



Macro-Financial Assistance to the Republic of Moldova

Grant and Loan from the European Union of up to EUR 100 million

MEMORANDUM OF UNDERSTANDING

between

THE REPUBLIC OF MOLDOVA

and

THE NATIONAL BANK OF MOLDOVA

as the Beneficiary's Financial Agent

and

THE EUROPEAN UNION

MEMORANDUM OF UNDERSTANDING BETWEEN THE REPUBLIC OF MOLDOVA AND THE EUROPEAN UNION

1. On 13 September 2017 the European Parliament and the Council of the European Union adopted a decision (Decision (EU) 2017/1565[1]) to make available to the Republic of Moldova (hereafter referred to as "the Country") a macro-financial assistance (hereafter referred to as "assistance") of up to EUR 100 million, comprising a loan facility of up to EUR 60 million (the loan) and a grant facility of up to EUR 40 million (the grant). The assistance shall be made available for two and a half years starting from the first day after the entry into force of the Memorandum of Understanding (hereinafter MoU).

   The objective of this assistance is to ease the Country's external financing constraints, alleviate its balance of payments and budgetary needs, strengthen its foreign exchange reserve position and help the Country address the current external and financial vulnerabilities. This assistance from the European Union is complementary to the resources provided to the Country by international financial institutions and bilateral donors in support of the authorities' economic stabilisation and reform programme.

2. The disbursement of the assistance shall be subject to the signature of the corresponding legal commitment (Loan Agreement and Grant Agreement) by the parties: the European Commission (hereafter referred to as "the Commission"), representing the European Union, the Ministry of Finance, representing the Country, and the National Bank of Moldova, acting as financial agent of the Country in charge of servicing the external debt of the Country.

3. The assistance shall be subject to the decision of the budgetary authority of the European Union to make available the necessary appropriations.

4. The assistance will be disbursed in three instalments, each being composed of a grant and a loan elements. The first instalment will amount to up to EUR 30 million, the second instalment will amount to up to EUR 30 million and the third instalment will amount to up to EUR 40 million. The disbursement of the first instalment shall not take place earlier than the first day after the entry into force of the MoU. The disbursement of the second instalment shall not take place earlier than three months after the release of the first instalment. The disbursement of the third instalment shall not take place earlier than three months after the release of the second instalment.

5. The disbursement of the three instalments of the assistance will be conditional on both a satisfactory track record in the implementation of the non-precautionary credit arrangement agreed between the Country and the International Monetary Fund (hereinafter "the IMF") and on a positive assessment by the Commission on behalf of

[1] O.J. L 242, 20 September 2017, p. 14.

the European Union, of progress made with respect to a number of macroeconomic and structural adjustment measures. The policy conditions attached to this assistance are based on the economic stabilisation and reform programme endorsed by the Country's authorities and are consistent with agreements reached by the Country with the IMF. Accordingly, before the release of each instalment of this assistance, the Commission, in co-operation with the national authorities and IMF staff, will verify that the conditions attached to this assistance have been adequately respected or new understandings reached.

6. Prior to the release of the three instalments by the Commission, the Country's authorities shall provide the Commission with Compliance Statements on the fulfilment of the conditionality attached to the instalments in question. Upon receipt of compliance statements by the authorities of the Country, the Commission will evaluate, in co-operation with the authorities of the Country and IMF staff, progress made with respect to the fulfilment of the conditionality attached to the instalment in question. In this evaluation, particular attention will be paid to reforms to improve public finance management and public administration reform, financial sector governance reforms, energy sector reform, including a better targeting of the social safety net, support active policies in the fight against fraud, corruption and money-laundering, and promote the business and investment climate in line with the Deep and Comprehensive Free Trade Area (DCFTA) Agreement. The concrete policy measures and frame of reference for this evaluation are made explicit in Annex I. In case of a negative evaluation, the Commission shall withhold the disbursement of the three instalments until the Country proves the compliance with the conditionality. If necessary, Annex I may be amended upon mutual agreement, following the completion of the respective approval processes of the EU and Moldova.

7. The Commission will also continuously verify the financing needs of the Country and may reduce, suspend or cancel the assistance in case the financing needs of the Country have decreased fundamentally during the period of disbursement compared to the initial projections.

8. The Commission shall transfer the instalments to a euro account of the Ministry of Finance of the Country (hereafter referred to as "the Recipient") with the National Bank of Moldova (hereafter referred to as "the Agent"). Given the substantial budgetary financing needs faced by the Country, the proceeds of the assistance will be used to finance the Country's budget.

9. During the implementation of the assistance, the Country's authorities shall supply the Commission with all information that is relevant for the monitoring of its economic and financial situation and for the assessment of progress in structural reforms. In particular, the authorities will supply to the Commission on a timely basis the relevant information as set out in Annex II.

10. With a view to preventing fraud, corruption, irregularities and any other illegal activities related to the use of the assistance and ensuring the protection of the EU's financial interests, the relevant provisions of the Grant and Loan Facility Agreement will apply, notably those regarding regular checks by Moldova on the use of EU assistance, and

checks and audits performed by the Commission, the European Anti-Fraud Office and the Court of Auditors. Also, the provisions of the Grant and Loan Facility Agreement on early repayment will apply in case it has been established that Moldova has engaged, in relation to the management of this assistance, in any act of fraud, corruption, irregularities and any other illegal activities.

11. The Commission, represented by its own agents or its duly mandated experts, shall have the right to carry out operational assessments of the administrative procedures and financial circuits of the Country and of the Agent that relate to the management of EU macro-financial assistance throughout the duration of this MoU and for five years after the disbursement of the last instalment (*ex-post* period).

12. An independent ex-post evaluation of the assistance may be carried out by the Commission or its duly authorised representatives. The authorities of the Country are committed to supplying all necessary information to the Commission, represented by its own agents or its duly mandated experts, for the duration of this process. The evaluation report will be made available to the authorities of the Country for comments.

13. The authorities will ensure, as appropriate, close co-operation with the European Commission.

14. This assistance is implemented on the understanding that the authorities of the Country shall respect effective democratic mechanisms, including a multi-party parliamentary system and the rule of law and respect for human rights, and will make satisfactory progress towards improving governance, ensuring a free, independent and pluralistic media, strengthening the independence of the judiciary and implementation of the Association Agreement, including the DCFTA. In this context also, the Joint Statement of the European Parliament, the Council of the European Union and the Commission annexed to the Decision is recalled. In line with this Joint Statement the Commission and the European External Action Service shall monitor the fulfilment of the political pre-condition throughout the life cycle of the Union's macro-financial assistance.

15. Annexes I and II are an integral part of this MoU.

16. All notices in relation with the present MoU shall validly be given if in writing and sent to:

For the Republic of Moldova

Ministry of Finance

Minister of Finance

7 Cosmonauţilor str. MD-2005, Chişinău, Republic of Moldova

National Bank of Moldova

Governor of the National Bank of Moldova

1 Grigore Vieru Ave., MD-2005, Chişinău,
Republic of Moldova

For the European Union

European Commission
Directorate General for
Economic and Financial Affairs
CHAR11/248, B-1049, Brussels

17. The present MoU shall enter into force following the signature by the European Union and the Republic of Moldova upon its ratification by the Moldovan Parliament.

18. The MoU may be amended upon mutual agreement of the parties in form of a written Addendum. The Addendum will be an integral part of this MoU and will enter into force according to the same procedures as the MoU.

Done in Brussels on 23 November 2017 in four originals in the English language

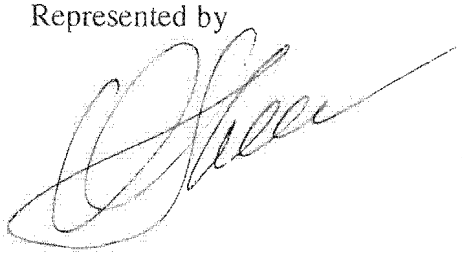
REPUBLIC OF MOLDOVA

as Borrower

Represented by

the MINISTRY OF FINANCE

Represented by



Octavian Armaşu

Minister of Finance

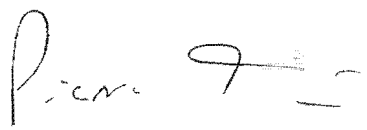
EUROPEAN UNION

as Lender

Represented by

the EUROPEAN COMMISSION

Represented by

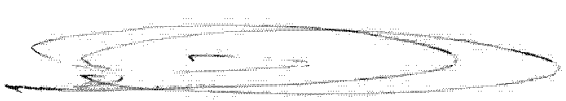


H.E. Pierre Moscovici

Member of the European Commission

the NATIONAL BANK OF MOLDOVA

Represented by



Sergiu Cioclea

Governor of the National Bank of Moldova

ANNEX I

STRUCTURAL REFORM CRITERIA

At the time of the Commission staff review that will precede the decision on the disbursement of the first, second and third instalments, the authorities of the Republic of Moldova are committed to have accomplished the following actions:

FIRST INSTALMENT

PUBLIC SECTOR GOVERNANCE

Action 1

In order to implement the new Public Administration Reform (PAR) Strategy adopted by the government in July 2016 and the related Action Plan approved in December 2016, Parliament will adopt the new Law on Government, amending the Law No 64 of 1990. The law will aim at rationalising the central public administration.

Action 2

Consistent with the new Strategy of Development of the Public Procurement System in Moldova for 2016-2020, adopted by the Government in October 2016, a new National Complaints Settlement Agency independent from the Ministry of Finance was created in December 2016. The Parliament will ensure the effective functioning of this authority. Its effectiveness will be measured by the number of established employees, allocated budgetary resources and the number of complaints processed.

Action 3

In order to increase transparency and accountability in State-Owned Enterprises (SOEs), Parliament will adopt a new Law on State and Municipal Enterprises that will introduce statutory audits of annual financial statements and the obligation to post the annual financial statements and the audit reports on the websites of the SOEs and on that of the Public Property Agency.

Action 4

Reflecting the commitments made by Moldova under the Association Agenda, Parliament will adopt the new law on the Court of Accounts. The key objectives of the law will be to ensure the financial, operational and functional independence of the Supreme Audit Institution, bringing it in line with INTOSAI standards. Also the parliamentary oversight of the Governments budget execution will be strengthened through the creation in Parliament of a Public Accounts Committee function in charge of carrying out public hearings of the Court of Accounts individual audit reports.

Fight against Corruption and Money Laundering

Action 5

The Parliament will adopt the new Law on the Prevention of Money Laundering and Counter Terrorism Financing (AML/CTF), approximating Moldova's legislation in this area to the relevant EU acts (notably AML/CFT Directive 2015/849). In this context, the operational capacities of the Office for the Prevention and Fight against Money Laundering will be strengthened.

Action 6

The Integrity Council will select the President and Vice President of the National Integrity Authority (NIA) and propose their appointment to the President of the Republic of Moldova. This will be done via a transparent, merit-based and competitive process, in compliance with the law on the NIA. Sufficient budget and staff will be allocated to the NIA, which will initiate and make good progress with the recruitment of integrity inspectors via a transparent, merit-based and competitive process.

Action 7

As stipulated in the new Law on the Asset Recovery Office, adopted by Parliament in March 2017, a new Criminal Assets Recovery Agency will be set up at the National Anticorruption Centre (NAC). The Parliament will ensure the effective functioning of the Criminal Asset Recovery Office, by allocating sufficient staffing and budgetary resources.

Energy Sector reforms

Action 8

With a view to strengthening the governance and regulatory framework of the energy sector, including the independence of the National Energy Regulatory Agency (ANRE) and addressing the recommendations of the review of ANRE carried out by the Energy Community Secretariat, the Parliament will adopt the new Law on Energy.

Business climate and DCFTA implementation

Action 9

As part of efforts to strengthen the investment climate, the government will take steps to reduce the administrative burden of starting and operating a business. In particular, and consistent with the target, stated in the National Development Strategy "Moldova 2020", of reducing the number of regulations imposing permits and licences, the Ministry of Economy will review the entire nomenclature of required permits and licences and reduce their number accordingly.

Action 10

The Parliament will adopt the new Customs Service Law. The Law will provide the necessary tools to strengthen the human resources and administrative capacity of the Customs Service,

helping it implement its responsibilities under the Association Agreement and, in particular, the DCFTA, while at the same time ensuring higher standards of integrity and good practice.

SECOND INSTALMENT

FINANCIAL SECTOR GOVERNANCE

Action 11

The Parliament will adopt the new Law on Banking Activity and Prudential Supervision of Banks and Investment Firms and the appropriate supervisory authorities (i.e. NBM and NCFM) will make substantial progress towards adopting key related secondary legislation to bring the regulatory framework for banks in line with international and EU standards (notably Basel III rules). The new legislation will, in particular, introduce new capital adequacy requirements harmonised with the EU's Capital Requirements Directive and Regulation (CRDIV/CRR package).

Action 12

In order to enhance governance and shareholder transparency in the Moldovan insurance sector, the NCFM will adopt an Action Plan for the audit of all insurance companies and for the identification of UBOs of qualified shareholders in all insurance companies.

PUBLIC SECTOR GOVERNANCE

Action 13

In line with the commitments under the Deep and Comprehensive Free Trade Area (DCFTA) Agreement, the Government will submit to Parliament amendments to the Law on Public Procurement, the law on Public-Private Partnerships (PPPs) and the Law on Utility Companies in order to better regulate the concessions, PPPs and procurement by utility companies.

FIGHT AGAINST CORRUPTION AND MONEY LAUNDERING

Action 14

Consistent with the provisions of the Law on the National Integrity Authority (NIA) and the Law on the Declaration of Assets and Interests, the NIA will adopt a regulation clarifying the methodology for the verification of asset declarations and conflicts of interest. The electronic asset declaration and verification system will be brought online, allowing the electronic submission of asset declarations and making the declarations accessible to the general public.

ENERGY SECTOR REFORMS

Action 15

The Government will submit to Parliament the new Law on Energy Efficiency, approximating Moldova's legislation in this area to Directive 27/2012/EU on Energy Efficiency.

Action 16

In view of the construction of the Ungheni-Chisinau gas pipeline, critical for the diversification of Moldova's gas supplies and energy interconnectivity with the EU, the Government will organise the tender for the selection of a general contractor for the construction of the pipeline.

BUSINESS CLIMATE AND DCFTA IMPLEMENTATION

Action 17

In order to promote a merit-based and transparent system for the selection and promotion of judges, the Superior Council of Magistracy will revise the criteria, contained in its Decision 211/8 of 5 March 2013, for the selection and the promotion of judges, bringing them in line with international standards and best practices.

Action 18

In order to establish an effective mechanism for ensuring the accountability of judges, Parliament will adopt amendments to the law of Disciplinary Liability of Judges (Law No 178 of 25 July 2014).

THIRD INSTALMENT

FINANCIAL SECTOR GOVERNANCE

Action 19

In order to enhance governance and shareholder transparency in Moldovan banks, and consistent with the commitments undertaken by the authorities in the context of the three-year arrangements under the Extended Fund Facility (EFF) and the Extended Credit Facility (ECF) agreed with the IMF, the NBM will complete the identification of Ultimate Beneficiary Owners (UBOs) of qualified shareholders and will conclude the diagnostic analyses of related party lending in all banks, with the exception of banks which are subsidiaries of foreign banking groups. The NBM will then make substantive progress on the recommendations of these diagnostic analyses of related party lending in the three major banks.

Action 20

With the aim of supporting financial stability in Moldova, and consistent with the Action Plan for the implementation of the Association Agreement, Parliament will adopt amendments to the Deposit Insurance Law strengthening the deposit insurance system. The amendments will approximate Moldova's deposit guarantee legislation with the EU's Directive on Deposit Guarantee Schemes and will draw on the latest recommendations produced by IMF technical assistance. In particular, the amendments will inter alia increase the coverage level per individual depositor to the appropriate level and extend deposit protection to include non-financial corporates, Small- and Medium-Sized Enterprises (SMEs).

Action 21

In order to promote the development of the non-banking financial sector, while preventing excessive risks in the system, the Government will submit to Parliament a Law on non-bank credit organisations. This Law will, in particular, regulate the conditions of access to non-banking lending activity, determining the legal requirements for establishing non-bank credit institutions, will ensure the protection of the rights and legitimate interests of stakeholders (such as creditors, clients and shareholders) and will improve access to non-bank financial resources for both individuals and legal entities.

FIGHT AGAINST CORRUPTION AND MONEY LAUNDERING

Action 22

Substantial progress will be achieved with the implementation of the actions foreseen for the year 2017 as provided in the Action Plan accompanying the National Integrity and Anti-Corruption Strategy (NIAS) for 2017-2020 adopted by Parliament in March 2017. Progress will be measured, inter alia, by the first annual report on the implementation of the NIAS to be approved by the Parliament.

Action 23

In order to return to Moldova the funds from Banca de Economii, Unibank and Banca Socială that were fraudulently transferred outside of the country, substantial progress will be achieved in the implementation by the authorities of the related asset recovery strategy. This strategy will also take into account findings by the Kroll consultancy firm. In this respect, the authorities will prepare and transmit to Parliament a progress report.

ENERGY SECTOR REFORMS

Action 24

In order to protect the most vulnerable households from the adjustment in energy tariffs, the Government will strengthen and improve the targeting of social assistance programmes, in particular the Ajutor Social and Heating Allowance programmes, including by revising the set of proxy criteria on which the eligibility for these programmes is based. Adequate resources will be allocated in the 2018 budget for these two programmes.

Action 25

Substantial progress will be achieved with the implementation of the action plan, prepared with the assistance from the Energy Community Secretariat and international partners, for the legal and functional unbundling of the three system operators in the gas sector, under the terms and conditions stipulated in the Law No 108 of 27 May 2016 on Natural Gas. This will entail the achievement of a full legal and functional separation of MoldovaTransGaz (MTG) and ChisinauGaz (CG) from Moldovagaz, and an improvement of the corporate governance of MTG, CG and VestMoldTransgaz (VMTG) taking into consideration the derogation granted by the Ministerial Council of the Energy Community for unbundling until 1 January 2020.

BUSINESS CLIMATE AND DCFTA IMPLEMENTATION

Action 26

In line with the commitments made under the Association Agreement and the DCFTA, the Government will propose amendments to the Law on Competition with a view to update the list of the Competition Council's areas of intervention in line with international standards, notably in order to include the media sector.

Action 27

In line with the commitments under the DCFTA, Parliament will adopt a new Customs Code consistent with the European Union's Customs Code (Regulation (EU) No 952/2013).

Action 28

With a view to increasing the effectiveness and independence of the judiciary system, Parliament will adopt primary and secondary legislation to strengthen the position of the Superior Council of Magistracy (SCM), in particular by limiting membership to a single term of six years and obliging the Government to consult the SCM when establishing the budget for the court system. The Parliament will exclude the Minister of Justice, the Prosecutor General and the Chair of the Supreme Court from its ex officio composition or adopt legislation to ensure that their participation do not put at risk the principle of independence of judiciary.

ANNEX II

MONITORING SYSTEM

During the implementation of the European Union macro-financial assistance, the following indicators and reports shall be provided to the Commission by the relevant authorities, on a quarterly basis.

1. Monitoring of macro-economic and financial developments and policies

a) Information submitted by the Ministry of Finance:

- GDP or national income (quarterly)
- Main components of GDP (quarterly)
- Employment and unemployment rates (quarterly)
- Level and composition of general and central government revenue and expenditure as well as government payment arrears (quarterly)
- Fiscal balance of the central government (quarterly)
- Fiscal balance of the general government (annual)
- External central government debt, including external arrears (quarterly)
- External central government debt service payments (quarterly)
- Domestic central government debt and debt service (quarterly)
- Consumer and producer prices (monthly)
- Interest rates on government securities (monthly)

b) Information submitted by the National Bank of Moldova

- Interbank interest rates at benchmark maturities (monthly)
- Banks' overall lending rate (monthly)
- Balance-of-payments and main components (quarterly)
- International reserve position (monthly)
- Nominal bilateral exchange rates against the euro and the USD (monthly)

2. Monitoring of structural policies:

- Progress reports on reforms in the areas specified in Annex I (quarterly)