

ACTION FICHE FOR THE 2007 ENPI-EAST REGIONAL ACTION PROGRAMME

1. IDENTIFICATION

Title:	European Union Border Assistance Mission to Moldova and Ukraine – EUBAM 5		
Total cost:	EUR 12 million		
Aid method / Management mode:	Project approach – joint management		
DAC-code:	15220	Sector:	Civilian peace-building, conflict prevention and resolution

2. RATIONALE

2.1. Sector context

The region of Transnistria proclaimed its 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 the Dniestr River in a self-proclaimed Republic of Transnistria. Since then, the conflict has been “frozen” in place.

The arrival in power of the administration of President Yushchenko in Ukraine in 2005, and the launching of the so-called “Yushchenko Plan” created a window of opportunity for further advance the resolution of the “frozen” Transnistria conflict. Since September 2005, the EU and the U.S. participate as observers in the negotiation process in the enlarged format “5+2”; the EU is represented by the EU Special Representative for Moldova.

Following a request from Moldova’s President Voronin and Ukraine’s President Yushchenko 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 on the EU side, 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 initial improvements in cross-border cooperation and the fight against cross-border criminal activities, especially against large-scale smuggling activities. EUBAM’s activities also evidenced that indeed much needs to be done in order to bring border and customs control procedures in line with EU standards. Already after a short period of operation, customs revenues increased on both sides of the border. In May 2006 EUBAM came up with 41 recommendations on measures required to improve control standards and to approximate them to those of the EU.

The EU’s involvement increased trust and cooperation between Moldova and Ukraine and led to remarkable results: a joint declaration signed by the Prime Ministers of Moldova and Ukraine, Tarlev and Yekhanurov, set in place the May 2003 bilateral customs agreement which enforcement started on 3 March 2006; two

Protocols on mutual exchange of analytical, operational and statistical information on goods and persons were signed between the Customs services and between the Border Guard services at the 5th Trilateral meeting in Brussels on 21 November 2006; Moldova simplified the registration of Transnistrian enterprises with the Moldovan Chamber of Commerce in March 2007.

Both countries showed continued commitment to a peaceful settlement of the Transnistria conflict and the effective implementation of the 2003 bilateral customs regime. Moreover, both countries expressed at a number of occasions their satisfaction with EUBAM's work and the assistance which is provided by the Mission; they asked the Commission to prolong the Mission's mandate beyond November 2007 for another 24 months. All relevant authorities fully cooperate with the Mission which is an important indicator regarding the project's consistency with the partner Government's policies and strategies.

2.2. Lessons learnt

- (a) A major element of the successful start of EUBAM was the adequate and complementary use of different EU tools and resources. This has included rapid Community funding and a capacity-building "project" approach, combined with technical expertise of seconded EU Member States experts (which also constitutes a considerable equivalent financial contribution), and last but not least the full political weight of the Union in supporting this enhanced EU engagement. EU Member States as stakeholders in EUBAM have shown a considerable and legitimate interest in the Mission's activities and outputs, and expressed the wish to be continually informed and associated. In this respect, in addition to close co-ordination with EU Member States locally, the Commission and / or the Head of EUBAM will continue to actively inform and associate the Council and EU Member States. EUBAM monthly and special reports will be shared with the Council and EU Member States.
- (b) A major success in the settlement process was the re-establishing of the May 2003 customs agreement based on the Joint Statement of the Moldovan and Ukrainian Prime Ministers, dated 30 December 2005 and enforced as of 3 March 2006. The implementation of the customs regime caused harsh criticism from the Russian Federation (which openly supported the Transnistrian regime) as well as an economic self-blockade of Transnistria initiated by the Transnistrian regime. Both tried to set the Ukrainian Government under pressure to step back from their commitment. The support expressed by the EU and the OSCE – who welcomed the customs regime as an important contribution towards conflict resolution – helped to strengthen Ukraine's commitment to the implementation of the Joint Declaration. Continued EU technical support to the implementation of the Joint Declaration is required (i.a., facilitating dialogue between the two countries, facilitating the exchange of information, risk analysis). The EUBAM has been providing this technical support.
- (c) Targeting only border guard and customs services in the fight against smuggling has proven being not sufficient. Smugglers have been released and the smuggled goods were returned to the smugglers upon court decisions. Corruption continues to be a serious issue. This calls for including the Prosecutor's offices, the courts and the Ministry of Justice either in EUBAM activities or in accompanying technical assistance projects.

- (d) Implementation and practical backstopping of the Mission's logistic set-up by UNDP proved to be an effective way to manage complex operations of this nature. In particular, the flexibility and organisational capacity of UNDP proved to be of essence to the Mission of this size and nature.

2.3. Complementary actions

The Commission is financing some EUBAM-flanking measures (BOMMOLUK projects) under the RAPs 2003 and 2005 which build upon EUBAM's 41 recommendations of May 2006. Follow-up projects are under consideration for the 2007 ENPI NAPs. The major objective of these projects is to support Moldovan and Ukrainian partner services in their efforts to approximate to EU standards.

Since January 2006, the Commission is funding an IOM implemented and U.S. co-funded project aiming at reforming the Ukrainian State Border Guard Service's human resources management system (NAP 2003, HUREMAS project). The project targets recruitment, training and career development of border guard personnel.

At the Ukrainian-Moldovan State border, the U.S. Defence and Threat Reduction Agency is funding a programme amounting to USD 14 million targeted at fighting the proliferation of weapons of mass destruction, nuclear material and components of dual use. Under the U.S. Millennium Challenge Account, USD 46 million was made available for anti-corruption measures in Ukraine which could have a certain impact on EUBAM's work. Coordination between the activities of the EUBAM with the EU Agency for the **Management of Operational Cooperation at the External Borders (FRONTEX) will be ensured.**

2.4. Donor coordination

Under the Paris Pact Declaration, a sub-working group on border management issues has been established in which donor activities are being coordinated. As regards border management improvement there is only another serious donor active (apart from the EC), which are the U.S. Close cooperation and coordination of activities are ongoing on a permanent basis in order to ensure synergy effects. Coordination is also achieved through quarterly EUBAM Advisory Board and monthly EUBAM Coordination meetings.

3. DESCRIPTION

3.1. Objectives

3.1.1. Overall objectives

- To contribute to enhancing the overall border and customs management capacities and the abilities of Moldova and Ukraine to fight against cross-border and organised crime, including trafficking in persons and smuggling of migrants, and to approximate the standards of the border and law enforcement authorities to those of the EU.
- To assist Moldova and Ukraine in fulfilling their commitments under the European Neighbourhood Policy Action Plans (ENP AP) and the Partnership and Cooperation Agreements (PCA).
- To contribute to a peaceful resolution of the Transnistria conflict.

3.1.2. Specific objectives

- **Capacity building and improved knowledge of EU standards/best practice:** To build up appropriate operational and institutional capacity in Moldova and Ukraine to ensure effective border and customs controls and surveillance as well as effective fight against criminal cross-border activities and organised crime, including trafficking in persons and smuggling of migrants, with particular attention to the Moldovan-Ukrainian state border, including relevant inland areas and locations. Coordination will be ensured with FRONTEX.
- **Confidence building between Moldova and Ukraine:** To help building up trust between the agencies involved in border and customs controls and fight against crime through transparency, exchange of analytical and tactical information, close cross-border cooperation and development of an atmosphere for extended economic relations, for instance through joint border operations, joint border/customs controls, or the drafting of joint border security assessment reports.
- **Monitoring the implementation of the 2003 Ukraine-Moldova customs regime:** To monitor the correct and effective implementation of the 2003 Customs Protocol concluded between the State Customs Service of Ukraine and the Customs Service of the Republic of Moldova as agreed between the Prime Ministers of the Republic of Moldova and Ukraine in the Joint Declaration of 30 December 2005.
- **Public awareness raising:** To provide objective information to the local population in Moldova and Ukraine regarding EUBAM's tasks and assistance provided to the countries, ongoing activities at the border of which travellers and/or the local population benefits, rights and responsibilities of persons crossing the border (in order to complement anti-corruption measures), health risks of purchasing smuggled food (in order to complement consumer protection measures), etc.

3.2. Expected results and main activities

- (1) **Professional capacity of border, customs and law enforcement officials enhanced:** EUBAM concluded in its annual report after its first year of operation that the Moldovan-Ukrainian border is frequently used for illegal activities, in particular smuggling. EUBAM experts also identified, together with their national counterparts, a number of cases of trafficking drugs and stolen vehicles, cigarette smuggling cases, etc. which remained undetected due to a lack of professional skills of the competent authorities. EUBAM will therefore continue providing on-the-job training and coaching to border guard, customs and law enforcement personnel at operational / tactical level at relevant locations (at border crossing points, inland customs houses, and main transit points) with a view to upgrade the personnel's skills and make them acquainted with EU standards and best practices regarding border and customs controls and the investigation of crime.
- (2) **Risk analysis capacity further improved:** EUBAM is currently advising the border guard and customs services in establishing risk analysis capacity at central level. A Tacis project funded under the 2003 Regional Programme – BOMMOLUK 1 – is aiming, amongst others, at institutionalising risk analysis units in the partner services. This project will further enhance the professional capacity in the newly created analytical units and will allow the

partner services to switch fully to risk based controls. The partner services capacity to gather, analyse and disseminate information and intelligence at strategic, operational and tactical level will be increased, and the use of risk assessment techniques will be reinforced. This will provide the senior management with a better overview on the situation at the border and allow them to react on time when certain organisational or structural measures need to be initiated.

- (3) Cross-border cooperation between border, customs and law enforcement authorities increased: Criminal groups benefit from a lack of cross-border cooperation between border, customs and law enforcement authorities and use this circumstance to their advantage. EUBAM will continue supporting Moldova's and Ukraine's authorities to strengthen bilateral cooperation and information exchange on statistical, analytical and tactical data through a variety of measures such as initiating/ participating in joint cross-border operations, facilitating the exchange of liaison officers in such operations, offering training for conducting joint border and customs controls, drafting of joint border security assessment reports, etc. These measures will lead to an improved fight against cross-border crime and illegal migration and will, at the same time, facilitate legal movement of persons and goods across the border. Border and customs services will also get an increased understanding of an integrated approach to border management.
- (4) Analytical overview on border security and cross-border movement of goods and persons improved: EUBAM will perform visits and inspections to relevant locations including along the green border by joining border surveillance activities. This monitoring activity will encourage partner services to strictly implement the 2003 customs regime agreed between Ukraine and Moldova as well as to take serious counter-measures when criminal activities are detected. This will lead – in the mid-term – to a considerable reduction of illegal cross-border activities due to the increased risk of being detected, apprehended and prosecuted.
- (5) Corruption of border guards and customs officials at operational / tactical level decreased: The permanent cooperation with and being monitored by EUBAM experts will motivate partner services' personnel to carry out their duties objectively and according to existing laws. This will reduce the border and customs staff preparedness to demand or accept bribes.
- (6) Level of information in the local population of EUBAM's activities and the partner services' efforts increased: Awareness in the local population of the health risks and the losses for the State budget when consuming smuggled food stuff is extremely low. Incorrect information distributed in a targeted manner by third parties created a distorted picture of the reality at the border and of EUBAM's assistance provided. Targeted and objective information shall help the local population and policy makers to better understand the dimension of the problem and the results of the assistance rendered to the partner countries.

3.3. Stakeholders

3.3.1. Border Guard Service of the Republic of Moldova

The Border Guard Service of Moldova is structured into four regional departments, and its transformation from a military structured entity into a fully professional law enforcement service should be completed by 2008. It still includes a proportion of conscripts, being gradually replaced by professional border guards, with staffing number generally adequate. A new border management law is currently under consideration in the Parliament. Passport controls at BCPs appear to be carried out in a satisfactory manner, but there seems to be little expertise in the identification of forged documents or in search methods to fight smuggling or illicit products. Surveillance of the green and blue border is generally inadequate, due also to a lack of means (communication lines, vehicles, patrol boats).

3.3.2. Customs Service of the Republic of Moldova

The Customs Service is structured in a Central Administration and 8 sub-ordinate offices. There exist 113 customs points across the country. The customs service employs 1,550 customs officers. The Customs Service has overall adequate administrative capacity / staffing and adequate knowledge of customs rules; customs procedures appear to be normally in line with international standards (Moldova is a member of WTO). However processing capacities are low and certain specialised skills are lacking (e.g. the implementation of transit procedures, the use of modern techniques of selectivity or risk analysis, etc). A considerable part of customs clearance of commercial traffic takes place in inland customs houses rather than at BCPs.

3.3.3. State Border Guard Service of Ukraine

The State Border Guard Service is structured into five regional departments, with the Odessa one in charge of nearly the entire border with Moldova. The SBGS has been – to a certain extent – demilitarised but, in addition to classical tasks of control and surveillance of persons and goods, and the fight against cross-border crime and irregular migration, still also has the function of defending the state border, and a somewhat military structure / training system. The SBGS has the overall responsibility for border management, including coordinating the work of customs and other law enforcement agencies present at the border, and green and blue border surveillance. Staff numbers and professional capacity appear as mostly adequate but operational-level staff is often inexperienced, and enhancement of some specialised skills appears necessary. Passport controls appear to be carried out in a satisfactory manner, with some specific problems noted due to short control time of trains. Surveillance of the green / blue border has generally better means at its disposals but could be significantly improved.

3.3.4. State Customs Service of Ukraine

The State Customs Service is generally adequately staffed, but comparably less well equipped than border guards. The overall border management responsibility lies with the border guards, with daily meetings taking place. The role of customs at the borders is often limited to preliminary documentary review, as most procedures are initiated and completed at the customs office of departure or destination. Administrative capacity appears to need reinforcement in some areas. Knowledge

and harmonised application of customs rules and procedures is generally better at the main transit points (including the ports of Odessa or Illichevsk) than at BCPs; training in certain specialised skills (e.g. application of risk assessment techniques) appears as necessary.

3.4. Risks and assumptions

3.3.5. Assumptions underlying the project intervention

Assumption 2: EU Member States customs and border guards and 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 reinforcing the Mission and will continue contributing towards the successful operation of this Mission, notably through exchange of information.

The realisation of this assumption is likely, as the countries' political commitment emanates from the highest political level and was confirmed by the signature of the Memorandum of Understanding on the Border Assistance Mission between Ukraine, Moldova, and the Commission. Continued commitment and cooperation at the level of services was good up to now, and will continue being regularly reported on by the Mission. Moreover, the Government of Ukraine recently adopted the State Border Guard's development strategy up to 2015, a reform document aiming at achieving Schengen standards within the set time horizon. A similar reform strategy is underway for the Moldovan Border Guard Service. Also the State Customs Service of Ukraine has started elaborating a strategy paper for the service's development for the next decade.

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The realisation of this assumption is likely. Preliminary indications from EU Member States demonstrate strong support for EUBAM and a healthy interest in continuing / enhancing their contribution to this joint EU endeavour, through seconding own personnel as "field personnel" of the Mission, and accepting to allow continued detachment from national service of the contracted "core" personnel of the Mission.

Assumption 3: The presence of the Mission personnel alongside counterpart operational services along this border 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.

The first eighteen month of the Mission's operation demonstrated the counterparts' sincere interest to improve the effectiveness of border and customs controls. All services cooperate closely with the Mission and implement their recommendations. The practitioner-to-practitioner training in a live work environment is proving to be the right approach. This logic has underpinned all EC twinning projects deploying Member States practitioners in the pre-accession context.

Assumption 4: Improved border and customs controls and border surveillance along the whole border is a crucial element in the peaceful resolution of the Transnistria conflict.

This assumption intervenes at the level of wider / overall objectives. Clearly the realisation of this overall objective is beyond the remit of this Mission alone and depends also on other factors. There is already a clear indication that the expected results and the achievement of specific objectives will significantly contribute to this overall objective. Moldovan-Ukrainian relations improved considerably after the signing and implementing of a Joint Declaration of both countries' Prime Ministers dated 30 December 2005 and implemented since 3 March 2006. The Joint Declaration set in force the 15 May 2003 customs agreement between both countries based of which Ukraine accepts the import or transit of goods from Transnistria only if they have been cleared accordingly under the Moldovan customs regime.

3.3.6. *Risks*

- The Transnistrian regime – supported by Russia – will try to obstruct all constructive measures set by Moldova and Ukraine, in particular the implementation of the 2003 customs agreement. Transnistria and Russia have been quite successful in launching media campaigns against Ukraine and put Ukraine under political pressure. This calls for permanent EU observation of the political manoeuvres in the region and for preparedness to immediately react against such destructive actions. It will also require that Moldova and Ukraine remain firm in their cooperation and conflict settlement policy.
- The evident high level of corruption in all services could reduce the positive impact of EUBAM's operation. Criminal groups will react to the enhanced border control and surveillance measures; so far they were looking for new smuggling routes. A continued permanent observation of the security situation in the region will be required.

3.5. **Crosscutting Issues**

The programme has a strong good governance dimension since prevention of, and fight against corruption is targeted.

4. **IMPLEMENTATION ISSUES**

4.1. **Implementation method**

Joint management through the signature of an agreement with an international organisation.

4.2. **Procurement and grant award procedures**

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the International Organisation concerned.

4.3. Budget and calendar

Indicative breakdown of overall amount within the International Organisation's budget by main components:

Supplies (in EUR)	Services (in EUR)
1,000,000	11,000,000

The project is planned to be implemented within 12 months after conclusion of a joint management agreement with an international organisation, most likely the United Nations Development Programme (UNDP was the Commission's implementing partner for the previous phases).

4.4. Performance monitoring

Performance will be monitored by the EC Delegation and the Tacis/ENPI Monitoring Team. The implementing partner will have to submit regular progress reports.

4.5. Evaluation and audit

An ex-post / impact evaluation could be considered within a year after the end of the Mission's mandate.

4.6. Communication and visibility

EUBAM and the Commission's implementing partner will follow the communication and visibility strategy already in place. No additional measures will be required since EUBAM ensures the highest EU visibility possible.