the Moldovan and Ukrainian authorities in implementation of the EU Visa Liberalisation Action Plans (post-liberalisation in case of Moldova) benchmarks in the following areas: border management, migration management, combatting cross-border organized crime and freedom of movement of citizens of both countries;
- To monitor the respect of human rights and dignity of passengers/migrants, with focus on vulnerable groups (temporary facilities, reference mechanisms for refugees and asylum seekers, etc.) at Moldova-Ukraine border;
- To monitor and correct practices on guaranteeing document security (falsified documents, biometrics control, etc.) at Moldova-Ukraine border;
- To mentor partner services at tactical and operational levels in preventing and fighting trans-national organised and cross-border crime – observing and advising permanent Joint Working Groups, etc.;

SO7:

- On request, to support the European Commission and the partner services in the realisation of the Eastern Partnership Flagship initiative on Integrated Border Management;
- On request, to support the implementation of initiatives of EU agencies, Member States and international organisations.
- To submit EUBAM analytical reports and assessments such as special reports, briefings, technical analysis, alerts, newsletters and flash reports to the involved partner services for direct input and tactical purposes, EEAS / European Commission, Committees of the European Council, EU Member States and the administrative partner.
- Ensure close coordination with other projects financed by the EU, EU Member States and international partners including through active participation in established coordination fora.
- To implement a sustainable transition and design phase-out Strategy based on gradual exit of EUBAM activities.

### 4.3 Intervention logic

Recent developments (AA/DCFTA signatures, Visa Liberalisation for Moldova, advanced process of Visa Liberalisation in Ukraine) require maturity of border management and customs reform and implementation of all related norms, standards and practices in pursuit of EU level of excellence. The role of the mission would be to follow the implementation of these and provide advice in case of final adjustments.

The whole spectrum of the activities should boost the effect of introduced DCFTA and VLAP standards. Facilitating mobility and trade will alleviate burden from trading businesses (simplified procedures, increased e-services, waiting times at border) and provide to travellers client-friendly service, based on ethical and professional norms (treatment of passengers and vulnerable groups, reference mechanisms of irregular migrants and refugees, etc.). This will ultimately positively contribute to the economic development of the region and well-being of population.

The Mission will be responsible for the achievement of the main goal of the project, the seven specific objectives and the expected results are mentioned in points 4.1.1, 4.1.2 and 4.1.3. The main indicative activities required for the implementation and achievement of these are listed in the point 4.2. The indicative list of activities will evolve during the lifetime of the action: new activities will be added as well as new intermediary targets (milestones) when it is relevant and for reporting purpose on the achievement of results as measured by indicators.

After 10 years of presence and advice on the ground, EUBAM mission should be focused towards finalisation of objectives, set for the mission at its creation in 2005. The investment in a decade of trainings and on-the-job mentoring should be consolidated by monitoring, verification and evaluation of the level of professionalization and modernisation of services, as well as final corrective actions, where necessary. EUBAM should also continue to intervene as needed to introduce EU innovations and updates (e.g. modifications as per the newly introduced Schengen Border Code in 2013).

Along with specifically designed confidence-building measures for Transnistria, improved economic situation and stability will further stimulate interest of Transnistrian economic operators and citizens to benefit from the relaxed trade regime and mobility. Closer cooperation with Transnistrian authorities (agreement on exchange of information, presence of customs officers at BCPs located in Transnistrian) remains key priority of the action. Such probable developments would in turn contribute to the process of peaceful solution of the Transnistrian issue and decreasing hostilities by the three parties.

In the view of eventual phase out of the mission, the efforts of the mission will be equally concentrated on embedding various pre-conditions for sustaining the capacity and operation capability of services which benefited from the EUBAM intervention. Broadly promoting and proliferating intra-, inter-agency and cross border cooperation (single window, joint controls, joint operations, jointly operated border crossing points, sharing of resources), as well as technologically advanced e-tools (smart border, e-customs, etc.) would logically result in reduced need of human and financial resources (financial sustainability). Again, close cooperation and coordination, including trust building measures (exchange of information, joint situation/risk analysis of the border, etc.), would contribute to the more effective and efficient fight against all types of organised crime and corruption in border services. Coordination

between agencies also would guarantee a comprehensive multi-dimensional approach to border management which affect various aspects of security, trade, public health and well-being.

While the mission will be implemented by the International Organization for Migration (IOM), genuine and lasting institutional links between beneficiary institutions and EU member states border management services, as well as FRONTEX, should be established by the end of the Phase. National seconded Experts would be natural intermediaries between their respective and beneficiary services. Partnerships would additionally guarantee knowledge transfer on the latest developments in the field of border management in Europe, and further facilitate border management reform in Ukraine and Moldova, once the Mission has exited the region.

## **5 IMPLEMENTATION**

### **5.1 Financing agreement**

In order to implement this action, it is not foreseen to conclude a financing agreement with the partner countries.

### **5.2 Indicative implementation period**

The maximum indicative operational implementation period of this action, during which the activities described in section 4.2 will be carried out and the corresponding contracts and agreements implemented, is 32 months (indicative agreement duration: 24 months) from the date of adoption by the Commission of this Action Document.

Extensions of the implementation period may be agreed by the Commission's authorising officer responsible by amending this decision and the relevant contracts and agreements; such amendments to this decision constitute technical amendments in the sense of point (i) of Article 2(3)(c) of Regulation (EU) No 236/2014.

### **5.3 Implementation modality**

#### ***5.3.1 Indirect management with an international organisation***

This action may be implemented in indirect management with the International Organization for Migration (IOM) in accordance with Article 58(1) (c) of Regulation (EU, Euratom) No 966/2012. This implementation entails the management of the administrative, contractual, financial and logistic issues. This implementation is justified because cooperation with IOM would ensure a smooth transition from Phase 10 to Phase 11 and continuity for all the project related activities (IOM is the entity in charge of the current phase - EUBAM 10). IOM offers the specific capacity required for the management of such a specialised project. This is justified by their strong sector expertise (not only on migration but on most related matters of border management) and regional experience, including on bi-national projects involving Ukraine and/or Moldova, their access to appropriate level of authorities in both countries and their neutral status recognised by all stakeholders.

The entrusted entity would carry out the following budget-implementation tasks: management of EU funds (contracting and payments (liquidation of eligible costs) and recovery); financial monitoring, preparation support for audits.

The entrusted would also carry out the following tasks: assistance with human resources-related documentation and procedures; guidance on procurement and logistics actions; IT and other technical expertise; security procedures; liaison and coordination assistance; and reporting.

The entrusted international organisation has successfully passed the ex-ante assessment in Accordance with Article 61(1) of Regulation (EU, Euratom) No 966/2012. Considering this and based also on a long-lasting problem-free cooperation, the international organisation can be entrusted with budget-implementation tasks under indirect management.

### 5.3.2 Procurement (direct management)

Subject	Type	Indicative number of contracts	Indicative trimester of launch of the procedure
Audit and evaluation	Services	Up to 3	Last trimester 2016* Third trimester 2017**

\* using either funds from the budget 2015 or from the budget 2016

\*\* using funds from the budget 2016

### 5.4 Scope of geographical eligibility for procurement and grants

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act and set out in the relevant contractual documents shall apply. The Commission's authorising officer responsible may extend the geographical eligibility in accordance with Article 9(2)(b) of Regulation (EU) No 236/2014 on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

### 5.5 Indicative budget

Module	Total	EU contribution
Indirect management with IOM	EUR 15,800,000	EUR 15,800,000

(including visibility)		
Audit and Evaluation	EUR 200,000	EUR 200,000
Totals	EUR 16,000,000	EUR 16,000,000

## 5.6 Organisational set-up and responsibilities

All operational and administrative activities which have been delegated to the EUBAM will be prepared, executed and followed-up by the EUBAM Headquarters in close consultation with the project partners. EUBAM will be guided by the Memorandum of Understanding concluded between the European Commission, Moldova and Ukraine, by European Commission/EEAS policy and strategic documents, by the present action definition, as well as by policy and strategic decisions made by the Advisory Board.

On matters related to security and administrative management, the EUBAM will be guided by the applicable Financial Rules and Procedures, Security and Safety guidelines, Internal Control Framework as well as project-specific delegation of authority.

The Mission's activities will take place in Moldova and Ukraine. Most personnel will be located in EUBAM premises in Odessa, while other personnel will be located in national partners' offices, and in the EUBAM Office in Chisinau.

An Advisory Board will provide advice to the Mission concerning the quality and adequacy of its tasks and the implementation of the Memorandum of Understanding, between the European Commission, Moldova and Ukraine, which is expected to be updated before the start of the new phase. The Advisory Board will be chaired by the Commission/EEAS, represented by the Head of EU Delegation to Moldova. The Chair will be supported by the Advisory Board Secretariat.

Advisory Board meetings will be held semi-annually. On behalf of the Chairperson, EUBAM will invite the Advisory Board members and the observers timely in writing.

The EU Delegation to Moldova will manage the contractual implementation of EUBAM. Regular meetings will take place between the EUBAM Offices and appointed staff at the EU Delegation to Moldova and Ukraine for the purposes of reporting, coordination, progress review, consultation and advice. The EU Delegation to Moldova will also facilitate communication and coordination with European Commission and EEAS Headquarters on relevant aspects of EUBAM implementation. Visibility and communication activities will be coordinated with the EU Delegations Communication officers.

The Head of EUBAM will at the same time serve as Senior Political Advisor to the Head of EU Delegation in Moldova, and will provide advice to Head of EU Delegation in Ukraine upon request.

## **5.7 Performance monitoring and reporting**

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding indicators, using as reference a log frame matrix. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

The Head of the Mission will submit to the EU Delegation to Moldova regular reports on EUBAM operational issues which are of interest for the EU Member States, the European Commission and EEAS. Indicative minimum requirements for regular reports are:

- Monthly activity reports.
- Monthly analytical reports related to EUBAM's mandate.
- Special reports, when a situation requires immediate information to be provided for EU Member States, the European Commission and EEAS.
- Annual activity report.

The actual reporting frequency will be agreed with the EU Delegation, inter alia taking into account particular circumstances.

The content and distribution of reports to interested partners will be coordinated and agreed with the EU Delegation.

## **5.8 Evaluation**

Having regard to the importance of the action, a mid-term and/or final evaluation will be carried out for this action via independent consultants contracted by the Commission.

The evaluation will be carried out for problem-solving if relevant, for accountability and for learning purposes at various level (including for policy revision), in particular with respect to assessment of the efficiency and continuing need for EUBAM activity. The mid-term evaluation will encompass evaluation of results and impact of EUBAM 10 and mid-term results of EUBAM 11.

The Commission shall inform the implementing partner at least 1 month in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and

effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation reports shall be shared with the partner countries and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner countries, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project and exit strategy.

The financing of the evaluation will be covered with the budget indicated in section 5.5 above.

Where applicable the provisions included in the framework administrative agreement signed with IOM will apply.

## **5.9 Audit**

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for the agreements implementing the action.

In this regard, a financial audit of Phase 10 of EUBAM is foreseen to be contracted by the Commission in the first quarter of 2016.

The financing of the audit shall be covered by the budget indicated in section 5.5 above or by another measure constituting a financing decision.

Where applicable the provisions included in the framework administrative agreement signed with IOM will apply.

## **5.10 Communication and visibility**

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated at the start of implementation and supported with the budget indicated in section 5.5 above.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner countries, contractors and/or the entrusted entity. Appropriate contractual obligations shall be included in, respectively, procurement contracts and the delegation agreement.

The Communication and Visibility Manual for European Union External Action shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

Where applicable the provisions included in the framework administrative agreement signed with IOM will apply.