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EUROPEAN COMMISSION

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Proposal for a

COUNCIL DECISION

on the conclusion of a Protocol to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, on a Framework Agreement between the European Union and the Kingdom of Morocco on the general principles for the participation of Morocco in Union programmes

(presented by the Commission)

EXPLANATORY MEMORANDUM

The gradual opening-up under the European Neighbourhood Policy of certain Union programmes and agencies to the participation of ENP partner countries is one of the many measures to promote reform, modernisation and transition in the countries neighbouring on the European Union. This policy is outlined in the Commission communication “on the general approach to enable ENP partner countries to participate in Community agencies and Community programmes”¹.

The Council endorsed this approach on 5 March 2007².

On the basis of that communication and those conclusions, on 18 June 2007 the Council 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 governing their participation in Community programmes³.

The European Council of June 2007⁴ reaffirmed the paramount importance of the European Neighbourhood Policy and endorsed a Presidency progress report⁵ submitted to the General Affairs and External Relations Council (GAERC) meeting held on 18 and 19 June 2007 and the relevant Council Conclusions⁶. This report referred to the Council negotiating directives for the necessary additional protocols, identifying Israel, Morocco and Ukraine as likely to be the first partner countries to benefit from these measures. Negotiations with Israel concluded in September 2007 and a protocol was signed in April 2008⁷. Negotiations with Ukraine have also been completed.

In June 2007 it was decided to start negotiations with the Morocco. These negotiations have since been completed to the satisfaction of the Commission. The text of the protocol negotiated with Morocco is attached.

In the joint EU-Morocco document on establishing Morocco's advanced status in its relationship with the EU⁸, Morocco expressed interest in taking part in certain programmes, in particular: the Competitiveness and Innovation Programme (CIP), Customs 2013, SESAR and Marco Polo.

The Commission is submitting a proposal for a Council Decision on the conclusion of the protocol. It contains a Framework Agreement on the general principles for Morocco's participation in Union programmes. It contains standard clauses for application to all ENP partner countries with which such protocols are to be concluded.

In accordance with Article 218(6)(a) of the Treaty on the Functioning of the European Union, the European Parliament will be asked to give its consent to the conclusion of this protocol.

¹ COM (2006) 724 final of 4.12.2006.

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 and 22 June 2007, Doc. 11177/07.

⁵ Presidency Progress Report “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 OJ L 129, 17.5.2008, pp 40 to 43.

⁸ Adopted by the EU-Morocco Association Council and the GAERC, 13.10.2008.

At the same time the Commission is presenting a proposal for a Council Decision on the signing of the said protocol.

The Council is invited to adopt the attached proposed Decision on the conclusion of the protocol.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 in conjunction with Article 218(6)(a) and (8), second subparagraph, 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 Euro-Mediterranean Agreement between the European Communities and its Member States, of the one part, and the Kingdom of Morocco, of the other part, was signed on behalf of the European Union and its Member States on [insert date of signature].
- (2) For some of the programmes covered by the Agreement the Treaty does not provide for powers other than those referred to in Article 352.
- (3) This Protocol should be concluded,

HAS ADOPTED THIS DECISION:

Article 1

The Protocol to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, on a Framework Agreement between the European Union and the Kingdom of Morocco on the general principles for the participation of Morocco in Union programmes is hereby approved on behalf of the European Union and its Member States.

The text of the Protocol is annexed to this Decision.

Article 2

The President of the Council shall give the notification provided for in Article 10 of the Protocol.

Article 3

This Decision shall enter into force on the date of its adoption. It shall be published in the Official Journal of the European Union.

Done at Brussels,

*For the Council
The President*

PROTOCOL

to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, on a Framework Agreement between the European Union and the Kingdom of Morocco on the general principles for the participation of Morocco in Union programmes

THE EUROPEAN UNION, hereinafter referred to as 'the Union',

of the one part,

and

THE KINGDOM OF MOROCCO, hereinafter referred to as 'Morocco',

of the other part,

Whereas:

- (1) Morocco concluded a Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and Morocco, of the other part, on 26 February 1996 (Official Journal of the European Communities, L 70, 18 March 2000, p. 2).
- (2) The Brussels European Council of 17 and 18 June 2004 welcomed the Commission's proposals for a European Neighbourhood Policy (ENP) and endorsed the Council conclusions of 14 June 2004.
- (3) The Council has on numerous later occasions adopted conclusions supporting this policy.
- (4) On 5 March 2007 the Council expressed support for the general and global approach outlined in the Commission's communication of 4 December 2006, COM(2006) 724 final, to enable ENP partners to participate in Community agencies and Community programmes on their merits and where authorised by the legal bases.
- (5) Morocco has expressed its desire to participate in a number of Union programmes.
- (6) The specific terms and conditions, including the financial contribution and reporting and evaluation procedures, applicable to Morocco's participation in any particular programme should be determined by agreement between the European Commission, acting on behalf of the Union, and Morocco,

HAVE AGREED AS FOLLOWS:

Article 1

Morocco is hereby authorised to take part in all current and future Union programmes opened to its participation in accordance with the provisions adopting these programmes.

Article 2

Morocco shall make a financial contribution to the general budget of the European Union corresponding to its participation in specific programmes.

Article 3

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

Article 4

Projects and initiatives submitted by participants from Morocco shall, wherever possible, be subject to the same conditions, rules and procedures for the programmes concerned as the Member States.

Article 5

The specific terms and conditions governing Morocco's participation in each programme, in particular the financial contribution payable and the reporting and evaluation procedures, shall be determined by agreement between the Commission, acting on behalf of the Union, and the competent Moroccan authorities (Memorandum of Understanding).

If Morocco applies for Union external assistance 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 under any similar regulation providing for Union external assistance to Morocco that may be adopted in future, the conditions governing the use by Morocco of Union assistance shall be set out in a financing agreement in accordance with, in particular, Article 20 of Regulation (EC) No 1638/2006.

Article 6

Each Memorandum of Understanding concluded under Article 5 shall stipulate, in accordance with the Community's Financial Regulation, that financial controls, audits or other checks, 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 adopted for financial controls and audits, administrative measures, penalties and recoveries that accord the European Commission, the European Anti-Fraud Office and the Court of Auditors powers equivalent to their powers with regard to beneficiaries or contractors established in the Union.

Article 7

This Protocol concerning a Framework Agreement shall apply for the period during which the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, is in force.

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

Either Contracting Party may denounce this Protocol by written notification to the other Contracting Party. This Protocol shall cease to apply six months after the date of such notification.

Termination of the Protocol following denunciation by either of the Parties shall not affect the checks and controls to be carried out where necessary under the provisions of Articles 5 and 6.

Article 8

No later than three years after the date of entry into force of this Protocol, and every three years thereafter, both Contracting Parties may review the implementation of this Protocol on the basis of Morocco's actual participation in one or more Union programmes.

Article 9

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

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.

Article 11

This Protocol is drawn up in duplicate in the official languages of the Parties.

Each of the language texts is equally authentic.

Article 12

This Protocol shall form an integral part of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part.

Done at Brussels, [date]

For the Government of the Kingdom of Morocco

For the European Union