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Proposal for a

COUNCIL DECISION

on the conclusion of a Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia of the other part, on a Framework Agreement between the European Union and Georgia on the general principles for the participation of Georgia in Union programmes

EXPLANATORY MEMORANDUM

As part of the European Neighbourhood Policy (ENP), the gradual opening-up of certain Union programmes and agencies to the participation of ENP partner countries represents one of many measures to promote reform, modernisation and transition in the European Union's neighbourhood. The Commission outlined this policy aspect more extensively in its Communication of December 2006 "on the general approach to enable European Neighbourhood Policy partner countries to participate in Community agencies and Community programmes"¹.

The Council endorsed this approach in conclusions on 5 March 2007².

Based upon this Communication and those conclusions, the Council, on 18 June 2007, issued directives to the Commission to negotiate Framework Agreements with Algeria, Armenia, Azerbaijan, Egypt, Georgia, Israel, Jordan, Lebanon, Moldova, Morocco, the Palestinian Authority, Tunisia and Ukraine, on the general principles for their participation in Community programmes³.

The June 2007 European Council⁴ reaffirmed the paramount importance of the ENP and endorsed a Presidency Progress Report⁵ that had been submitted to the General Affairs and External Relations Council (GAERC) meeting on 18/19 June 2007 as well as the related Council Conclusions⁶. This report recalled the Council directives to negotiate relevant additional protocols.

The Joint Communication by the Commission and the High Representative of the European Union for Foreign Affairs and Security Policy "A new response to a changing Neighbourhood"⁷, endorsed by Council Conclusions on 20 June 2011, further stressed the EU's intention to facilitate partner countries' participation in EU programmes.

In September 2011, the participants of the Eastern Partnership's Warsaw Summit agreed to facilitate participation by partner countries in EU programmes and agencies.

To date, Protocols have been signed with Armenia⁸, Israel⁹, Jordan¹⁰, Moldova¹¹ Morocco¹² and Ukraine¹³.

In December 2012, Georgia expressed its interest to participate in the broad range of programmes open to partner countries of the European Neighbourhood Policy. The text of the Protocol negotiated with Georgia is attached.

¹ COM (2006) 724 final of 4 December 2006.

² GAERC conclusions of 5 March 2007.

³ Council Decision (restricted) authorising the Commission to negotiate Protocols [...], Doc 10412/07.

⁴ Presidency Conclusions – Brussels, 21/22 June 2007, Doc 11177/07.

⁵ Presidency Progress Report on "Strengthening the European Neighbourhood Policy", Doc 10874/07.

⁶ Conclusions on Strengthening the European Neighbourhood Policy, adopted by the Council (General Affairs and External Relations) on 18 June 2007, Doc 11016/07.

⁷ COM (2011) 303 final of 25 May 2011.

⁸ *[to complete with OJ reference once published]*

⁹ OJEU L129/39 of 17.5.2008;

¹⁰ *[to complete with OJ reference once published]*

¹¹ OJEU L14/5 of 19.01.2011, OJEU L131/1 of 18.05.2011, entry into force on 01.05.2011;

¹² OJEU L273/1 of 19.10.2010, OJEU L90/1 of 28.03.2012, entry into force on 01.10.2012;

¹³ OJEU L18/1-5 of 21.01.2011, OJEU L133/1 of 20.05.2011, entry into force on 01.11.2011

The Commission herewith submits a proposal for a Council Decision on the conclusion of the Protocol. This Protocol contains a Framework Agreement on the general principles for the participation of Georgia in Union programmes. It contains standard stipulations that are intended to be applied to all European Neighbourhood Policy partner countries with which such protocols are to be concluded.

According to Article 218(6)(a) of the Treaty on the Functioning of the European Union, the European Parliament shall be requested to give its consent to the conclusion of this Protocol.

In parallel, the Commission submits a proposal for a Council Decision on the signature and provisional application of the said Protocol.

The Council is invited to adopt the following proposed Decision.

Proposal for a

COUNCIL DECISION

on the conclusion of a Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia of the other part, on a Framework Agreement between the European Union and Georgia on the general principles for the participation of Georgia in Union programmes

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 212, in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) The Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia, of the other part, on a Framework Agreement between the European Union and Georgia on the general principles for the participation of Georgia in Union programmes ("the Protocol") was signed on behalf of the Union on ...
- (2) The Protocol should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia of the other part, on a Framework Agreement between the European Union and Georgia on the general principles for the participation of Georgia in Union programmes ("the Protocol") is hereby approved on behalf of the Union¹⁴.

The text of the Protocol is attached to this Decision.

¹⁴ The Protocol has been published in [...] together with the decision on signature.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 10 of the Protocol¹⁵.

Article 3

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council
The President*

¹⁵ The date of entry into force of the Protocol will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

PROTOCOL

to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia, of the other part, on a Framework Agreement between the European Union and Georgia on the general principles for the participation of Georgia in Union programmes

THE EUROPEAN UNION, hereinafter referred to as “the Union”,

of the one part,

and

GEORGIA, hereinafter referred to as “Georgia”

of the other part,

hereinafter jointly referred to as “the Parties”

Whereas:

- (1) Georgia has concluded a Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia, of the other part, (hereinafter referred to as “the Agreement”), which entered into force on 1 July 1999.
- (2) The Brussels European Council of 17 and 18 June 2004 welcomed the European Commission’s proposals for a European Neighbourhood Policy (ENP) and endorsed the Council conclusions of 14 June 2004.
- (3) The Council has, on numerous further occasions, concluded in favour of that policy.
- (4) The Council, on 5 March 2007, expressed support for the general and global approach outlined in the European Commission’s Communication of 4 December 2006 to enable ENP partners to participate in Community agencies and Community programmes on their merits and where the legal bases so allow.
- (5) Georgia has expressed its wish to participate in a number of Union programmes.
- (6) The specific terms and conditions, in particular, the financial contribution and reporting and evaluation procedures, regarding the participation of Georgia in each particular programme should be determined in an agreement between the European Commission and the competent authorities of Georgia,

HAVE AGREED AS FOLLOWS:

Article 1

Georgia shall be allowed to participate in all current and future programmes of the Union opened to the participation of Georgia in accordance with the relevant provisions adopting those programmes.

Article 2

Georgia shall contribute financially to the general budget of the European Union corresponding to the specific programmes in which Georgia participates.

Article 3

Georgia's representatives shall be allowed to take part, as observers and for the points which concern Georgia, in the management committees responsible for monitoring the programmes to which Georgia contributes financially.

Article 4

Projects and initiatives submitted by participants from Georgia shall, as far as possible, be subject to the same conditions, rules and procedures pertaining to the programmes concerned as applied to Member States.

Article 5

The specific terms and conditions regarding the participation of Georgia in each particular programme, in particular the financial contribution payable as well as reporting and evaluation procedures, shall be determined by an agreement between the European Commission and the competent authorities of Georgia on the basis of the criteria established by the programmes concerned.

If Georgia applies for external assistance of the Union to participate in a given Union programme on the basis of Article 3 of Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument or pursuant to any similar Regulation providing for external assistance of the Union to Georgia that may be adopted in the future, the conditions governing the use by Georgia of external assistance of the Union shall be determined in a financing agreement, respecting in particular Article 20 of Regulation (EC) No 1638/2006.

Article 6

Each agreement concluded pursuant to Article 5, shall stipulate, in accordance with Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002, that financial control or audits or other verifications, including administrative investigations will be carried out by, or under the authority of, the European Commission, the European Anti-Fraud Office and the Court of Auditors.

Detailed provisions shall be made on financial control and auditing, administrative measures, penalties and recovery enabling the European Commission, the European Anti-Fraud Office, and the Court of Auditors to be granted powers equivalent to their powers with regard to beneficiaries or contractors established in the Union.

Article 7

This Protocol shall apply for the period for which the Agreement is in force.

This Protocol shall be signed and approved by the Parties in accordance with their respective procedures.

Either Party may denounce this Protocol by written notification to the other Party.

This Protocol shall terminate six months after the date of such notification.

Termination of the Protocol following denunciation by any of the Parties shall have no influence on the checks and controls to be carried out, where appropriate, in accordance with the provisions laid down in Articles 5 and 6 where appropriate.

Article 8

No later than three years after the date of entry into force of this Protocol, and every three years thereafter, both Parties may review the implementation of this Protocol on the basis of the actual participation of Georgia in Union programmes.

Article 9

This Protocol shall apply, on the one hand, to the territories in which the Treaty on the Functioning of the European Union applies and under the conditions laid down in this Treaty, and, on the other hand, to the territory of Georgia.

Article 10

This Protocol shall enter into force on the first day of the month following the date on which the Parties notify each other through diplomatic channels of the completion of their procedures necessary for its entry into force.

Pending its entry into force, the Parties agree to provisionally apply this Protocol from the date of its signature, pending its conclusion at a later date.

Article 11

This Protocol shall form an integral part of the Agreement.

Article 12

This Protocol shall be drawn up in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Georgian languages, each text being equally authentic.

Done at Brussels,

For the European Union

For Georgia