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ANNEX – PART 1/14

## **ANNEXES**

*to the*

### **Proposal for a COUNCIL DECISION**

**on the conclusion, on behalf of the European Union, of the Agreement establishing an association between the European Union and the Principality of Andorra and the Republic of San Marino, respectively**

**ANNEX (PART 1/14)**

AGREEMENT ESTABLISHING AN ASSOCIATION BETWEEN THE EUROPEAN  
UNION AND THE PRINCIPALITY OF ANDORRA AND THE REPUBLIC OF  
SAN MARINO, RESPECTIVELY

## PREAMBLE

THE EUROPEAN UNION, hereinafter referred to as "the EU",

of the one part,

and

THE PRINCIPALITY OF ANDORRA, hereinafter referred to as "Andorra",

and

THE REPUBLIC OF SAN MARINO, hereinafter referred to as "San Marino" respectively,

of the other part,

RECALLING the close historical, geographical, cultural, political and economic links between the EU and each Associated State, including in the form of existing agreements, as well as the specific links of proximity between each Associated State and one or more EU Member States;

WHEREAS the links which have progressively been established between the EU and Andorra, *inter alia*, following the Agreement in the form of an Exchange of Letters between the European Economic Community and Andorra of 28 June 1990<sup>1</sup>, the Cooperation Agreement between the European Community and Andorra of 15 November 2004<sup>2</sup>, the Monetary Agreement between the EU and Andorra of 30 June 2011<sup>3</sup> and the Agreement between the European Community and Andorra providing for measures equivalent to those

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<sup>1</sup> OJ L 374, 31.12.1990, p. 16.

<sup>2</sup> OJ L 135, 28.5.2005, p. 14.

<sup>3</sup> OJ C 369, 17.12.2011, p. 1.

laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments of 15 November 2004 and the accompanying Memorandum of Understanding of 15 November 2004<sup>4</sup> and its Amending Protocol of 12 February 2016<sup>5</sup>;

WHEREAS the links which have progressively been established between the EU and San Marino, *inter alia*, following the Agreement on Cooperation and Customs Union between the European Economic Community and the Republic of San Marino of 16 December 1991<sup>6</sup>, the Monetary Agreement between the EU and San Marino of 27 March 2012<sup>7</sup> and the Agreement between the European Community and the Republic of San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments and the accompanying Memorandum of Understanding of 7 December 2004<sup>8</sup>, and its Amending Protocol of 8 December 2015<sup>9</sup>;

WHEREAS the Associated States have for centuries had close ties with their neighbouring countries, which are now EU Member States, and whereas their territories are surrounded by the territory of the EU;

RESOLVED to establish an Association in order to deepen, diversify and sustain their relations based on values common to the EU and the Associated States of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, which constitute essential parts of this Agreement;

COMMITTED to promoting those common values in a society characterised by pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men;

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<sup>4</sup> OJ C 359, 4.12.2004, p. 33.

<sup>5</sup> OJ L 268, 01.10.2016, p. 40.

<sup>6</sup> OJ C 302, 22.11.1991, p. 12.

<sup>7</sup> OJ C 121, 26.4.2012, p. 5.

<sup>8</sup> OJ L 381, 28.12.2004, p. 33.

<sup>9</sup> OJ C 346, 31.12.2015, p. 3.

EMPHASISING the EU's willingness to develop a special relationship with its neighbouring countries, with a view to establishing an area of prosperity and good neighbourliness with reciprocal rights and obligations and the possibility of joint action and characterised by close and peaceful relations based on cooperation;

SEEKING to establish a comprehensive and coherent framework for relations between the EU and the Associated States, taking into account the particular situation of each of the Associated States, as set out in Declaration 3 on Article 8 of the Treaty on European Union (TEU);

DETERMINED to ensure the economic integration and respective participation of the Associated States in the EU's internal market, including, in particular, its four indivisible freedoms: the free movement of goods, persons, services and capital on the basis of common rules and a level playing field, while taking account of the particular situation of each of the Associated States and preserving their independence and that of their institutions;

RESOLVED to enhance, through the Association, economic and business opportunities for individuals and businesses in the Associated Parties;

DETERMINED to ensure, through the implementation of the Association, the homogeneity of the internal market, legal certainty, the uniform interpretation and application of this Agreement, and equal treatment for, *inter alia*, economic operators and citizens within the Association;

RECOGNISING the necessity, in order to ensure the proper functioning of this Agreement and full respect of the EU law, of establishing an appropriate institutional framework, including in particular a forum for dialogue between the Associated Parties, procedures relating to oversight and dispute settlement, and the exclusive jurisdiction of the Court of Justice of the European Union in order to ensure the uniform interpretation and application of this Agreement;

SEEKING to contribute to enhancing the cooperation between members of the European Parliament and members of the parliaments of the Associated States, as well as between the social and economic partners of the EU and those of the Associated States;

NOTING the ambition of the EU and of the Associated States to base their Association on a high level of healthcare, safety and consumer protection;

DETERMINED to preserve, protect and improve the quality of the environment and to ensure the prudent and rational use of natural resources in accordance with the principles of sustainable development, and precautionary and preventive action, as well as to promote the welfare of humans and animals;

AWARE of the importance of sustainable development in its economic, environmental and social dimensions, and DESIRING to promote and contribute to the achievement of the United Nations' Agenda 2030 and its Sustainable Development Goals;

REAFFIRMING their commitment to the Charter of the United Nations, the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and to the objectives and principles of the Council of Europe and the Organization for Security and Cooperation in Europe;

NOTING that the establishment of the Association strengthens bilateral relations between the Union and each of the Associated States, thereby encouraging the Associated Parties to achieve ever greater convergence of positions on bilateral, regional and international issues of common interest;

WHO, having exchanged their full powers, found in good and due form, have agreed as follows:

## PART I

### OBJECTIVES, VALUES AND PRINCIPLES

#### ARTICLE 1

##### Objectives

1. This Agreement establishes an association between the EU and Andorra and San Marino, respectively (hereinafter referred to as "the Association").
2. The aims of this Association are:
  - (a) to ensure the respective participation of the Associated States in the internal market, which includes the free movement of persons, goods, services and capital and a level playing field between each of them and the EU in accordance with this Agreement, as well as their participation in the associated horizontal and accompanying policies, taking into account the specific situation of each Associated State; and
  - (b) to establish an appropriate framework to develop and promote dialogue and cooperation between the EU and each Associated State in other areas of common interest.

## ARTICLE 2

### Definitions

For the purposes of this Agreement:

- (a) "Associated States" means Andorra and San Marino, respectively;
- (b) "Contracting Parties" means the EU, Andorra and San Marino;
- (c) "Associated Parties" means the EU, Associated Party of the one part, and either Andorra or San Marino, respectively, Associated Party of the other part;
- (d) "Agreement" means the Framework Agreement, Framework Protocols, Associated State Protocols and Annexes;
- (e) "Framework Agreement" means the Agreement without Protocols and Annexes;
- (f) "Associated State Protocols" means the Protocols by Associated State and their respective Annexes establishing the special conditions for the achievement of the objectives and the elements linked to the adoption of the *acquis* of the EU's internal market;
- (g) "Framework Protocols" means protocols common to the three Contracting Parties;
- (h) "Annexes to the Associated State Protocols" means the texts containing the legal acts of the EU falling within the scope of this Agreement, with any adaptations;
- (i) "Court of Justice of the EU" (hereinafter referred to as "CJEU") means the Court of Justice and the General Court of the EU.



## ARTICLE 3

### Values

This Agreement is based on the common values of the EU and the Associated States: respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. In a society characterised by pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men, these values are essential parts of this Agreement.

## ARTICLE 4

### Principles

In order to achieve the objectives set out in Article 1 of the Framework Agreement, the Associated Parties shall take all appropriate measures, whether general or specific, to ensure the fulfilment of the obligations arising under this Agreement in accordance with the following fundamental principles:

- (a) the proper functioning and homogeneity of the EU internal market on the basis of uniform rules;
- (b) legal certainty and equal treatment of economic operators and individuals;
- (c) consideration of the specific situation of each of the Associated States.

## ARTICLE 5

### Principle of non-discrimination

Within the scope of application of this Agreement, and without prejudice to any special provisions contained therein, any discrimination on the grounds of nationality shall be prohibited.

## PART II

### FREE MOVEMENT OF GOODS, PERSONS, SERVICES AND CAPITAL

#### CHAPTER 1

#### FREE MOVEMENT OF GOODS

##### ARTICLE 6

###### Free movement of goods

Free movement of goods between the Associated Parties shall be established in conformity with the provisions of this Agreement.

##### ARTICLE 7

###### Prohibition of customs duties

Customs duties on imports and exports, and all charges having equivalent effect, shall be prohibited between the Associated Parties. This prohibition shall also apply to customs duties of a fiscal nature.

## ARTICLE 8

### Prohibition of quantitative restrictions

Quantitative restrictions on imports and exports, and any measures having equivalent effect, shall be prohibited between the Associated Parties.

## ARTICLE 9

### Prohibitions or restrictions on imports, exports or transit

1. This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value, or the protection of industrial or commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Associated Parties.
2. Measures which have the least impact on the free movement of goods between the Associated Parties should be preferred. The duration of such measures shall be limited to what is strictly necessary to achieve the objectives set out in paragraph 1.

## ARTICLE 10

### Internal taxation

Neither Associated Party shall, directly or indirectly, impose on the products of the other Associated Party any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products. Nor shall either Associated Party impose on the products of the other Associated Party any internal taxation of such a kind as to afford indirect protection to other products.

## ARTICLE 11

### Application of the EU's common customs tariff

In their relations with third countries, the Associated States shall apply the EU's common customs tariff in accordance with the provisions laid down in the respective Associated State Protocols.

## ARTICLE 12

### Application of the Common Commercial Policy of the EU

In their relations with third countries, the Associated States shall apply the Common Commercial Policy of the EU, including EU trade defence measures, as set out in Annex XXV to each Associated State Protocol.

## ARTICLE 13

### Other rules

1. Specific provisions and arrangements are laid down in:
  - (a) Annex I to each Associated State Protocol, as regards food safety and veterinary and phytosanitary matters;
  - (b) Annex II to each Associated State Protocol, as regards technical regulations, standards, testing and certification;
  - (c) Annex III to each Associated State Protocol, as regards product liability;
  - (d) Annex IV to each Associated State Protocol, as regards energy;
  - (e) Annex XXIII to each Associated State Protocol, as regards customs legislation;
  - (f) Annex XXIV to each Associated State Protocol, as regards legislation on agriculture;  
and
  - (g) Annex XXV to each Associated State Protocol, as regards aspects other than those covered by Article 12 of the Framework Agreement.
2. The specific provisions and arrangements referred to in paragraph 1 shall apply to all products unless otherwise specified.

## CHAPTER 2

### FREE MOVEMENT OF PERSONS, WORKERS AND SELF-EMPLOYED PERSONS

#### ARTICLE 14

##### Free movement of workers

1. Freedom of movement for workers shall be secured between the Associated Parties.
2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of EU Member States and of the Associated State concerned as regards employment, remuneration and other conditions of work and employment.
3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:
  - (a) to accept offers of employment actually made;
  - (b) to move freely within the territory of EU Member States and the Associated State concerned for that purpose;
  - (c) to stay in the territory of an EU Member State or the Associated State concerned for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;

(d) to remain in the territory of an EU Member State or the Associated State concerned after having been employed there.

4. The provisions of this Article shall not apply to employment in the public service.
5. The Associated State Protocols and in particular Annex V to each Associated State Protocol thereto contain specific provisions on freedom of movement for workers.

## ARTICLE 15

### Social security for workers and self-employed persons

In order to provide freedom of movement for workers and self-employed persons, the Associated Parties shall, in the field of social security, secure, as provided for in Annex VI to each Associated State Protocol, for workers and self-employed persons and their dependants, in particular:

- (a) the aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the several countries;
- (b) payment of benefits to persons resident in the territories of the Associated Parties.



## ARTICLE 16

### Mutual recognition of diplomas

In order to make it easier for persons to take up and pursue activities as workers and self-employed persons, the Associated Parties shall take the necessary measures, as contained in Annex VII to each Associated State Protocol, concerning the mutual recognition of diplomas and other evidence of formal qualifications, and the coordination of the provisions laid down by law, regulation or administrative action in the Associated Parties concerning the taking up and pursuit of activities by workers and self-employed persons.

## CHAPTER 3

### FREEDOM OF ESTABLISHMENT

#### ARTICLE 17

##### Freedom of establishment

1. The freedom of establishment between the Associated Parties shall be ensured, in line with the provisions of this Agreement.
2. Any restriction on the freedom of establishment of nationals of an EU Member State or the Associated State concerned in the territory of any other of these States shall be prohibited. This shall also apply to the setting-up of agencies, branches or subsidiaries by nationals of any EU Member States or the Associated State concerned established in the territory of any of these States.
3. The freedom of establishment shall include the right to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of the second paragraph of Article 20 of the Framework Agreement, under the conditions laid down for its own nationals by the law of the country where such establishment is effected, subject to the provisions of Chapter 5.
4. Annexes VIII to XI and XXII to each Associated State Protocol, as well as Framework Protocol 3, contain specific provisions on the freedom of establishment.

## ARTICLE 18

### Exercise of public powers

The provisions of this Chapter shall not apply, so far as any given Associated Party is concerned, to activities which in that Associated Party are connected, even occasionally, with the exercise of official authority.

## ARTICLE 19

### Special arrangements on the grounds of public policy, public security and public health

The provisions of this Chapter and measures taken pursuant thereto shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for nationals of an EU Member State or Associated State concerned on the grounds of public policy, public security or public health.

## ARTICLE 20

### Scope and definition of companies

1. Companies formed in accordance with the law of an EU Member State or Associated State concerned and having their registered office, central administration or principal place of business in the territory of that State shall, for the purposes of this Chapter, be treated in the same way as natural persons who are nationals of EU Member States or the Associated State concerned.

2. "Companies" means companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.

## ARTICLE 21

### Participation in the capital of companies

An EU Member State or the Associated State concerned shall accord nationals of the other State the same treatment as its own nationals as regards participation in the capital of companies as defined in Article 20, paragraph 2 of the Framework Agreement, without prejudice to the application of the other provisions of this Agreement.

## ARTICLE 22

### Mutual recognition of diplomas

Article 16 of the Framework Agreement applies to the matters covered by this Chapter.

## ARTICLE 23

### Specific provisions

The freedom of establishment in the field of transport shall be governed by Chapter 6.

## CHAPTER 4

### FREEDOM TO PROVIDE SERVICES

#### ARTICLE 24

##### Freedom to provide services

1. Freedom to provide services between the Associated Parties shall be ensured in conformity with this Agreement.
2. Any restriction on the freedom to provide services between the Associated Parties shall be prohibited in respect of nationals of the Associated State concerned or of an EU Member State established in a State other than that of the recipient of the service.
3. Services shall be considered to be "services" where they are normally provided for remuneration, in so far as they are not governed by the provisions relating to freedom of movement for goods, capital and persons.
4. "Services" shall in particular include activities of:
  - (a) an industrial character;
  - (b) a commercial character;
  - (c) craftsmen;

- (d) the professions.

Without prejudice to the provisions of the Chapter 3, the person providing a service may, in order to do so, temporarily pursue his activity in the State where the service is provided, under the same conditions as are imposed by that State on its own nationals.

- 5. Annexes IX to XI to each Associated State Protocol and Framework Protocol 3 contain specific provisions on the freedom to provide services.

## ARTICLE 25

### Non-discrimination

As long as restrictions on freedom to provide services have not been abolished between the Associated Parties, the Parties shall apply such restrictions without distinction on grounds of nationality or of residence to all persons providing services within the meaning of Article 24(2) of the Framework Agreement.

## ARTICLE 26

### Specific provisions

- 1. Freedom to provide services in the field of transport shall be governed by Chapter 6.
- 2. Articles 16, 18, 19 and 20 of the Framework Agreement apply to the matters governed by this Chapter.

## CHAPTER 5

### FREE MOVEMENT OF CAPITAL

#### ARTICLE 27

##### Capital movements

1. Within the framework of the provisions of this Agreement, restrictions on the movement of capital between the Associated Parties shall be prohibited.
2. Within the framework of the provisions of this Agreement, restrictions on payments between the Associated Parties shall be prohibited.
3. Annex XII to each Associated State Protocol contains specific provisions on the free movement of capital and payments.

#### ARTICLE 28

##### Measures compatible with the free movement of capital

1. Article 27 shall be without prejudice to the right of the EU Member States and Associated States:
  - (a) to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to their place of residence or with regard to the place where their capital is invested;

- (b) to take all requisite measures to prevent infringements of national law and regulations, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information, or to take measures which are justified on grounds of public policy or public security.
- 2. The provisions of this Chapter shall be without prejudice to the applicability of restrictions on the right of establishment which are compatible with this Agreement.
- 3. The measures and procedures referred to in paragraphs 1 and 2 shall not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments.

## ARTICLE 29

### Restrictions in case of balance of payments difficulties

Where a Member State of the EU whose currency is not the euro or an Associated State is in difficulties, or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardise the functioning of this Agreement, the Member State of the EU or the Associated State concerned may take protective measures.



## ARTICLE 30

### Safeguard measures with regard to capital movements or payments

In exceptional circumstances, serious difficulties, or threat thereof, for the operation of the economic and monetary union of the EU, the EU may adopt or maintain safeguard measures with regard to capital movements or payments for a period not exceeding six months, as long as such measures are strictly necessary.

## ARTICLE 31

### Implementation of protective measures

The EU, of the one part, and each Associated State, of the other, shall use their internal procedures for the implementation of the provisions of Article 29 of the Framework Agreement.

## ARTICLE 32

### Role of the Joint Committee in case of protective measures

1. All measures provided for in Article 29 of the Framework Agreement shall be notified immediately to the Joint Committee set up by Article 76 of the Framework Agreement.
2. All measures provided for in Article 29 of the Framework Agreement shall be the subject of consultations and an exchange of information within the Joint Committee in advance of and after their notification.

3. In the situations referred to in Article 29 of the Framework Agreement, where a sudden crisis in the balance of payments occurs and the procedures set out in paragraph 2 of this Article cannot be followed, the Member State of the EU or Associated State concerned may, as a precaution, take the necessary protective measures. Such measures shall cause the least possible disturbance in the functioning of this Agreement and shall not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.
  
4. When measures are taken as referred to in paragraph 3 of this Article, notice thereof shall be given at the latest by the day of their entry into force, and the exchange of information and consultations referred to in paragraph 2 of this Article shall then take place as soon as possible thereafter.

## CHAPTER 6

### TRANSPORT

#### ARTICLE 33

##### Scope of Chapter 6

1. This Agreement covers combined, road, rail, inland waterway and maritime transport, including services related to those modes of transport.
2. The transport objectives of this Agreement shall be pursued in accordance with Articles 34 to 37 of the Framework Agreement and the provisions of Annex XIII to each Associated State Protocol.

#### ARTICLE 34

##### Non-discriminatory application of domestic rules

The provisions of an Associated Party relative to combined, rail, road, inland waterway and maritime transport not covered by Annex XIII to each Associated State Protocol shall be no less favourable in their direct or indirect effect on carriers of the other Associated Party as compared with domestic carriers of that Associated Party.

## ARTICLE 35

### State aid in the transport sector

Aid to transport services shall be compatible with this Agreement if it meets the needs of coordination of transport or if it represents reimbursement for the discharge of certain obligations inherent in the concept of a public service.

## ARTICLE 36

### Prohibition of discriminatory rates or conditions

1. In the case of transport within the territory of the Associated Parties, there shall be no discrimination which takes the form of carriers charging different rates and imposing different conditions for the carriage of the same goods over the same transport links on grounds of the country of origin or the destination of the goods in question.
2. The Joint Committee shall examine, on its own initiative or at the request of an Associated Party, any cases of discrimination falling within the scope of this Article and take the necessary decisions within the framework of its own internal rules.

## ARTICLE 37

### Charges for crossing the frontiers

Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to transport rates shall not exceed a reasonable level after taking the costs actually incurred thereby into account. The Associated Parties shall endeavour to reduce those costs progressively.

## PART III

### COMPETITION AND OTHER COMMON RULES

#### CHAPTER 1

#### RULES APPLICABLE TO UNDERTAKINGS

#### ARTICLE 38

##### Agreements, decisions and concerted practices

1. The following shall be prohibited as incompatible with the functioning of this Agreement: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between the Associated Parties and which have as their object or effect the prevention, restriction or distortion of competition within the territory of the Associated Parties, and in particular those which:
  - (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
  - (b) limit or control production, markets, technical development or investment;
  - (c) divide up markets or sources of supply;

- (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.

3. Paragraph 1 may, however, be declared inapplicable in the case of:

- any agreement or category of agreements between undertakings;
- - any decision or category of decisions by associations of undertakings; or
- - any concerted practice or category of concerted practices;

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

## ARTICLE 39

### Abuse of a dominant position

Any abuse by one or more undertakings of a dominant position within the territory of the Associated Parties or in a substantial part thereof shall be prohibited as incompatible with the functioning of this Agreement in so far as it may affect trade between the Associated Parties.

Such abuse may, in particular, consist in:

- (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- (b) limiting production, markets or technical development to the prejudice of consumers;
- (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.



## ARTICLE 40

### Competence of the European Commission

Where trade between EU Member States is likely to be affected, the European Commission alone is competent to apply the provisions of this Chapter.

## ARTICLE 41

### Assessment criteria for prohibited practices

Any practice prohibited by Articles 38 and 39 of this Framework Agreement must be assessed in accordance with the criteria resulting from the application of Articles 101 and 102 of the TFEU, as well as any secondary legislation in force in the EU. These provisions are set out in Annex XIV to each Associated State Protocol.

## ARTICLE 42

### Public undertakings and undertakings with special or exclusive rights or entrusted with the operation of services of general economic interest

1. In the case of public undertakings and undertakings to which either EU Member States or Associated States grant special or exclusive rights, the latter shall neither enact nor maintain in force any measure contrary to the rules contained in this Agreement, in particular to those rules provided for in this Chapter.

2. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to this Agreement, in particular its rules on competition, in so far as the application of those rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Associated Parties.

## ARTICLE 43

### Production of and trade in agricultural products

This Chapter shall apply to the production of and trade in agricultural products within the limits laid down by acts adopted pursuant to Article 42 TFEU for the application of Articles 101 and 102 of that Treaty to the production of and trade in agricultural products.

## CHAPTER 2

### STATE AID

#### ARTICLE 44

##### General principles

1. Save as otherwise provided in this Agreement, any aid granted by the Associated States or EU Member States or through State resources in any form whatsoever, which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between the Associated Parties, be incompatible with the functioning of this Agreement.
2. The following shall be considered to be compatible with this Agreement:
  - (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;
  - (b) aid to make good the damage caused by natural disasters or exceptional occurrences.
3. The following may be considered to be compatible with the functioning of this Agreement:
  - (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;

- (b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State of the EU or an Associated State;
- (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions between the Associated Parties to an extent contrary to the interests of any of them;
- (d) aid to promote culture and the conservation of heritage, including the preservation of natural or cultural values, where such aid does not adversely affect trading conditions between the Associated Parties to an extent contrary to the interests of any of them.

## ARTICLE 45

### Transparency

The Associated Parties shall ensure transparency with regard to State aid within the scope of this Agreement. To that end, each Associated Party shall ensure the publication of the following information on each individual aid award exceeding the amount established in the EU acquis:

- (a) the full text of the individual aid schemes or decisions granting aid and the implementing rules;
- (b) the identity of the granting authority;
- (c) the identity of the individual beneficiaries;

- (d) the form and amount of aid granted to each beneficiary,
- (e) the date of granting, the type of undertaking;
- (f) the region in which the beneficiary is located; and
- (g) the main economic sector of activity of the beneficiary.

The European Commission may specify the details of those publication obligations.

## ARTICLE 46

### Review of State aid by the Commission

1. The European Commission shall be informed, in sufficient time to enable it to submit its comments, of any plans by the Associated States to grant or alter aid. If it considers that a project is not compatible with the internal market, it shall initiate the procedure provided for in paragraph 3 without delay. The Associated State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision.

2. The European Commission shall, in cooperation with the Associated States, keep any systems of aid existing in those States under constant review. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the internal market. Within one year of the entry into force of this Agreement, the Associated States shall carry out a comprehensive inventory of aid schemes established before the entry into force of this Agreement and adapt such aid schemes to the criteria referred to in Article 44 of the Framework Agreement within two years from the entry into force of this Agreement.
3. If, after giving notice to the parties concerned to submit their comments, the European Commission finds that aid granted by an Associated State or through State resources is not compatible with the internal market or that such aid is being misused, it shall decide that the Associated State shall abolish or alter such aid within a period of time to be determined by the Commission.
4. If the Associated State does not comply with that decision within the time limit set, the Commission may refer the matter directly to the Court of Justice of the EU.

## ARTICLE 47

### Interpretation and application of State aid rules

1. By derogation from Article 81, the Associated Parties undertake to apply and interpret Articles 44, 45 and 46 of the Framework Agreement in accordance with the criteria on the application of the rules laid down in Articles 106, 107, 108 and 93 TFEU, as well as any secondary legislation in force in the EU.

2. The provisions referred to in paragraph 1 are set out in Annex XV to each Associated State Protocol.
3. Without prejudice to paragraph 1, the Joint Committee may adopt decisions to amend Annex XV to each Associated State Protocol.

## ARTICLE 48

### Production of and trade in agricultural products

State aid rules do not apply to the production of and trade in agricultural products as listed in Annex I to the TFEU.

## CHAPTER 3

### OTHER COMMON RULES

#### ARTICLE 49

##### Procurement and intellectual, industrial and commercial property rights

1. Annex XVI to each Associated State Protocol contains specific provisions and arrangements applicable to procurement. Unless otherwise provided, those provisions and arrangements shall apply to all the goods and services mentioned in that Annex.
2. Annex XVII to each Associated State Protocol contains specific provisions and arrangements applicable to intellectual, industrial and commercial property. Unless otherwise provided, those provisions and arrangements apply to all goods and services.



## PART IV

### HORIZONTAL PROVISIONS RELATING TO THE FOUR FREEDOMS

#### CHAPTER 1

#### SOCIAL POLICY

#### ARTICLE 50

##### Improvement of working conditions

The Associated Parties agree upon the need to promote improved working conditions and an improved standard of living for workers.

#### ARTICLE 51

##### Health and safety of workers

1. The Associated Parties shall pay particular attention to encouraging improvements, especially in the working environment, as regards the health and safety of workers. In order to help achieve that objective, minimum requirements shall be applied for gradual implementation, having regard to the conditions and technical rules applicable in the Associated Parties. Those minimum requirements shall not prevent any Associated Party from maintaining or introducing more stringent measures for the protection of working conditions compatible with this Agreement.

2. The provisions containing the minimum requirements referred to in paragraph 1 are specified in Annex XVIII to each Associated State Protocol.

## ARTICLE 52

### Labour law

In the field of labour law, the Associated Parties shall introduce the measures necessary to ensure the good functioning of this Agreement. These measures are specified in Annex XVIII to each Associated State Protocol.

## ARTICLE 53

### Equal pay for equal work for men and women

1. Each Associated Party shall ensure and maintain the application of the principle that men and women should receive equal pay for equal work.

For the purposes of this Article, "pay" means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which workers receive, directly or indirectly, in respect of their employment from their employer.

Equal pay without discrimination based on sex means:

- (a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;
- (b) that pay for work at time rates shall be the same for the same job.

2. Annex XVIII to each Associated State Protocol contains specific provisions for the implementation of paragraph 1.

#### ARTICLE 54

##### Equal treatment of men and women

The Associated Parties shall promote respect for the principle of equal treatment of men and women by implementing the provisions specified in Annex XVIII to each Associated State Protocol.

#### ARTICLE 55

##### Social dialogue

The Associated Parties shall endeavour to promote dialogue between management and labour, including at European level.

CHAPTER 2

CONSUMER PROTECTION

ARTICLE 56

Consumer protection

Annex XIX to each Associated State Protocol contains provisions on consumer protection.

## CHAPTER 3

### ENVIRONMENT AND CLIMATE

#### ARTICLE 57

##### Objectives relating to the environment and climate

1. Action by the Associated Parties relating to the environment and climate shall have the following objectives:
  - (a) to preserve, protect and improve the quality of the environment;
  - (b) to contribute towards protecting human health;
  - (c) to ensure a prudent and rational utilization of natural resources; and
  - (d) to promote measures to combat climate change.
  
2. Action by the Associated Parties relating to the environment and climate shall be based on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at its source, and that the polluter should pay. Environmental protection requirements and climate action shall be a component of the Associated Parties' other policies.

## ARTICLE 58

### Protective measures

Annex XX to each Associated State Protocol contains the specific provisions on protective measures which shall apply pursuant to Article 57 of the Framework Agreement.

## ARTICLE 59

### More stringent national measures

The protective measures referred to in Article 58 of the Framework Agreement shall not prevent any Associated Party from maintaining or introducing more stringent protective measures compatible with this Agreement.

## CHAPTER 4

### STATISTICS

#### ARTICLE 60

##### Cooperation in the field of statistics

1. The Associated Parties shall ensure the production and dissemination of coherent and comparable statistical information for describing and monitoring all relevant economic, social and environmental aspects of the Associated States.
2. To this end the Associated Parties shall develop and use harmonized methods, definitions and classifications as well as common programmes and procedures organising statistical work at appropriate administrative levels and duly observing the need for statistical confidentiality.
3. Annex XXI to each Associated State Protocol contains specific provisions on statistics.
4. Framework Protocol 5 contains specific provisions on the organisation of the cooperation in the field of statistics.

CHAPTER 5

COMPANY LAW

ARTICLE 61

Company law

Annex XXII to each Associated State Protocol contains specific provisions on company law.



## PART V

### COOPERATION

#### ARTICLE 62

##### Anti-fraud cooperation

1. The Associated Parties undertake to fight effectively against fraud, corruption, smuggling and any other illegal activity affecting the financial interests of the EU.

To that end, the competent authorities of the Associated States, on the one hand, and the European Commission and the European Anti-Fraud Office (OLAF), on the other, shall cooperate closely, consult each other regularly and assist each other within their respective mandates. The competent authorities of the Associated States and OLAF may enter into administrative arrangements for their cooperation.

Those arrangements shall be entered into before an Associated State may receive EU funds in connection with its participation in programmes financed by the EU.

The Associated States shall cooperate with the EU in the fight against fraud and shall commit to gradually bringing their policies and legislation in line with EU anti-fraud provisions without, however, being required to harmonise them. Those provisions are listed in the Associated State Protocols.

2. The Associated Parties may exchange evidence, analyses or other types of information, including personal data, for the purpose of preventing, detecting, investigating, prosecuting and punishing, administratively and criminally, fraud, corruption, smuggling and any other illegal activity affecting their respective financial interests.

The information and evidence transmitted or obtained pursuant to this Article, whatever its form, shall be subject to professional confidentiality and shall enjoy the protection enjoyed by comparable information, including of personal data, conferred by the domestic law of the Associated Party receiving it and by the corresponding provisions applicable to the institutions of the EU.

In particular, such information and evidence shall not be communicated to persons other than those, in the institutions of the EU or the authorities of the Associated States, whose functions require them to know it, nor may it be used for purposes other than those that fall within the scope of this Article.

3. OLAF may carry out on-the-spot checks and inspections on economic operators on the territory of the Associated State concerned where that Associated State is in receipt of EU funds under programmes financed by the EU, where OLAF has been entrusted by the European Commission with budget implementation tasks under those programmes or where fraudulent activities in the Associated State are to the detriment of EU customs duties or other own resources identified by a Decision of the Joint Committee. The competent authorities of the Associated State concerned shall assist OLAF in this respect within the framework of the close cooperation referred to in paragraph 1.

Within the limits of its powers and on the basis of a duly substantiated request to the competent authorities of an Associated State, OLAF may carry out on-the-spot checks and inspections on economic operators on the territory of that Associated State in cases other than those provided for in the first point of this paragraph, provided that the competent authority does not object to that request.

## ARTICLE 63

### Cooperation on other matters

1. The Associated Parties recognise and undertake to implement the principles of good governance in tax matters, including existing international standards on transparency and exchange of information, fair taxation and minimum standards against base erosion and profit shifting. The Associated Parties shall promote good governance in tax matters, improve international cooperation in the field of taxation and facilitate the protection of tax revenues.
2. The Associated Parties undertake to amend, within a period of four years from the entry into force of this Agreement, the Associated State Protocol to include provisions on mutual assistance for the recovery of all tax claims.

## PART VI

### COOPERATION OUTSIDE THE FOUR FREEDOMS

#### ARTICLE 64

##### Fields of cooperation

The Associated Parties may strengthen or broaden their cooperation in the framework of the EU's activities in the fields of:

- research and technological development;
- information services;
- environment;
- climate action;
- education, training and youth;
- social policy;
- consumer protection;
- small and medium-sized enterprises;

- tourism;
- audiovisual policy;
- civil protection;
- judicial cooperation in civil matters;
- culture;
- communication;
- trans-European networks;
- regional policy; and
- public health;

in so far as those matters are not regulated under the provisions of other Parts of this Agreement.

## ARTICLE 65

### Dialogue and consultation

1. The Associated Parties may strengthen their dialogue by all appropriate means, in particular through the procedures provided for in Part VII, with a view to identifying areas and activities where closer cooperation could contribute to the attainment of their common objectives in the fields referred to in Article 64 of the Framework Agreement.
2. In particular, the Associated Parties may exchange information and, at the request of one of them, hold consultations within the Joint Committee in respect of plans or proposals for the establishment or amendment of framework programmes, specific programmes, actions and projects in the fields referred to in Article 64 of the Framework Agreement.
3. Part VII shall apply *mutatis mutandis* with regard to this Part whenever the latter or the Associated State Protocols specifically provide thereof.

## ARTICLE 66

### Forms of cooperation

The cooperation provided for to in Article 64 of the Framework Agreement may take one of the following forms:

- (a) the participation of Associated States in EU framework programmes, specific programmes, projects or other actions;

- (b) the establishment of joint activities in specific areas, which may include concertation or coordination of activities, merging of existing activities and the establishment of ad hoc joint activities;
- (c) the formal and informal exchange or provision of information;
- (d) common efforts to encourage certain activities throughout the territory of the Associated Parties;
- (e) parallel legislation, where appropriate, of identical or similar content;
- (f) coordination, where this is of mutual interest, of efforts and activities via, or in the context of, international organisations, and of cooperation with third countries.

## ARTICLE 67

### Participation by Association States in EU programmes

Where cooperation takes the form of participation by Associated States in an EU framework programme, specific programme, project or other action, the following principles shall apply:

- (a) the Associated States shall have access to all or some parts of the programme;
- (b) the status of the Associated States in the committees which assist the Commission in the management or development of an EU activity to which Associated States may be contributing financially by virtue of their participation shall fully reflect that contribution;

- (c) EU decisions, other than those relating to the EU general budget, which directly or indirectly affect a framework programme, specific programme, project or other action in which the Associated States participate by a decision under this Agreement, shall be subject to the provisions of Article 65(3) of the Framework Agreement; the terms and conditions of continued participation in the activity in question may be reviewed by the Joint Committee in accordance with Article 72 of the Framework Agreement;
- (d) at the project level, institutions, undertakings, organisations and nationals of the Associated States shall have the same rights and obligations in the EU programme or other action in question as those applicable to partner institutions, undertakings, organisations and nationals of EU Member States; the same shall apply *mutatis mutandis* to participants in exchanges between EU Member States and the Associated States under the activity in question;
- (e) Associated States, their institutions, undertakings, organisations and nationals shall have the same rights and obligations with regard to the dissemination, evaluation and exploitation of results as those applicable to EU Member States, their institutions, undertakings, organisations and nationals;
- (f) Associated Parties undertake, in accordance with their respective rules and regulations, to facilitate the movement of participants in programmes or other actions to the extent necessary.



## ARTICLE 68

### Financial participation by Associated States

1. When the cooperation envisaged under this Part involves a financial participation by an Associated State, that participation shall take one of the following forms:
  - (a) The contribution of Associated States, arising from their participation in EU activities, shall be calculated proportionally:
    - to the commitment appropriations, and
    - the payment appropriations,

entered each year for the EU in its general budget for each budgetary line corresponding to the activities in question.

The proportionality factor determining the contribution of Associated States shall be the sum of the ratios between, on the one hand, the gross domestic product at market prices of each Associated State and, on the other hand, the sum of the gross domestic products at market prices of the EU Member States and of the Associated State concerned. That factor shall be calculated, for each budgetary year, on the basis of the most recent statistical data.

The amount of the contribution of the Associated States shall be additional, both in commitment appropriations and in payment appropriations, to the amounts entered for the EU in the general budget on each line corresponding to the activities concerned.

The contributions to be paid each year by Associated States shall be determined on the basis of the payment appropriations.

Commitments entered into by the EU prior to the participation, on the basis of this Agreement, of Associated States in the activities in question – as well as the payments which result from this – shall give rise to no contribution on the part of the Associated States.

- (b) The financial contribution of the Associated States deriving from their participation in certain projects or other activities shall be based on the principle that each Associated State shall cover its own costs and make an appropriate contribution, which shall be fixed by the Joint Committee, to the European Union's overhead costs.
- (c) The relevant Joint Committee shall take the necessary decisions concerning the contribution of Associated States to the costs of the activity in question.

2. The detailed provisions for the implementation of this Article shall be set out in the Protocol provided for in Article 72 of the Framework Agreement.

## ARTICLE 69

### Exchange of information between public authorities

Where cooperation takes the form of an exchange of information between public authorities, Associated States shall have the same rights to receive, and obligations to provide, information as EU Member States, subject to the requirements of confidentiality, which shall be fixed by the Joint Committee.

## ARTICLE 70

### Cooperation in specific fields

The cooperation arrangements are set out in the Associated State Protocols.

## ARTICLE 71

### Pre-existing cooperation

Unless otherwise provided for in an Associated State Protocol, cooperation already established between the Associated Parties in the fields set out in Article 64 of the Framework Agreement on the date of entry into force of this Agreement shall thereafter be governed by the relevant provisions of this Part and that Associated State Protocol.

## ARTICLE 72

### Role of the Joint Committees

The Joint Committees shall, in accordance with Part VI, take all decisions necessary for the implementation of Articles 64 to 71 of the Framework Agreement and measures derived therefrom, which may include, *inter alia*, drawing up, supplementing or amending the provisions of the Associated State Protocol on modalities for the implementation of Article 68 of the Framework Agreement, as well as adopting any transitional arrangements required by way of implementation of Article 71 of the Framework Agreement.

## ARTICLE 73

### New fields of cooperation

The Associated Parties shall take the necessary steps to develop, strengthen or broaden cooperation within the framework of EU activities in fields not listed in Article 64 of the Framework Agreement, where such cooperation is considered likely to contribute to the attainment of the objectives of this Agreement or otherwise deemed to be of mutual interest. Such steps may include the amendment of Article 64 of the Framework Agreement by the addition of new fields to those listed therein.

## ARTICLE 74

### National measures

Without prejudice to the provisions of other Parts of this Agreement, the provisions of this Part shall not preclude the possibility for any Associated Party to prepare, adopt and implement measures independently.

## PART VII

### INSTITUTIONAL PROVISIONS

#### CHAPTER 1

#### THE INSTITUTIONS OF THE ASSOCIATION

#### ARTICLE 75

##### Association Committee

1. An Association Committee is hereby established which shall consist of representatives of the Contracting Parties. The Association Committee shall be empowered to examine any general issue covered by this Agreement that may arise between the EU and the Associated States.
2. The Association Committee shall be chaired alternately by the Contracting Parties.
3. The Association Committee shall adopt its rules of procedure by mutual agreement between the Contracting Parties.
4. In order to fulfil its functions, the Association Committee shall meet at a frequency specified in its rules of procedure, at least once every two years. It shall also meet on the initiative of one of the Contracting Parties, in accordance with its rules of procedure.

## ARTICLE 76

### Joint Committees

1. Two Joint Committees are hereby established which shall respectively consist of
  - (a) representatives of the EU and Andorra as Associated Parties ("EU-Andorra Joint Committee"); and
  - (b) representatives of the EU and San Marino as Associated Parties ("EU-San Marino Joint Committee").

For the purposes of this Framework Agreement, any reference to a Joint Committee shall be read as referring to any of these Joint Committees.

2. The Joint Committees shall ensure the effective implementation and proper functioning of the provisions of this Agreement.
3. Within the respective Joint Committees, the Associated Parties shall exchange views and information on issues covered by this Agreement. In particular, consultations within the respective Joint Committees shall address any issue covered by this Agreement which poses difficulties of application or interpretation and is raised by one of the Associated Parties.
4. To achieve the objectives of this Agreement and implement cooperation in areas of common interest while ensuring the effective functioning of the internal market of the EU as extended to the Associated States according to the provisions and on the terms of this Agreement, including in particular the Associated State Protocols, the respective Joint Committees shall take any decisions as provided for in this Agreement.

5. The respective Joint Committees shall, by decision, adopt their respective rules of procedure, which must be the same in substance.
6. The respective Joint Committees shall be chaired alternately by the Associated Parties. The secretariat of the Joint Committees shall be provided by the EU.
7. To carry out their tasks, the respective Joint Committees shall meet regularly, and at least once a year, at intervals to be specified in the rules of procedure. They shall also meet on the initiative of their Chair or at the request of an Associated Party. In the latter case, the concerned Joint Committee shall meet no later than two months after such a request.
8. The respective Joint Committees may decide to establish subcommittees or working groups to assist them in carrying out their tasks. The respective Joint Committees shall, in their rules of procedure, specify the methodology, composition and mode of operations of such subcommittees and working groups. Their tasks shall be determined by the Joint Committees in each individual case.

## ARTICLE 77

### Decision-making by Joint Committees

1. A Joint Committee shall take its decisions by mutual agreement among the Associated Parties. At the request of one of the Associated Parties, the relevant Joint Committee shall hold an exchange of views.

2. Amendments to an Associated State Protocol shall be adopted by decision of the relevant Joint Committee, unless otherwise provided for in the respective Associated State Protocol.
3. Annexes to an Associated State Protocol shall be amended by decision of the relevant Joint Committee in accordance with Article 81 of the Framework Agreement.
4. Wherever feasible and appropriate, the two Joint Committees set up by Article 76 of the Framework Agreement shall take their decisions to amend the Annexes referred to in paragraph 2 of this Article in parallel and on the basis of coordinated proposals. The decisions taken by a Joint Committee shall be also transmitted to the Associated State which is not a member of that Joint Committee.
5. A Joint Committee may take its decisions by written procedure, except where an Associated Party requests that a decision be taken during a meeting of the Joint Committee.
6. Decisions taken by a Joint Committee are binding on the Associated Parties, which shall take the necessary steps to ensure those decisions enter into force in their legal order and are applied effectively.



## ARTICLE 78

### Parliamentary cooperation

1. A Parliamentary Association Committee is hereby established. It shall be a forum for members of the European Parliament and members of the parliaments of the Associated States to meet and exchange views and shall contribute, through dialogue and debate, to a better understanding between the Associated Parties in the fields covered by this Agreement.
2. The Parliamentary Association Committee shall be composed of, on the one hand, members of the European Parliament and, on the other, members of the parliaments of the Associated States. The total number of members of the Parliamentary Association Committee is laid down by the Statute contained in Framework Protocol 7.
3. The Parliamentary Association Committee shall meet alternately in the European Union and in one of the Associated States at intervals which it shall determine itself, in accordance with the provisions laid down in Framework Protocol 7.
4. The Parliamentary Association Committee shall adopt its rules of procedure in accordance with the provisions laid down in Framework Protocol 7.
5. The Parliamentary Association Committee shall be chaired alternately by a representative of the European Parliament and by a representative of one of the parliaments of the Associated States, in accordance with the provisions laid down in Framework Protocol 7 and in its rules of procedure.

## ARTICLE 79

### Cooperation between economic and social partners

1. A Consultative Association Committee of economic and social partners is hereby established. It shall be dedicated to promoting dialogue and cooperation among the various economic and social civil society organisations of the Associated Parties. That dialogue and cooperation shall cover all economic and social aspects of the relations established by this Agreement.
2. The Consultative Association Committee of economic and social partners shall be composed of, on the one hand, members of the European Economic and Social Committee (EESC) and, on the other, economic and social partners designated by the Associated States.
3. The Consultative Association Committee of economic and social partners shall adopt its rules of procedure.
4. The Consultative Association Committee of economic and social partners shall be chaired alternately by a representative of the EESC and by representatives of the economic and social partners designated by the Associated States, according to the provisions laid down in its rules of procedure.

## CHAPTER 2

### CONSULTATION IN CONNECTION WITH THE EUROPEAN UNION'S DECISION-MAKING PROCEDURE

#### ARTICLE 80

##### Drawing up of an EU legal act

1. As soon as an EU legal act is being drawn up by the European Commission in a field covered by this Agreement, the European Commission shall inform the Associated States thereof and informally consult their experts in the same way and within the same timeframe as it consults the experts of the EU Member States when drawing up its proposals.
2. When tabling its proposal to the Council of the European Union and the European Parliament, the European Commission shall transmit copies thereof to the Associated States.
3. At the request of one of the Associated Parties, a preliminary exchange of views shall take place in the Joint Committee or by any other appropriate method, which may be formal or informal. At the request of one of them, the Associated Parties shall consult each other again at important points prior to adoption of the act in question. The Associated States shall, where appropriate, inform the European Commission of their reactions and may indicate their respective specific situations.

4. When the European Commission draws up delegated acts within the meaning of Article 290 TFEU under one of the legislative acts covered by one or several protocols to this Agreement, the European Commission shall involve the Associated States as fully as possible in the drafting of its proposals.
5. When the European Commission draws up implementing acts within the meaning of Article 291 TFEU under one of the legislative acts covered by one or several protocols to this Agreement, it shall involve the Associated States as fully as possible in the drafting of its proposals to be submitted subsequently to the committees which assist the European Commission in the exercise of its executive powers. When drawing up its proposals, the European Commission shall consult the experts of the Associated States in the same way and within the same timeframe as it consults the experts of the EU Member States.
6. In the cases where the Council of the EU is seized in accordance with the procedure applicable to the type of committee involved, the European Commission shall transmit to the Council of the EU the views of the experts of the Associated States.
7. Experts of the Associated States shall be associated with the work of the committees that are not covered by paragraphs 4 and 5 when that is required to ensure the proper functioning of this Agreement. The lists of those committees and, where applicable, other committees with similar characteristics, shall be included in the Associated State Protocols. The modalities of such an association are set out in the Associated State Protocols and Annexes on those respective matters.

## CHAPTER 3

### HOMOGENEITY

#### ARTICLE 81

##### Amendment of the Annexes

1. To ensure compliance with the principles of Article 4, the Associated Parties shall cooperate closely to enable efficient and quick decision-making by the Joint Committees and ensure that EU legal acts adopted in the fields covered by this Agreement are incorporated into the relevant Annexes as soon as possible after their adoption and transmission to the Associated States.
2. The Joint Committees shall take the decisions to amend the Annexes with a view to ensuring, to the extent possible, the simultaneous application of those legal acts in the EU and the national legislation implementing them in the Associated States. In the case of any difficulties, the consultations between the Associated Parties shall be enhanced formally or informally with a view to finding a mutually acceptable solution, including the possibility to take notice of the equivalence of national legislation. The Associated State concerned shall transmit in writing all useful information to the EU to enable an in-depth assessment of the situation.

3. The decisions of Joint Committees pursuant to paragraph 2 of this Article must be taken at the latest at the expiry of a period of six months from the date of referral to the relevant Joint Committee. If, at the expiry of that period, an Associated State still has not consented to the incorporation of an EU legal act into the relevant Annex in accordance with paragraph 1 of this Article, the dispute settlement procedure provided for in Article 90 of the Framework Agreement shall apply. The matter is deemed to have been referred to the relevant Joint Committee pursuant to paragraph 1 of Article 90 of the Framework Agreement by the end of that period.
4. Where a decision of a Joint Committee amends an Annex which, pursuant to that amendment, makes reference to EU legal acts, and where that amendment requires the enactment of implementing measures in the Associated State concerned, those measures shall be enacted within a time period equal to the one laid down for the implementation of those EU legal acts by EU Member States, unless decided otherwise by the Joint Committee. That period shall begin on the day of entry into force of the decision by the Joint Committee.

## ARTICLE 82

### Constitutional requirements of the Associated States

1. Where a decision taken by a Joint Committee can only be implemented in an Associated State after the fulfilment of certain constitutional requirements, that decision shall enter into force in the legal order of that State after those requirements have been fulfilled. The date of entry into force shall be notified to the EU.

2. If, upon the expiry of a period of 6 months after the decision of the Joint Committee such a notification has not taken place, the decision of the Joint Committee shall apply provisionally pending the fulfilment of the constitutional requirements provided for in the previous paragraph unless the Associated State notifies the EU that such a provisional application cannot take place and why.
3. If, upon the expiry of a period of twelve months after the decision by the Joint Committee, that decision has not been implemented in the Associated State, Article 90 of the Framework Agreement shall apply.

## ARTICLE 83

### Automatic procedure

1. By way of derogation from Article 81 of the Framework Agreement, where Annex I to an Associated State Protocol makes reference to an EU legal act, that reference shall be read as referring to that legal act as updated, without the need for incorporating the new legal acts into Annex I.
2. For the purposes of paragraph 1, "update of a legal act" shall mean:
  - (a) the full replacement of an EU basic act by a new basic act;
  - (b) the adoption of delegated acts by the European Commission to supplement or amend certain non-essential elements of the basic act;
  - (c) successive amendments of delegated acts referred to in point (b) of this paragraph;

- (d) the adoption of implementing acts by the European Commission necessary to implement the basic act;
  - (e) successive amendments of implementing acts referred to in point (d) of this paragraph.
3. Every year, for transparency purposes, Joint Committees shall take note of the legal acts that are subject to the automatic procedure.

## ARTICLE 84

### Simplified procedure

1. By way of derogation from Article 81 of the Framework Agreement, and without prejudice to Article 83 of the Framework Agreement, the Associated States shall take measures simultaneously with the EU Member States corresponding to those taken by the EU Member States pursuant to the relevant EU legal acts adopted in the following fields, without the need for incorporating those new legal acts into Annex I to an Associated State Protocol:
- (a) control measures for animal diseases;
  - (b) food and feed from third countries that are subject to restrictions;
  - (c) non-commercial movements of pet animals;
  - (d) imports from third countries;
  - (e) release into the environment.



2. Without prejudice to the procedure laid down in Article 77 of the Framework Agreement, the list in paragraph 1 of this Article may be modified by decision of the Joint Committee.
3. Every year, for transparency purposes, Joint Committees shall take note of the EU legal acts that are subject to a simplified procedure.

## ARTICLE 85

### Uniform interpretation

1. This Agreement and the EU legal acts referred to herein shall be interpreted and applied in a uniform manner.
2. To the extent that their application involves concepts of EU law, the provisions of this Agreement and the EU legal acts referred to herein shall be interpreted and applied in accordance with the case-law of the CJEU, whether rendered prior or subsequent to the signature of this Agreement.
3. The Joint Committees shall review developments in the case-law of the CJEU in order to identify any discrepancy between the domestic legal order of an Associated State and a CJEU judgment and examine how to bring it to an end.

4. Where an Associated State, having been notified by the European Commission of the existence of a discrepancy between its domestic legal order and a CJEU judgment, has failed to take the necessary measures to bring it to an end within a period of six months, the procedure provided for in Article 90 of the Framework Agreement shall apply. The matter is deemed to have been referred to the relevant Joint Committee pursuant to paragraph 1 of Article 90 of the Framework Agreement by the end of that period.

## CHAPTER 4

### THE SURVEILLANCE PROCEDURE

#### ARTICLE 86

##### General surveillance

1. With a view to ensuring a uniform surveillance of the application of this Agreement, the European Commission and the national authorities of the Associated States shall cooperate, exchange information and consult each other on surveillance policy issues and individual cases.
2. Surveillance of the application of this Agreement shall be carried out jointly by the Associated Parties within the relevant Joint Committee. Where the European Commission or the national authorities of an Associated State identify an instance of non-application or incorrect application, they shall refer it to the Joint Committee with a view to finding an acceptable solution. In the absence of a solution, the procedure provided for in Article 90 of the Framework Agreement shall apply.
3. The competent authorities of the Associated Parties may receive and examine complaints concerning the application of this Agreement. On receiving such complaints, they shall inform the other Associated Party.

## ARTICLE 87

### Surveillance in specific sectors

1. Where EU legal acts listed in the Annexes confer on the European Commission powers, including decision-making or executive powers, vis-à-vis the competent authorities of the EU Member States, economic operators or individuals, the European Commission shall have the same powers, *mutatis mutandis*, vis-à-vis the Associated States and their natural and legal persons. Specific provisions may be laid down in the Protocols.
2. In order to carry out its tasks in accordance with paragraph 1, the European Commission may request from the competent authorities of the Associated States and from the natural and legal persons concerned any information deemed necessary.

## ARTICLE 88

### Cooperation with the competent authorities of EU Member States and EU institutions

An Associated State may rely on the cooperation of one or several EU Member States or EU institutions to fulfil its obligations in terms of implementation and effective application of this Agreement. In such cases, the Associated State shall make arrangements laying down the details of such cooperation and inform the European Commission thereof within the relevant Joint Committee. Those arrangements shall not in any way affect the powers of the European Commission.

## CHAPTER 5

### DISPUTE SETTLEMENT AND JUDICIAL REVIEW

#### ARTICLE 89

##### Exclusivity principle

The Associated Parties shall not submit a dispute concerning the interpretation or application of this Agreement or EU legal acts referred to herein to any method of settlement other than those provided for in this Agreement.

#### ARTICLE 90

##### Settlement of disputes between Associated Parties

1. Where a difficulty arises, the Associated Parties shall consult each other and endeavour to make this Agreement function effectively and settle any problem through constructive dialogue. In case of a dispute concerning the interpretation or application of this Agreement or an EU legal act referred to herein, the EU or the Associated State may refer the matter to the relevant Joint Committee by a written notice. The EU or the Associated State that intends to refer the matter to the Joint Committee pursuant to this paragraph shall inform the other Party in advance.

2. Where the EU or the Associated State refers the matter to the Joint Committee, the Joint Committee shall meet as soon as possible within two months after the matter has been referred to it. The Joint Committee shall be provided with all relevant information to allow a detailed examination of the situation. The Joint Committee shall examine all possibilities for finding a solution in line with this Agreement and may take any decision that may be useful to that end.
3. If the Joint Committee is unable to find a solution to the difficulty mentioned in the first paragraph within a period of six months from the date of the first meeting under this Article, either Associated Party may refer the matter to the CJEU. For their implementation and application, the CJEU shall interpret the provisions in Article 85(1) and (2) of the Framework Agreement and the EU legal acts mentioned therein. When an Associated Party considers referring a matter to the CJEU in accordance with this paragraph, it shall promptly notify the other Associated Party in writing and provide it with all relevant information.
4. The Associated States shall enjoy the same rights as EU Member States and EU institutions and shall be subject to the same procedures before the CJEU.
5. The Associated Parties shall consult each other within the Joint Committee and settle their dispute in order to ensure the implementation of the CJEU judgment by the EU or the Associated State within twelve months from the date of that judgment. For that purpose, the Joint Committee shall be provided with all relevant information to allow a detailed examination of the situation.

6. Should the Joint Committee fail to resolve the dispute, it may take a decision on compensatory measures for the alleged incorrect application of this Agreement, so as to remedy possible imbalances. That decision shall be taken within twelve months of the date of the CJEU judgment.
7. If the Joint Committee has not taken a decision as provided for in paragraph 6, the Associated Party alleging incorrect application of this Agreement may take compensatory measures to remedy possible imbalances, including the suspension of all or part of this Agreement. The scope and duration of those measures shall be limited to what is strictly necessary to remedy the situation and cause the least possible disturbance to the functioning of this Agreement.
8. The Associated Party affected by the measures referred to in paragraph 7 may submit its observations to the Joint Committee with a view to a decision on the proportionality of those measures. If the Joint Committee is unable to take a decision within a period of three months after the matter has been referred to it, either Associated Party may submit the question of the proportionality of those measures to arbitration in accordance with Framework Protocol 6. No question concerning the interpretation of this Agreement, as referred to in paragraph 3, may be addressed in arbitration. The arbitration ruling shall be binding on the Associated Parties.

Where compensatory or suspension measures have been taken pursuant to paragraph 6 or 7, the rights of individuals by virtue of this Agreement on the date on which those measures come into effect shall be preserved, as shall the concomitant obligations under this Agreement.

## ARTICLE 91

### Judicial review

1. Any review of the legality of EU legal acts adopted by EU institutions, bodies or agencies within the scope of this Agreement shall be the exclusive competence of the CJEU.
2. EU legal acts referred to in paragraph 1 that are addressed to an Associated State or a natural or legal person domiciled or established in an Associated State shall be subject to review by the CJEU. Such review shall be carried out in accordance with Article 263 TFEU.
3. Notwithstanding the expiry of the period laid down in the sixth paragraph of Article 263 TFEU, an Associated State, as well as any natural or legal person domiciled or established on its territory, may, in proceedings in which an act of general application adopted by an EU institution, body or agency is at issue, plead the grounds specified in the second paragraph of Article 263 TFEU in order to invoke the inapplicability of that act before the CJEU.

## ARTICLE 92

### Action for failure to act

1. An Associated State, as well as any natural or legal person domiciled or established on its territory, may complain to the CJEU that an EU institution, body or agency has failed to address to that person an act in violation of this Agreement, other than a recommendation or an opinion.



2. The action referred to in paragraph 1 shall be admissible only if the EU institution, body or agency has first been called upon to act. If, within two months of being so called upon, the EU institution, body or agency concerned has not defined its position, the action may be brought within a further period of two months.

## ARTICLE 93

### Appeal in the case of non-contractual liability

In cases of non-contractual liability and in accordance with this Agreement, an Associated State, as well as the natural or legal persons domiciled or established on its territory, may refer the case to the CJEU to obtain compensation for damages caused by the activities of the EU institutions, bodies or agencies or by their officials in the performance of their duties.

## ARTICLE 94

### Reference for a preliminary ruling

1. Where, in a case pending before a court or tribunal of an Associated State, a question is raised relating to the interpretation of this Agreement or to the validity of an act adopted by EU institutions, bodies or agencies within the scope of this Agreement, that court or tribunal may seek a preliminary ruling from the CJEU.
2. Where such a question is raised in a case pending before a court or tribunal in an Associated State against whose decisions there is no judicial remedy under the national law of the Associated State, that court shall bring the matter before the CJEU.

3. An Associated State shall have the right to submit statements of case or written observations to the CJEU in cases where a court or tribunal in an EU Member State has requested a preliminary ruling in respect of this Agreement, or where a court or tribunal in an Associated State has done so in a case as referred to in paragraph 1.

## ARTICLE 95

### Law applicable to proceedings before the CJEU

Where an action is brought before the CJEU pursuant to Articles 90 to 94 of the Framework Agreement, the procedure applicable before the CJEU shall be the same as the one provided for in EU law in respect of similar actions based on the TFEU.

## ARTICLE 96

### CJEU judgments

1. CJEU judgments rendered under this Agreement shall be binding.
2. The EU institution, body or agency whose act has been declared void, or whose failure to act has been declared contrary to this Agreement, shall be required to take the necessary measures to comply with the CJEU judgment.

## CHAPTER 6

### SAFEGUARD MEASURES AND FORCE MAJEURE

#### ARTICLE 97

##### Safeguard measures

1. In the event of serious economic, societal or environmental difficulties of a sectorial or regional nature that are caused by the application of this Agreement and that are likely to persist, an Associated Party may unilaterally take appropriate safeguard measures under the conditions and in accordance with the procedures laid down in this Article.
2. Those safeguard measures shall be limited in scope and duration to what is strictly necessary to remedy the situation. Priority shall be given to measures which least disturb the functioning of this Agreement.
3. When an Associated Party considers taking safeguard measures referred to in paragraph 1 of this Article, it shall promptly notify the other Associated Party and provide it with all relevant information.
4. The Associated Parties shall immediately consult each other within the relevant Joint Committee with a view to finding an acceptable solution.

5. The Associated Party concerned may not take safeguard measures before one month has expired from the date of the notification provided for in paragraph 3, unless the procedure for consultation within the Joint Committee has been completed before. Where exceptional circumstances require immediate action which precludes prior consultation, the Associated Party concerned may, without delay and subject to the prompt submission of a reasoned notification to the Joint Committee, take such emergency safeguard measures as are strictly necessary to remedy the situation.
6. The Associated Party concerned shall promptly notify the measures taken to the Joint Committee and provide all relevant information.
7. The safeguard measures taken shall be subject to consultations within the Joint Committee every three months from the date of their adoption, with a view to their possible removal before the date on which they are due to expire or the possible limitation of their scope. Either Associated Party may ask the Joint Committee to review or repeal such measures.
8. If a safeguard measure taken by an Associated Party creates an imbalance between the rights and obligations under this Agreement, the other Associated Party may take such proportionate rebalancing measures as are strictly necessary to remedy the imbalance. Priority shall be given to measures which least disturb the functioning of this Agreement.

9. Either Associated Party may ask the Joint Committee at any time to decide on the proportionality of the measures referred to in paragraphs 1, 4 or 7. If the Joint Committee is unable to take a decision within three months after the matter has been referred to it, either Associated Party may submit to arbitration the question of the proportionality of those measures in accordance with Framework Protocol 6. No question concerning the interpretation of this Agreement may be addressed in arbitration. The arbitration ruling shall be binding on the parties to the dispute.

## ARTICLE 98

### Force majeure

1. In the event of a terrorist attack or a natural or man-made disaster that affects an Associated Party, that Associated Party may immediately and unilaterally take appropriate safeguard measures under the conditions and in accordance with the procedures laid down in this Article.
2. Those safeguard measures shall be limited in scope and duration to what is strictly necessary to remedy the situation. Priority shall be given to measures which least disturb the functioning of this Agreement.
3. The Associated Party concerned shall promptly notify the measures taken to the Joint Committee and provide all relevant information.

4. The safeguard measures taken shall be subject to consultations within the Joint Committee every three months from the date of their adoption, with a view to their possible removal before the date on which they are due to expire or the possible limitation of their scope. Either Associated Party may ask the Joint Committee at any time to review or repeal those measures.
5. If a safeguard measure taken by an Associated Party creates an imbalance between the rights and obligations under this Agreement, the other Associated Party may take such proportionate rebalancing measures as are strictly necessary to remedy the imbalance. Priority shall be given to measures which least disturb the functioning of this Agreement.
6. Either Associated Party may ask the Joint Committee to decide on the proportionality of the measures referred to in paragraph 1 or 5. If the Joint Committee is unable to take a decision within three months after the matter has been referred to it, either Associated Party may submit to arbitration the question of the proportionality of these measures in accordance with Framework Protocol 6. No question concerning the interpretation of the provisions of this Agreement may be addressed in arbitration. The arbitration ruling shall be binding on the parties to the dispute.

## ARTICLE 99

### Decisions that impose pecuniary obligations

1. Decisions taken by the European Commission under this Agreement that impose pecuniary obligations on persons other than States shall be enforceable. The same applies to CJEU judgments that impose such obligations under the dispute settlement methods provided for in this Agreement.
2. Enforcement shall be governed by the rules of civil procedure in force in the State on the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the authorities which each EU Member State and Associated State shall designate for that purpose and shall make known to the other Associated Party.
3. When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement by bringing the matter directly before the competent authority in accordance with the law of the State on the territory of which enforcement is to be carried out. Enforcement may be suspended only by a decision of the CJEU. However, the courts of the States concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

## PART VIII

### GENERAL AND FINAL PROVISIONS

#### ARTICLE 100

##### Implementation

The Associated Parties shall take any general or specific measures required to fulfil their obligations under this Agreement, the respective Protocols and the EU legal acts referred to herein, and shall abstain from any measure which could jeopardise the attainment of their objectives.

#### ARTICLE 101

##### System of property ownership

This Agreement shall in no way prejudice the rules of the Associated Parties governing the system of property ownership.



## ARTICLE 102

### Security exceptions

No provision in this Agreement shall preclude an Associated Party from taking measures that:

- (a) are necessary to prevent the disclosure of information contrary to its essential security interests;
- (b) relate to the production of, or trade in, arms, munitions and war materials or other products indispensable for defence purposes or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes;
- (c) relate to fissionable and fusionable materials or the materials from which they are derived;
- (d) are essential to its own security in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war or in order to carry out obligations it has accepted within the framework of the Charter of the United Nations for the purpose of maintaining peace and international security.

## ARTICLE 103

### EU restrictive measures

The Associated States shall take the necessary measures to ensure that the rights and obligations under this Agreement do not enable or permit in any way, within their jurisdiction, the circumvention of EU restrictive measures adopted pursuant to Article 29 of the Treaty on European Union ("TEU") and Article 215 TFEU.

## ARTICLE 104

### Territorial scope

1. The Framework Agreement and the Framework Protocols shall apply to the territories in which the TEU and the TFEU apply, under the conditions laid down in those Treaties, and to the respective territories of the Andorra and San Marino.
2. Each Associated State Protocol shall apply to the territories in which the TEU and the TFEU apply, under the conditions laid down in those Treaties, and to the territory of the Associated State concerned.

## ARTICLE 105

### Future accessions to the EU

1. The EU shall notify the Associated States of any new request for accession to the EU by a third country. The Association Committee shall examine any effects of accession of a third country to the EU on this Agreement prior to the date of such accession.
2. To the extent necessary, the Contracting Parties shall, before the entry into force of an agreement on the accession of a third country to the EU, amend this Agreement in accordance with their respective internal procedures.
3. This Agreement shall apply in relation to any new EU Member State from the date of accession to the EU of that new Member State.

## ARTICLE 106

### Amendment of the Framework Agreement

Any Contracting Party may submit proposals for the amendment of this Framework Agreement to the other Contracting Parties. Proposals for amendment of this Framework Agreement shall be the subject of negotiations between the Contracting Parties within the Association Committee. Where the Contracting Parties agree on a revision of the Framework Agreement, it shall be signed and adopted by the Contracting Parties and enter into force upon notification by all the Contracting Parties of the completion of their respective internal procedures and upon deposit of the instruments of ratification.

## ARTICLE 107

### Amendment of the Framework Protocols

Any Contracting Party may submit proposals for the amendment of a Framework Protocol to the other Contracting Parties. Proposals for amendment of a Framework Protocol shall be the subject of negotiations between the Contracting Parties within the Association Committee. Where the Contracting Parties agree on an amendment of a Framework Protocol, it shall be signed and adopted by the Contracting Parties and enter into force upon notification by all the Contracting Parties of the completion of their respective internal procedures and upon deposit of the instruments of ratification.

## ARTICLE 108

### Amendment of the Associated State Protocols

The EU or the Associated State concerned may submit proposals for the amendment of the respective Associated State Protocol. Proposals for amendment of an Associated State Protocol shall be the subject of negotiations between the Associated Parties within the relevant Joint Committee. When the Associated Parties agree on the amendment of their Associated State Protocol, the Joint Committee shall adopt the amendment. Where, in accordance with paragraph 2 of Article 77, the Associated State Protocol provides that an amendment of all or part of it can only enter into force upon the completion of the Associated Parties' own internal procedures, the decision of the Joint Committee shall only take effect upon notification by all the Associated Parties of the completion of their respective internal procedures.

## ARTICLE 109

### Protocols and Annexes

The Framework Protocols, the Associated State Protocols, the Annexes and the acts referred to therein as adapted for the purposes of this Agreement shall form an integral part of this Agreement and shall have the same legal force.

## ARTICLE 110

### Existing agreements

1. Unless provided otherwise in this Agreement and, in particular, in Framework Protocol 2 and in the Associated State Protocols, the application of the provisions of this Agreement shall prevail over provisions in existing bilateral agreements binding the EU, on the one hand, and one of the Associated States, on the other, to the extent that the same subject matter is governed by this Agreement.
2. Unless provided otherwise in this Agreement, where bilateral agreements binding the EU, on the one hand, and one of the Associated States, on the other hand, are referred to in this Agreement, in whole or in part, they shall be understood to include amendments thereto and their successor agreements entering into force for both Associated Parties on or after the date of entry into force of this Agreement.

## ARTICLE 111

### Languages

1. This Association Agreement is drawn up in single original, in the Bulgarian, Catalan, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.
2. The texts of the EU legal acts referred to in this Association Agreement are equally authentic in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages as published in the Official Journal of the European Union, and those acts shall for the authentication thereof be drawn up in the Catalan language.

## ARTICLE 112

### Entry into force and termination

1. The Contracting Parties shall ratify, conclude and approve this Agreement in accordance with their respective constitutional or institutional requirements. This Agreement shall enter into force between the three Contracting Parties on the first day of the second month following the last notification of deposit of the instruments of ratification, conclusion or approval with the General Secretariat of the Council of the EU, which shall act as the depositary of this Agreement.

2. Pending the completion of the ratification, conclusion or approval procedures referred to in paragraph 1, the Contracting Parties shall provisionally apply this Agreement from the first day of the month following the month in which a Contracting Party deposited its instruments of ratification, conclusion or approval with the General Secretariat of the Council of the EU, unless another Contracting Party notifies that such a provisional application cannot take place.
3. If the conditions for the provisional application between all three Contracting Parties in accordance with paragraph 2 are not met, this Agreement shall apply between the EU and one of the Associated States from the first day of the second month following the month in which either the EU or that Associated State deposited its instruments of ratification, conclusion or approval with the General Secretariat of the Council of the EU, unless either Party notifies that such a provisional application cannot take place. For the duration of the term of application of this Agreement pursuant to this paragraph, the references to "Association Committee" contained in Articles 75, 105, 106, 107 of the Framework Agreement are to be understood as references to the relevant "Joint Committee". For the same duration, that Joint Committee shall decide on any technical adaptations of the Association Agreement necessary to ensure its proper functioning.
4. Each Associated Party may terminate this Agreement by notifying the other Associated Party of its decision in writing. This Agreement shall cease to apply between the respective Associated Parties six months after receipt of the notification, subject to the conditions set out in paragraph 5.
5. This Agreement shall continue to apply between the EU and the remaining Associated State if the termination of this Agreement by one of the Associated States does not affect all the Contracting Parties.

6. Where this Association Agreement ceases to apply, the rights and obligations that individuals and economic operators have already acquired under this Agreement shall remain. The EU and the Associated State(s) concerned shall decide by mutual agreement what action is to be taken in respect of rights in the process of acquiring. This paragraph shall be without prejudice to the specific provisions in 90 of the Framework Agreement.
  
7. As from the date from which this Agreement is provisionally applied pursuant to paragraph 2, or applied between the EU and one of the Associated States pursuant to paragraph 3, references in this Agreement to "the date of entry into force of this Agreement" or to "the entry into force of this Agreement" shall be understood as references to the date from which this Agreement is provisionally applied pursuant to paragraph 2, or applied between the Union and one of the Associated States pursuant to paragraph 3.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorised to this effect, have signed this Agreement.

Done at ... on ...

For the European Union

For the Principality of Andorra

For the Republic of San Marino



FRAMEWORK PROTOCOL 1  
ON HORIZONTAL ADAPTATIONS

ARTICLE 1

Application of the EU acquis and specific adaptations

The provisions of the legal acts referred to in Associated State Protocols shall be applicable in accordance with this Agreement and this Framework Protocol, unless otherwise provided in the respective Associated State Protocol. The specific adaptations necessary for EU legal acts are set out in the Annex to an Associated State Protocol in which the legal act concerned is listed.

ARTICLE 2

Recitals of legal acts

The recitals of the legal acts referred to are not adapted for the purposes of this Agreement. They are relevant to the extent necessary for the proper interpretation and application, within the framework of this Agreement, of the provisions contained in such legal acts.

## ARTICLE 3

### Transitional arrangements

1. Where reference is made to this Article in an Annex to an Associated State Protocol with regard to an EU legal act, paragraphs 2 to 5 shall apply.
2. The obligation for the Associated State concerned to implement and apply the EU legal act shall be suspended until the end of the period specified in the relevant Annex.
3. The Associated State concerned may at any given time during the period referred to in paragraph 2, notify the Joint Committee of its intention to implement the EU legal act before the end of that period. In that case, the Associated State shall specify the date on which it intends to apply that act. The Joint Committee shall take a decision concerning the amendment of the relevant Annex.
4. The application of a legal act between the EU and the Associated State concerned shall be suspended until the earlier of the following dates:
  - (a) the first day following the end of the period referred to in paragraph 2; or
  - (b) the date referred to in paragraph 3.
5. During the suspension referred to in paragraph 2, the relations between the EU and the Associated State concerned in respect of the matters that fall within the scope of the EU legal act shall be governed by the specific provisions of the relevant Annex.

## ARTICLE 4

### Arrangements with no period of time specified in the Annex

1. Where reference is made to this Article in an Annex to an Associated State Protocol with regard to an EU legal act, paragraphs 2 to 6 shall apply.
2. The obligation for the Associated State concerned to implement and apply the EU legal act shall be suspended.
3. The Associated State concerned may at any time notify the Joint Committee of its intention to implement the EU legal act. In that case, the Associated State shall specify the date on which it intends to apply that legal act. The Joint Committee shall take a decision concerning the amendment of the relevant Annex.
4. The Joint Committee shall review the suspension provided for in paragraph 2 at any time and, at the latest, every five years, based on the necessity of addressing market developments as well as any other specific criteria that may be laid down in the relevant Annex. On the basis of such review, the Joint Committee may decide to amend the relevant Annex in order to set a time limit for the implementation and application of the legal act by the Associated State concerned. This is without prejudice to Article 90 of the Framework Agreement which shall apply if required to restore the integrity and homogeneity of the internal market.
5. The application of a legal act between the EU and the Associated State concerned shall be suspended until the date on which the decision of the Joint Committee referred to in paragraph 3 enters into force or, as the case may be, the date on which the time limit referred to in paragraph 4 expires.

6. During the suspension referred to in paragraph 2 the relations between the EU and the Associated State concerned in respect of the matters that fall within the scope of the EU legal act shall be governed by the specific provisions of the relevant Annex.

## ARTICLE 5

### Provisions on EU committees

Procedures, institutional arrangements and other provisions concerning EU committees contained in the legal acts referred to in Associated State Protocols are set out in Articles 67 and 80, paragraphs 5, 6 and 7 of the Framework Agreement and in the Associated State Protocols.

## ARTICLE 6

### Provisions setting up procedures for adapting or amending EU legal acts

Where a legal act referred to in an Associated State Protocol provides for EU procedures on its adaptation, extension or amendment or for the development of new EU policies, initiatives or acts, the relevant decision-making procedure provided for in the Framework Agreement shall apply.

## ARTICLE 7

### Exchange of information and notification procedures

1. Where an EU Member State is to submit information to the European Commission, an Associated State shall also submit such information to the European Commission. The same shall apply where the transmission of information is to be carried out by the competent authorities.
2. Where an EU Member State is to submit information to one or more other EU Member States, it shall also submit that information to the European Commission. The European Commission shall transmit that information to the Associated States.

An Associated State shall submit corresponding information to one or more EU Member States which shall transmit it to the European Commission for distribution to all EU Member States. The same shall apply when the information is to be submitted by the competent authorities.

3. In areas where, for reasons of urgency, rapid transfer of information is called for, appropriate sectoral solutions providing for direct exchange of information shall apply.
4. Unless otherwise provided for in the Association Agreement, the functions of the European Commission in the context of procedures for verification, information, notification or consultation and similar matters shall be carried out, *mutatis mutandis*, also in respect of the Associated States. This is without prejudice to Articles 5, 6 and 10 of this Framework Protocol.

5. The European Commission and the corresponding Joint Committee shall exchange all information regarding these matters. Any issue arising in this context may be referred to the corresponding Joint Committee.

## ARTICLE 8

### Review and reporting procedures

Where, according to a legal act referred to in an Associated State Protocol, the European Commission or another EU institution is to prepare a report, a declaration or another similar document, it shall, unless otherwise agreed, concurrently prepare a corresponding report, declaration or similar document with regard to the Associated States, unless otherwise provided for in this Agreement. The European Commission and the Associated States shall consult each other and exchange information during the preparation of their respective reports, copies of which shall be sent to the corresponding Joint Committee.

## ARTICLE 9

### Publication of information

1. Where, according to a legal act referred to in an Associated State Protocol, an EU Member State is to publish certain information on facts, procedures and the like, also the Associated States shall publish the relevant information in a corresponding manner.

2. Where, according to a legal act referred to in an Associated State Protocol, facts, procedures, reports and the like are to be published in the *Official Journal of the European Union*, the corresponding information regarding the Associated States shall be published therein as well.

## ARTICLE 10

### Rights and obligations

Rights conferred and obligations imposed upon EU Member States or their public entities, undertakings or individuals in relations to each other, shall be understood to be conferred or imposed upon the Associated Parties, the latter also being understood, as the case may be, as their competent authorities, public entities, undertakings or individuals.

## ARTICLE 11

### References to territories

Whenever the EU legal acts referred to in Associated State Protocols contain references to the territory of the "European Union", "common market" or "internal market", the references shall for the purposes of this Agreement be understood to be references to the territories of the Contracting Parties as defined in Article 104 of the Framework Agreement.

## ARTICLE 12

### References to nationals of EU Member States

Whenever the legal acts referred to in Associated State Protocols contain references to nationals of EU Member States, the references shall for the purposes of this Agreement be understood to be references also to nationals of the Associated States.

## ARTICLE 13

### References to languages

Where a legal act referred to in an Associated State Protocol confers upon the EU Member States or their public entities, undertakings or individuals rights or imposes obligations regarding the use of any of the official languages of the EU, the corresponding rights and obligations regarding the use of any of the official languages of all Contracting Parties shall be understood to be conferred or imposed upon Contracting Parties, their competent authorities, public entities, undertakings or individuals.



## ARTICLE 14

### Entry into force and implementation of legal acts

Provisions on the entry into force or implementation of the legal acts referred to in Associated State Protocols are not relevant for the purposes of this Agreement. The time limits and dates for the Associated States for bringing into force and implementing legal acts referred to follow from Article 112 of the Framework Agreement, as well as from provisions on transitional arrangements.

## ARTICLE 15

### Addressees of the EU legal acts

Provisions indicating that an EU legal act is addressed to EU Member States are not relevant for the purposes of this Agreement.

## FRAMEWORK PROTOCOL 2

### ON EXISTING AGREEMENTS

As provided for in Article 110 of the Framework Agreement, the Contracting Parties have agreed that the following existing bilateral agreements binding the EU, on the one hand, and one of the Associated States, on the other hand, shall continue to apply after the entry into force this Agreement:

- (a) Agreement between the European Community and the Principality of Andorra providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments of 15 November 2004 and the accompanying Memorandum of Understanding<sup>10</sup>, as amended by Amending Protocol of 12 February 2016<sup>11</sup>;
- (b) Agreement between the European Community and the Republic of San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments of 7 December 2004 and the accompanying Memorandum of Understanding<sup>12</sup>, as amended by Amending Protocol of 8 December 2015<sup>13</sup>;
- (c) Monetary Agreement between the European Union and the Principality of Andorra of 30 June 2011<sup>14</sup>;
- (d) Monetary Agreement between the European Union and the Republic of San Marino of 27 March 2012<sup>15</sup>.

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<sup>10</sup> OJ L 359, 4.12.2004, p. 33.

<sup>11</sup> OJ L 268, 01.10.2016, p. 40.

<sup>12</sup> OJ L 381, 28.12.2004, p. 33.

<sup>13</sup> OJ C 346, 31.12.2015, p. 3.

<sup>14</sup> OJ C 369, 17.12.2011, p. 1.

<sup>15</sup> OJ C 121, 26.4.2012, p. 5.

## FRAMEWORK PROTOCOL 3

### ON FINANCIAL SERVICES

#### PREAMBLE

The EU of the one part, and Andorra and San Marino respectively, of the other part,

Whereas:

- (1) This Framework Protocol takes into account the specificities of the Associated States and how their financial services markets would integrate within the EU internal market for financial services and its supervisory infrastructure. In light thereof, specific rules and provisions catering for a smooth market integration should be introduced.
- (2) The adoption of a staggered approach for the implementation and application of the EU acquis is envisaged to offer an Associated State the flexibility to prioritize specific segments of the EU acquis for which it intends to provide cross-border financial services first. Such approach allows the Associated State to gradually adopt the EU acquis and apply it in a phased manner, taking into account its particular circumstances and preferences.

- (3) The assessment of the supervisory infrastructure of the Associated State, through an assessment to access the EU internal market for financial services, and subsequent regular assessments, serves the purpose of evaluating its effectiveness, robustness, and suitability, taking into consideration the characteristics of the Associated State's financial sector, such as its nature, diversity, size and complexity. A robust supervisory framework is crucial for ensuring the integrity and stability of the EU internal market, promoting confidence among market participants and safeguarding the interests of consumers and investors. The EU supervisory authorities are entrusted with a pivotal role in conducting those assessments comprehensively requiring, where necessary, the active collaboration and cooperation from the competent authorities of EU Member States.
- (4) In order to avoid abuses of the right of establishment, it is necessary to require that financial operators based in the Associated State provide at least part of their services within that jurisdiction. The supervisory authorities of the Associated State will prevent the creation of legal entities with no or minimal substance that perform no or very little economic activities in their jurisdiction.

Have agreed as follows:

## PART I

### GENERAL PROVISIONS

#### ARTICLE 1

##### Objectives

The objectives of this Framework Protocol are:

- (a) to ensure the integrity of the enlarged EU internal market, market transparency, consumer and investor protection, and to address risks related to consumer fraud, money laundering and financial crime;
- (b) to promote the prevention of potential risks to financial stability;
- (c) to establish a framework for the gradual compliance of regulations and supervisory measures of the Associated State with the entire EU acquis in respect of financial services;
- (d) to facilitate the progressive extension of the EU internal market for financial services to the Associated State;
- (e) to promote regulatory and supervisory sincere cooperation in the field of financial services between the EU and the Associated State.

## ARTICLE 2

### Definitions

For the purposes of this Framework Protocol:

- (a) "financial services" mean the services regulated by acts listed in Annexes IX, XII and XXII to each Associated State Protocol;
- (b) "EU supervisory authorities" mean the European Banking Authority, the European Securities and Markets Authority, the European Insurance and Occupational Pensions Authority, and the Authority for Anti-Money Laundering and Countering the Financing of Terrorism.

## ARTICLE 3

### Conditions for access to the EU internal market

1. An Associated State shall be granted access to the EU internal market for financial services if the following conditions have been fulfilled:
  - (a) complete, full and effective implementation and application of all provisions applicable to the financial services sector as set out in Annexes IX, XII and XXII to the relevant Associated State Protocol;
  - (b) the existence and proper functioning of supervisory capacity and arrangements for the financial services sector;

- (c) the conclusion of a memorandum of understanding between the competent authorities of the Associated State and the EU supervisory authorities on supervisory cooperation, information exchange and consultation.
2. To assess whether the conditions set out in points (a) and (b) of paragraph 1 have been fulfilled, the European Commission shall conduct a comprehensive evaluation in accordance with the provisions set out in Part II of this Framework Protocol. That evaluation shall include a review of the financial sector of the Associated State, an assessment of the implementation and application of the relevant EU acquis, and an assessment of the supervisory infrastructure of the Associated State.
  3. The evaluation referred to in paragraph 2 shall be conducted at the request of the Associated State once it is satisfied that the conditions set out in paragraph 1 have been fulfilled. The Associated State shall submit its request through the Subcommittee on Financial Services established pursuant to Article 20 of this Framework Protocol.

## ARTICLE 4

### Partial access to the EU internal market

1. An Associated State may decide not to seek access to the entire EU internal market for financial services, by temporarily excluding one or more of the following market segments:
  - (a) banking;
  - (b) insurance and reinsurance;

- (c) asset management;
- (d) securities markets.

For the purposes of the first subparagraph, the Associated State shall notify the European Commission within one year from the date of entry into force of this Agreement of its intent, indicating the segments it wishes to temporarily exclude. Upon receiving such a notification, the European Commission shall, within two months, provide a response to the Associated State by communicating the list of EU provisions that the Associated State will temporarily not be required to implement and apply.

2. Following the response referred to in the second subparagraph of paragraph 1, the Joint Committee set up by Article 76 of the Framework Agreement shall adopt a decision in accordance with Article 81 of the Framework Agreement, to amend Annex IX to the relevant Associated State Protocol on the basis of the list provided by the European Commission to the Associated State, in order to specify:
  - (a) the list of EU provisions for which full implementation and application by the Associated State is required;
  - (b) the list of EU provisions for which the obligation of full implementation and application by the Associated State is temporarily suspended pursuant to paragraph 1 of this Article.
3. Where the Associated State opts for the derogation provided for in paragraph 1 of this Article, Article 3 of this Framework Protocol shall apply only to the market segment or segments for which the Associated State wishes to obtain market access, as long as that derogation remains in force.



4. Where the Associated State, at a later stage, wishes to obtain access to the EU internal market in one or more of the segments for which it initially requested a derogation as referred to in paragraph 1, it shall duly inform the European Commission of its intent. The Joint Committee shall amend Annex IX to the relevant Associated State Protocol in accordance with Article 81 of the Framework Agreement to update the list of applicable provisions of the EU acquis. The provisions that are no longer subject of a derogation shall be duly implemented and applied by the Associated State before it can obtain access to these segments. The evaluation referred to in Article 3(2) of this Framework Protocol shall be conducted each time the Associated State decides to seek access to an additional market segment.
  
5. The derogation provided for in paragraph 1 of this Article shall not last longer than fifteen years from the date of entry into force of this Agreement. At the latest one year before the end of the maximum duration of the derogation, the Associated Parties shall amend Annex IX to the Associated State Protocol to ensure that all relevant provisions of the EU acquis are implemented and applied by the Associated State before the date of expiry of that derogation. Six months before that date of expiry, the Associated State shall have completely, fully, and effectively implemented and applied all EU provisions for the financial services sector. The evaluation referred to in Article 3(2) of this Framework Protocol shall assess the fulfillment of the obligation provided for in this paragraph by the Associated State.

## ARTICLE 5

### Action plan for the implementation and application of the EU acquis

1. Before obtaining access to the EU internal market for financial services, or to one or more of its market segments, the Associated State shall prepare an action plan and timeline to achieve the implementation and application of the relevant EU acquis for the financial services sector or for one or more of its market segments.
2. The Associated State shall notify the European Commission through the Subcommittee on Financial Services of the adoption of the action plan and of any significant modifications to it. The Associated State may provide follow-up reports stemming from the action plan.
3. In accordance with Article 3(3) of this Framework Protocol, on the basis of its action plan, the Associated State shall exercise its discretion to determine the appropriate timing for requesting the European Commission to conduct the evaluation required to obtain access to the EU internal market.

## ARTICLE 6

### Entry into effect of market access

1. Following the adoption by the European Commission of a positive recommendation, as referred to in Article 11 of this Framework Protocol, that all necessary conditions of Article 3 of this Framework Protocol are fulfilled, and upon recommendation of the Subcommittee on Financial services, the Joint Committee shall adopt a decision extending to the Associated State access to one or more segments of the EU internal market for financial services.
2. The decision shall take effect on the first day of the month following the date of adoption of the decision by the Joint Committee.
3. Throughout the period in which the derogation referred to in Article 4(1) of this Framework Protocol is in effect, access for EU operators to the financial market of the Associated State shall commence on the date on which the decision by the Joint Committee, granting the Associated State access to one or more segments of the EU internal market for financial services, comes into effect. Such market access shall be limited to the segment or segments referred to in that decision.

## ARTICLE 7

### Local provision of services in the Associated State

1. The supervisory authorities of the Associated State shall ensure that financial service providers established in their territories carry out a substantial part of their business in their jurisdictions, serving their markets. They shall prohibit the establishment in their jurisdictions of providers without active business operations or significant assets.
2. Compliance with the obligation set out in paragraph 1 shall be monitored in the context of the monitoring of the supervisory infrastructure of the Associated State referred to in Article 13 of this Framework Protocol.

## PART II

### EVALUATION TO OBTAIN ACCESS TO THE EU INTERNAL MARKET

#### ARTICLE 8

##### Review of the financial sector of the Associated State

1. Under the oversight of the European Commission, the relevant EU supervisory authorities shall conduct a review of the financial sector of the Associated State as follows:
  - (a) the Associated State shall provide to the EU supervisory authorities:
    - (i) a detailed description of its financial sector, including a list of authorised or registered financial service providers and their legal form, the identity of their directors, identity and nationality of shareholders, group relations, economic relevance (total banking assets, assets under management, total insurance premiums);
    - (ii) any supplementary information required by the EU supervisory authorities for the completion of this review;
  - (b) the EU supervisory authorities shall undertake balance sheet reviews and asset quality reviews for the banking and insurance sectors on the basis of their methodology in cooperation with the relevant competent authorities of the Associated State.

2. The existence, structure, and quality of deposit guarantee scheme, insurance guarantee scheme and resolution regime shall be assessed by the Single Resolution Board established by Article 42 of Regulation (EU) No 806/2014 of the European Parliament and of the Council<sup>16</sup> in accordance with the relevant EU law.
3. For the performance of this review, the EU supervisory authorities may have recourse, where appropriate, to the assistance of third parties at national or international level.
4. The costs associated with the review under this Article shall be borne by the Associated State.

## ARTICLE 9

### Assessment of the implementation and application of EU law

1. The EU shall assess the completeness and conformity of the legislation and of the regulatory framework of the Associated State with the relevant EU acquis. It shall assess, in particular, compliance with:
  - (a) the provisions of EU acts applicable to the entire EU internal market for financial services without any distinction, notably on anti-money laundering and countering the financing of terrorism; and
  - (b) the provisions of EU acts applicable to the specific segment or segments of the EU internal market for financial services as referred to in Article 4(1) of this Framework Protocol.

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<sup>16</sup> OJ EU L 225, 30.7.2014, p. 1.

2. The compliance of the legislation and of the regulatory framework of the Associated State with the relevant EU acquis may be assessed with the assistance of third parties at national or international level. The European Commission shall define the terms of reference of the compliance assessment and inform the Associated State of the relevant procurement procedure and the results thereof.
3. The costs associated with the assessment under this Article shall be borne by the Associated State.

## ARTICLE 10

### Assessment of the supervisory infrastructure of the Associated State

1. The assessment of the supervisory infrastructure shall cover the independence, robustness, effectiveness and efficiency of the supervisory framework of the Associated State. This assessment shall also cover anti-money laundering supervision in the Associated State, including the existence and proper functioning of a Financial Intelligence Unit.
2. The assessment shall be performed by the EU supervisory authorities in cooperation with the relevant competent authorities of the EU Member States. The EU supervisory authorities shall establish the assessment criteria and methodology and inform the European Commission and the Associated State accordingly.
3. For the performance of the assessment referred to in paragraph 1, the EU supervisory authorities may have recourse, where appropriate, to the assistance of third parties at national or international level.
4. The costs associated with the assessment under this Article shall be borne by the Associated State.

## ARTICLE 11

### Outcome of the evaluation

1. Upon completion of the review of the financial sector of the Associated State referred to in Article 8 of this Framework Protocol, the EU supervisory authorities shall issue an opinion to the European Commission, providing an assessment of the financial sector of the Associated State.
2. Upon completion of the assessment of the supervisory infrastructure of the Associated State referred to in Article 10 of this Framework Protocol, the EU supervisory authorities shall issue an opinion to the European Commission, providing an assessment of the supervisory framework of the Associated State.
3. The European Commission, taking into account the opinions referred to in paragraphs 1 and 2 of this Article, as well as the assessment of the implementation and application of EU legislation referred to in Article 9 of this Framework Protocol, shall issue a recommendation to the Subcommittee on Financial Services.

This recommendation shall determine whether the Associated State should be granted access to the EU internal market for financial services or to one or more market segments thereof, taking into account the following considerations:

- (a) if the balance sheet reviews or asset quality reviews referred to in Article 8(1) of this Framework Protocol, point (b), identify risks to the proper functioning of the EU internal market, access to the corresponding segment or segments of the EU internal market for financial services shall not be granted until such risks have been appropriately remedied;



- (b) if the assessment of the deposit guarantee scheme, insurance guarantee scheme or resolution funds referred to in Article 8(2) of this Framework Protocol is negative, access to the banking segment or to the insurance and reinsurance segment shall not be granted until such deficiencies have been appropriately remedied;
- (c) if the assessment of the implementation and application of the EU acquis identifies deficiencies in one or more areas, access to the corresponding segment or segments of the EU internal market for financial services, as referred to in Article 4(1) of this Framework Protocol, shall not be granted until such deficiencies have been appropriately remedied;
- (d) if the assessment of the supervisory infrastructure of the Associated State identifies deficiencies, access to the corresponding segment or segments of the EU internal market for financial services, as referred to in Article 4(1) of this Framework Protocol, shall not be granted until such deficiencies have been appropriately remedied.

4. If its recommendation on market access as referred to in paragraph 3 is negative, the European Commission shall notify the Subcommittee on Financial Services of the guidelines and actions for the Associated State to address the identified deficiencies. The Associated State shall be precluded from submitting a new request for evaluation to obtain market access until one year after the issuance of the guidelines by the European Commission. Upon submitting a new request, the Associated State shall provide evidence of its adherence to the prescribed guidelines and the implementation of the required actions.

## PART III

### MONITORING

#### ARTICLE 12

Monitoring of the implementation and application of EU law by the Associated State

1. After the Joint Committee has extended, in accordance with Article 6 of this Framework Protocol, access to the EU internal market for financial services, or to one or more of its segments, to the Associated State, the continued compliance of the legislation of the Associated State with the relevant EU acquis shall remain subject to evaluation by the European Commission throughout the entire duration of market access. The monitoring shall be conducted in accordance with Article 9 of this Framework Protocol.
2. The European Commission shall submit the results of the subsequent monitoring to the Subcommittee on Financial Services, including any recommendations to address issues identified during the monitoring process. The Associated State shall implement the recommendations within the timeframe specified by the recommendations themselves.
3. If the monitoring of the implementation and application of the EU acquis identifies significant deficiencies in one or more areas, the EU shall have the right to suspend the application of this Framework Protocol in respect of the financial services segment or segments at issue. The conditions and procedure for the suspension are set out in Articles 18 and 19 of this Framework Protocol.
4. The costs associated with the regular monitoring under this Article shall be borne by the Associated State.

## ARTICLE 13

### Monitoring of the supervisory infrastructure of the Associated State

1. After the Joint Committee has extended, in accordance with Article 6 of this Framework Protocol, access to the EU internal market for financial services, or to one or more of its segments, to the Associated State, the assessment of the supervisory infrastructure of the Associated State shall be conducted in accordance with Article 10 of this Framework Protocol. That assessment shall be organised every two years, unless determined otherwise by the European Commission.
2. The European Commission shall submit the results of the assessments to the Subcommittee on Financial Services, including any recommendations drafted by the EU supervisory authorities to address issues identified during this monitoring.
3. The Associated State shall implement the recommendations as referred to in paragraph 2 within the timeframe specified in those recommendations. The EU supervisory authorities shall check whether those recommendations have been fully implemented.
4. If the Associated State fails to remedy the deficiencies identified in the assessment recommendations within the specified timeframe, the EU shall have the right to suspend the application of this Framework Protocol in respect of the financial services segment or segments at issue. The conditions and procedure for the suspension are set out in Articles 18 and 19 of this Framework Protocol.
5. The costs associated with the regular monitoring under this Article shall be borne by the Associated State.

## PART IV

### COOPERATION WITH EU SUPERVISORY AUTHORITIES

#### ARTICLE 14

##### EU supervisory authorities – general powers

1. The EU supervisory authorities shall be endowed vis-à-vis the financial services sector and the competent authorities of the Associated State with all the powers conferred upon them by their founding regulations, the relevant sectoral EU legislation and this Framework Protocol.
2. The powers of the EU supervisory authorities shall include the power to take decisions and recommendations addressed to the financial service providers or competent authorities of the Associated State, as necessary to ensure the proper functioning of the EU internal market, the protection of consumers, investors and other relevant stakeholders, or the safeguard of the stability and integrity of the EU internal market. Those powers shall be exercised in consultation with the financial supervisory authorities of the Associated State.
3. The Associated State shall ensure that the EU supervisory authorities are able to exercise their powers effectively within its jurisdiction and shall contribute to their budgetary needs accordingly. The competent authorities of the Associated State shall cooperate with the EU supervisory authorities in the exercise of their powers within their jurisdiction and shall take all the necessary actions to ensure the effective and consistent enforcement of all decisions and recommendations adopted by the EU supervisory authorities.

4. In the areas where the EU supervisory authorities hold direct supervisory mandates or direct intervention powers, the decisions adopted by them shall be legally binding and directly applicable within the jurisdiction of the Associated State without requiring validation by a competent authority of the Associated State.

## ARTICLE 15

### EU supervisory authorities – emergency powers

1. In the event of adverse developments in the financial sector of the Associated State that could have an impact on the stability or integrity of the financial sector of the EU or one of its Member States, or be detrimental to consumers, investors or other relevant stakeholders in the EU, or if there are emerging risks posed by undertakings based in the Associated State and engaged in activities with potential cross-border implications, the EU supervisory authorities shall have the power to adopt, the following decisions vis-à-vis the financial service providers based in the Associated State:
  - (a) ban the underwriting of new business or the onboarding of new clients, in case of conduct or prudential concerns;
  - (b) prohibit the free disposal of assets;
  - (c) issue an order subject to a penalty.

2. The EU supervisory authorities shall adopt a decision addressed to the relevant competent authority of the Associated State to suspend the license granted to a financial service provider in the event of breach of EU law, fraudulent activities, or in case of serious concerns about the financial situation, business model, compliance with the legislation on anti-money laundering and countering the financing of terrorism, compliance with 'fit and proper' requirements, or conduct vis-à-vis clients or potential clients of the financial service provider.
3. The decisions referred to in paragraphs 1 and 2 shall be adopted by the EU supervisory authorities only if they have ascertained that the supervisory authorities of the Associated State have failed to exercise their powers in a timely or effective manner. These decisions shall be legally binding and directly applicable within the jurisdiction of the Associated State.

## ARTICLE 16

### Role of the Associated State

The competent authorities of the Associated State shall, but for the right to vote, and limited to decisions directly addressed to their financial sector or authorities, have the same rights and obligations as the competent authorities of the EU Member States in the work of the EU supervisory authorities and their Board of Supervisors.

## ARTICLE 17

### Cooperation on anti-money laundering

The Associated State shall ensure full cooperation with the designated EU and Member States' anti-money laundering authorities and any successor body thereto.

## PART V

### SAFEGUARD MEASURES OF THE EU

#### ARTICLE 18

##### Safeguard measures – principles

1. The EU may temporarily suspend the application of this Framework Protocol in respect of the financial services segment or segments at issue, where:
  - (a) significant deficiencies in the implementation and application of the EU acquis have been detected in the course of monitoring in accordance with Article 12 of this Framework Protocol;
  - (b) significant deficiencies in the supervisory framework of the Associated State have been detected in the course of monitoring in accordance with Article 13 of this Framework Protocol;
  - (c) lack of cooperation of the competent authorities of the Associated State to combat irregularities, fraud, abuse, money laundering and the financing of terrorism;
  - (d) circumventions or significant breaches of the EU acquis in the field of financial services have been committed.
2. A temporary suspension shall be adopted under the conditions and procedure laid down in Article 19 of this Framework Protocol.



## ARTICLE 19

### Safeguard measures - procedures

1. By way of derogation from Article 90 of the Framework Agreement, where the EU deems that one or more of the situations specified in Article 18(1) of this Framework Protocol have occurred, it shall notify the Associated State and refer the matter to the Joint Committee.
2. The Joint Committee shall meet without delay, and in any case no later than one month after the matter has been referred to it. The Associated Parties shall submit all useful information to the Joint Committee to enable an in-depth examination of the situation. The Joint Committee shall examine all the possibilities allowing a solution to be found in accordance with this Agreement and may take any decision to that effect, where necessary.
3. Where the Joint Committee fails to find a solution to the situations referred to in Article 18(1) within three months from the date of the first meeting under paragraph 2, the EU shall notify the Associated State of its proposed solution to the identified problem.
4. If the Associated State fails to comply with the solution proposed by the EU within three months, the EU shall suspend the application of this Framework Protocol in respect of the financial services segment or segments at issue until the Associated State remedies the deficiency identified by the EU. The Associated Parties shall continue to engage in regular dialogue to find a commonly acceptable solution.
5. After the suspension of the application of this Framework Protocol, the Associated State may refer the issue to the CJEU. When the Associated State plans to bring an action before the CJEU pursuant to this paragraph, it shall immediately notify the EU in writing thereof and provide all the relevant information.

## PART VI

### INSTITUTIONAL PROVISIONS

#### ARTICLE 20

##### Subcommittees on Financial Services

1. By way of derogation from the first sentence of Article 76(8) of the Framework Agreement, two Subcommittees on Financial Services are hereby established between respectively:
  - (a) the EU, represented by the Commission, and Andorra, represented by its authority responsible for financial services policy; and
  - (b) the EU, represented by the Commission, and San Marino, represented by its authority responsible for financial services policy.

For the purposes of this Framework Protocol, any reference to a Subcommittee on Financial Services shall be read as referring to any of these Subcommittees.

2. The Subcommittees on Financial Services shall carry out the following functions:
  - (a) supervise the implementation of this Framework Protocol, as applied through the Associated State Protocols and the relevant provisions in Annexes IX, XII and XXII to those Associated State Protocols;

- (b) formulate the following recommendations to the Joint Committees:
    - (i) recommendations to amend Annex IX to the Associated State Protocols in accordance with Article 81 of the Framework Agreement;
    - (ii) recommendations to extend market access to the EU internal market for financial services or one or more of its market segments, in accordance with Article 6 of this Framework Protocol;
    - (iii) other recommendations.
  - (c) formulate recommendations to the Association Committee, where appropriate;
  - (d) assume all other functions and responsibilities assigned to it by other Articles of this Framework Protocol.
3. The European Commission may invite the EU supervisory authorities to attend the meetings of the Subcommittee on Financial Services for relevant technical discussions.
  4. In cases where amendments to Annexes IX to Associated State Protocols concern both Associated States, the two Subcommittees on Financial Services shall conduct their work in joint meetings, on the basis of coordinated proposals.
  5. The Subcommittees on Financial Services shall convene every year or at other intervals as determined by their members. Meetings may be conducted through any technological means available to the Associated Parties.

## PART VII

### FINAL PROVISIONS

#### ARTICLE 21

##### Activities of central banks and monetary authorities

No provision of this Agreement shall apply to activities carried out by public authorities, central banks, monetary authorities, or any other entities owned or controlled by an Associated Party in the implementation of monetary or exchange rate policies.

## FRAMEWORK PROTOCOL 4

### ON THE COMPETITION RULES APPLICABLE TO UNDERTAKINGS

#### ARTICLE 1

As regards agreements, decisions and concerted practices already in existence at the date of entry into force of this Agreement which fall under Article 38, paragraph 1 of the Framework Agreement, the prohibition laid down in that paragraph shall not apply from the date of entry into force of this Agreement, where those agreements, decisions or practices are modified within twelve months from the date of entry into force of this Agreement so as to fulfil the conditions contained in the block exemptions provided for in Annex XIV to the Associated State Protocol.

#### ARTICLE 2

As regards agreements, decisions of associations of undertakings and concerted practices already in existence at the date of entry into force of this Agreement which fall under Article 38, paragraph 1 of the Framework Agreement, the prohibition laid down in that paragraph shall not apply, from the date of entry into force of this Agreement, where those agreements, decisions or practices are modified within twelve months from the date of entry into force of this Agreement so as not to no longer fall under that prohibition.

## FRAMEWORK PROTOCOL 5

### ON COOPERATION IN THE FIELD OF STATISTICS

#### ARTICLE 1

##### Subject matter

1. This Framework Protocol applies to the cooperation in the field of statistics between the Associated Parties in order to ensure the production and dissemination of coherent and comparable statistical information for describing and monitoring all economic, social and environmental policies relevant for their cooperation.
2. To this end, the Associated Parties shall develop and use harmonised methods, definitions and classifications as well as common programmes and procedures organising statistical work at appropriate administrative levels and in accordance with this Framework Protocol.
3. The production of Associated Parties' statistics shall be impartial, reliable, objective, scientifically independent, cost-effective and confidential. Statistics production shall not entail an excessive burden on economic operators.

## ARTICLE 2

### Statistical Subcommittees

1. By way of derogation from the first sentence of Article 76(8) of the Framework Agreement, two Statistical Subcommittees are hereby established between respectively:
  - (a) the EU, represented by the European Commission, and Andorra, represented by its authorities responsible for cooperation in the field of statistics; and
  - (b) the EU, represented by the European Commission, and San Marino, represented by its authorities responsible for cooperation in the field of statistics.

For the purposes of this Framework Protocol, any reference to a Statistical Subcommittee shall be read as referring to any of these Statistical Subcommittees.

2. The Statistical Subcommittees shall be responsible for the administration of this Framework Protocol and shall ensure its proper implementation. For that purpose, they shall make recommendations and take decisions in the cases provided for in this Framework Protocol. The Statistical Subcommittees shall adopt decisions by consensus.
3. The Statistical Subcommittees and the European Statistical System Committee ("ESSC") established by Regulation (EC) 223/2009 of the European Parliament and of the Council<sup>17</sup> shall organise their tasks for the purposes of this Framework Protocol in combined meetings.
4. The Statistical Subcommittees shall meet as and when necessary. Any Associated Party may request a meeting of the relevant Statistical Subcommittee. The Statistical Subcommittees may decide to set up working groups that can assist them in carrying out their tasks.

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<sup>17</sup> Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

5. An Associated Party may at any time raise a matter of concern in relation to this Framework Protocol in the relevant Statistical Subcommittee.
6. Each decision of a Statistical Subcommittee shall state the date of its implementation. Such decision shall be submitted, where necessary, for approval in accordance with the Statistical Subcommittee's rules of procedure and shall be put into effect by that Statistical Subcommittee in accordance with its rules of procedure.

### ARTICLE 3

#### Statistical cooperation

1. The European statistical programme referred to in Article 13 of Regulation (EC) 223/2009 shall constitute the framework for the statistical actions to be carried out by each of the Associated States for the relevant time periods covered by each programme. All main fields and statistical themes of the European statistical programme shall be considered relevant for the statistical cooperation set out in this Framework Protocol and shall be open for full participation by each of the Associated States.
2. Specific EU/Associated State annual statistical programmes ("EU/Andorra" and "EU/San Marino") shall be developed every year by the Statistical Subcommittees as a subset of, and in parallel with, the annual work programme drawn up by the European Commission in accordance with Chapter III of Regulation (EC) 223/2009. Each such annual statistical programme shall be approved by the relevant Statistical Subcommittee. That programme shall indicate in particular the actions within the relevant themes of the programme that have priority for the respective EU/Associated State's statistical cooperation during the programme period.



3. Statistical information from the Associated States shall be transmitted to Eurostat for storage, processing and dissemination. To that end, the national statistical institutes ("NSIs") of the Associated States shall work in close cooperation with Eurostat in order to ensure that data from these States are transmitted properly and disseminated to the various user groups through the normal dissemination channels as part of the EU/Associated State statistics. The handling of statistics from the Associated States shall be governed by Regulation (EC) 223/2009.
4. Each Statistical Subcommittee shall examine the progress made in the framework for relevant EU/Associated State statistical actions. It shall in particular assess whether the objectives, priorities and actions planned during the first three years of application of this Framework Protocol have been achieved. It shall also assess whether the contents of Annex XXI to the relevant Associated State Protocol adequately reflects the relevance as referred to in Article 1(1) of this Framework Protocol.

#### ARTICLE 4

##### Participation

1. Entities established in the Associated States shall be entitled to participate in specific EU programmes managed by Eurostat, with the same contractual rights and obligations as those of entities established in the EU.
2. National experts from the Associated States may be seconded to the European Commission ("Eurostat"). The costs associated with the secondment of those national experts to the European Commission ("Eurostat"), including salaries, social security costs, provision for pensions, daily and travel allowances, shall be borne entirely by the Associated State seconding them.

3. Entities established in the EU shall be entitled to participate in specific programmes managed by the NSIs of the Associated States, with the same contractual rights and obligations as those of entities established in the Associated States.

## ARTICLE 5

### Other forms of cooperation

1. Transfer of technology in the field of statistics between the NSIs of each Associated States and Eurostat may take place by mutual agreement.
2. Without prejudice to the specific provisions and arrangements laid down in Section S of Annex XI to each Associated State Protocol, the Associated Parties may exchange any information in the field of statistics.
3. The NSIs of the Associated Parties may exchange officials between them. The NSIs of EU Member States may also exchange officials with those of the Associated States. The conditions under which those exchanges take place shall be agreed directly between the NSIs involved.

## ARTICLE 6

### Financial provisions

1. In order to cover the entirety of the costs of its participation, Associated States shall contribute financially to the European statistical programme on an annual basis.
2. The rules governing the financial contribution of the Associated States are set out in Article 68 of the Framework Agreement.

FRAMEWORK PROTOCOL 6  
ON ARBITRATION PROCEDURES

PART I

ARBITRATION PROCEDURES

CHAPTER 1

PRELIMINARY PROVISIONS

ARTICLE 1

Scope

If either Associated Party submits a dispute to arbitration in accordance with Article 90(8), Article 97(9) or Article 98(6) of the Framework Agreement, this Framework Protocol shall apply.

## ARTICLE 2

### Definitions

For the purposes of this Framework Protocol:

- (a) "Claimant" means the Associated Party that submits a dispute to arbitration;
- (b) "Respondent" means the Associated Party that has taken:
  - (i) compensatory measures in accordance with Article 90(7) of the Framework Agreement;
  - (ii) safeguard measures in accordance with Article 97(1) of the Framework Agreement;
  - (iii) emergency safeguard measures in accordance with Article 97(5) of the Framework Agreement;
  - (iv) rebalancing measures in accordance with Article 97(8) of the Framework Agreement;
  - (v) safeguard measures in accordance with Article 98(1) of the Framework Agreement;or
  - (vi) rebalancing measures in accordance with Article 98(5) of the Framework Agreement;
- (c) "representative of an Associated Party" means an official of, or any person appointed by, an Associated Party who represents that Associated Party for the purposes of a dispute under Article 90(8), Article 97(9) or Article 98(6) of the Framework Agreement;

- (d) "adviser" means a person designated by an Associated Party to advise or assist it in proceedings before an arbitration panel;
- (e) "assistant" means a person who, under the terms of their appointment, conducts research for, or provides assistance to, a member of an arbitration panel under the direction and control of that member;
- (f) "candidate" means any person whose name is on the list referred to in Article 4(1) of this Framework Protocol and who is under consideration for selection as a member of an arbitration panel under that Article.

### ARTICLE 3

#### Registry and secretarial support

At the written request of the Associated Parties or the arbitration panel, the International Bureau of the Permanent Court of Arbitration in The Hague ("the Permanent Court of Arbitration") shall act as the registry and provide adequate secretarial support to the arbitration panel.

### ARTICLE 4

#### List of persons who are willing and able to serve as members of an arbitration panel

1. Each Joint Committee shall establish a list of 15 persons who are willing and able to serve as members of an arbitration panel. To that end, each Associated Party shall nominate five persons. The Associated Parties shall also jointly nominate five persons to serve as chairperson of the arbitration panel. The Joint Committees shall ensure that those lists meet the requirements referred to in paragraph 2 at all times.

2. The lists established in accordance with paragraph 1 shall only comprise persons whose independence is beyond doubt, who possess the qualifications required for appointment to the highest judicial office in their respective countries or who are jurisconsults of recognised competence, and who possess specialised knowledge or experience of EU law and public international law. Those lists shall not comprise persons who are members, officials or other servants of EU institutions, of the government of an EU Member State, or of the government of an Associated State.

## CHAPTER 2

### NOTIFICATIONS

#### ARTICLE 5

##### Transmission of notifications

1. The arbitration panel shall send all requests, notices, written submissions and other documents to both Associated Parties at the same time.
2. Where an Associated Party addresses a request, notice, written submission or other document to the arbitration panel, it shall send a copy thereof to the other Associated Party at the same time
3. Where an Associated Party addresses a request, notice, written submission or other document in relation to the dispute to the other Associated Party, it shall send a copy thereof to the arbitration panel at the same time.
4. Any notification referred to in paragraphs 1 to 3 shall be made by email or, where appropriate, any other means of telecommunication that provides a record of the sending thereof. Unless proven otherwise, such notification shall be deemed to have been delivered on the date of its sending. All notifications shall be addressed to the Legal Service of the European Commission and to the Mission to the EU of the Associated State concerned.



## ARTICLE 6

### Notice of arbitration

1. Arbitration proceedings shall be deemed to commence on the date on which the notice of arbitration is received by the Respondent. The notice of arbitration shall also be sent to the Permanent Court of Arbitration.
2. The notice of arbitration shall contain the following elements:
  - (a) the request to submit the dispute to arbitration;
  - (b) the names and addresses of the Associated Parties;
  - (c) the names and addresses of their representatives and advisers;
  - (d) the legal basis of the procedure: Article 90(8), Article 97(9) or Article 98(6) of the Framework Agreement;
  - (e) the identification of one of the following measures:
    - (i) the compensatory measures referred to in Article 90(7) of the Framework Agreement;
    - (ii) the safeguard measures referred to in Article 97(1) of the Framework Agreement;
    - (iii) the emergency safeguard measures referred to in Article 97(5) of the Framework Agreement;

(iv) the rebalancing measures referred to in Article 97(8) of the Framework Agreement;

(v) the safeguard measures referred to in Article 98(1) of the Framework Agreement;

(vi) the rebalancing measures referred to in Article 98(5) of the Framework Agreement;

(f) the specification of the rule at issue in the dispute or relating to it;

(g) a brief description of the dispute;

(h) the nomination of a member of the arbitration panel.

3. A dispute on the question whether the notice of arbitration complies with the requirements of this Framework Protocol shall not prevent the establishment of the arbitration panel. Such dispute shall be settled definitively by the arbitration panel.

## ARTICLE 7

### Reply to the notice of arbitration

1. Within 20 days of receipt of the notice of arbitration, the Respondent shall send its reply to the Claimant and to the Permanent Court of Arbitration, which shall contain:
- (a) the names and addresses of the Associated Parties;
  - (b) the names and addresses of their representatives and advisers;

(c) a reply to the elements contained in the notice of arbitration as provided for in Article 6 (2) (d)-(g) of this Framework Protocol;

(d) the nomination of a member of the arbitration panel.

2. A dispute concerning the Respondent's failure to reply, or to reply in a complete and timely manner, to the notice of arbitration shall not prevent the establishment of the arbitration panel. Such a dispute shall be settled definitively by the arbitration panel.

## CHAPTER 3

### THE ARBITRATION PANEL

#### ARTICLE 8

##### Establishment of the arbitration panel

1. The panel shall be composed of three members.
2. The arbitration panel shall be established in accordance with paragraphs 3 and 4 of this Article within 30 days from the date of the submission of a notice of arbitration in accordance with Article 6 of this Framework Protocol.
3. The Associated Parties shall each nominate one member of the arbitration panel from among the persons on the list established pursuant to Article 4(1) of this Framework Protocol. The chairperson shall be selected by mutual agreement by the members of the arbitration panel from the list of persons jointly nominated by the Associated Parties to serve as chairperson.

In the event that the members of the arbitration panel are unable to agree on the selection of the chairperson within the time limit laid down in paragraph 2 of this Article, either Associated Party may request the Secretary-General of the Permanent Court of Arbitration to select the chairperson by lot from the list of persons jointly proposed by the Associated Parties to act as chairperson.

4. The Secretary-General of the Permanent Court of Arbitration shall make the selection referred to in the second point of paragraph 3 within five days of the request referred to in paragraph 3. Representatives of the Associated Parties shall be entitled to be present at the selection.

5. The date of establishment of the arbitration panel shall be the date on which the chairperson has been selected and accepted his appointment.
6. In the event that the list referred to in Article 4(1) of this Framework Protocol has not been established by expiry of the time limit laid down in paragraph 2 of this Article, each Associated Party shall, within five days, nominate one person to serve as a member of the arbitration panel. If persons have been proposed under Article 4(1) of this Framework Protocol, the nominations shall be made from that list of persons. The chairperson shall then be appointed in accordance with the procedure set out in paragraph 3 of this Article. In the event that the Associated Parties have not, within a further five days, jointly proposed at least one person to serve as chairperson, the Secretary-General of the Permanent Court of Arbitration shall, within five days and after consulting the Associated Parties, propose a chairperson who fulfils the requirements set out in Article 4(2) of this Framework Protocol. Unless one of the Associated Parties objects to that proposal within five days, the person proposed by the Secretary-General of the Permanent Court of Arbitration shall be appointed.
7. In the event of failure to establish an arbitration panel within three months of the date of the request made pursuant to Article 6 of this Framework Protocol, the Secretary-General of the Permanent Court of Arbitration shall, within 15 days of a request by either Associated Party and after consulting the Associated Parties, appoint persons who fulfil the requirements of Article 4(2) of this Framework Protocol to constitute the arbitration panel.

## ARTICLE 9

### Independence and immunity of the members of an arbitration panel

1. Members of an arbitration panel shall be independent, shall serve in their individual capacity and shall not take instructions from any organisation or government.

2. The members of an arbitration panel shall, as from the establishment thereof, enjoy immunity from legal proceedings in the EU and the Associated States with respect to acts performed by them in the exercise of their functions on that arbitration panel.

## ARTICLE 10

### Challenges of members of the arbitration panel.

1. An Associated Party that intends to challenge a member of the arbitration panel shall notify its intention within 15 days from the date on which the appointment of that member was notified to it or within 30 days from the date on which it was made aware of circumstances in breach of the requirements set out in Article 9(1) of this Framework Protocol.
2. The notice of challenge shall be sent to the other Associated Party, the challenged member of the panel, the other members of the arbitration panel and the Permanent Court of Arbitration. It shall set out the reasons for that challenge.
3. Where a member of the arbitration panel has been challenged by an Associated Party, the other Associated Party may accept the challenge. The challenged member of the arbitration panel may also withdraw. Such acceptance or withdrawal shall not imply acknowledgement of the reasons given for the challenge.
4. If, within 15 days from the date of notification of challenge, the other Associated Party does not accept the challenge or the challenged member of the arbitration panel does not withdraw, the challenging Party may request the Secretary-General of the Permanent Court of Arbitration to take a decision on the challenge.

5. When taking a decision on a challenge, the Secretary-General of the Permanent Court of Arbitration shall give its reasons, unless the Associated Parties agree that no reason shall be given.

## ARTICLE 11

### Replacement of members of the arbitration panel

1. In case it is necessary to replace a member of the arbitration panel during the arbitration procedure as provided for in Chapter 5 of this Framework Protocol, a replacement shall be appointed or selected in accordance with Article 8(3) of this Framework Protocol. That provision shall apply even where an Associated Party had not exercised the right to appoint or take part in the appointment of the member of the arbitration panel who is to be replaced.
2. Where a member of the arbitration panel is replaced, the procedure shall be resumed at the stage at which the member of the arbitration panel being replaced ceased to perform his or her duties, unless the arbitration panel decides otherwise.

## ARTICLE 12

### Operation of the arbitration panel

1. The chairperson of the arbitration panel shall chair all meetings of that panel. The arbitration panel may delegate to its chairperson the authority to make administrative and procedural decisions.

2. Unless otherwise provided in this Framework Protocol, the arbitration panel may conduct its proceedings and deliberations by any means of communication.
3. Only members of the arbitration panel may take part in its deliberations. However, the arbitration panel may permit assistants to be present.
4. The drafting of any decision shall remain the exclusive responsibility of the members of the arbitration panel and shall not be delegated to any other person.
5. Where a procedural question arises that is not covered by this Framework Protocol, the arbitration panel may, after consulting the Associated Parties, decide on the procedure to be followed, provided that it is compatible with this Framework Protocol.
6. If the arbitration panel considers that there is a need to change any of the time limits for the proceedings referred to in this Framework Protocol or to make any other procedural or administrative adjustment, it shall inform the Associated Parties, after consulting them, in writing of the reasons for the change or adjustment and the time limit or adjustment needed.



## CHAPTER 4

### COMPUTATION OF TIME LIMITS

#### ARTICLE 13

##### Computation of time limits

1. Any time limit provided for in this Framework Protocol shall run from the day following that on which a notification is received. If the last day of a time limit falls on a weekend or official holiday applicable to the European Commission or to the Associated State concerned, the time limit shall run until the next working day. Official holidays that fall during the time limit shall be counted.
2. If the last day for delivery of a document falls on a weekend or official holiday applicable to the European Commission or to the Associated State concerned that document may be delivered on the next working day of the European Commission or of the Associated State concerned, as the case may be.

## CHAPTER 5

### ARBITRATION PROCEDURE

#### ARTICLE 14

##### General provisions

The arbitration panel shall ensure that the parties are treated with equality and that at any appropriate stage of the proceedings each Associated Party is given an adequate opportunity to present its case. The panel shall conduct its proceedings in a way that prevents needless delays and costs and with a view to settling the dispute between the Associated Parties.

#### ARTICLE 15

##### Place of arbitration

The place of arbitration shall be The Hague. In exceptional circumstances, the arbitration panel may meet in any other place it deems appropriate.

## ARTICLE 16

### Languages

1. The languages of proceedings before the arbitration panel shall be French and English.
2. The arbitration panel may order that all documents attached to the statement of claim or the statement of defence and all additional documents submitted during the proceedings in their original language be accompanied by a translation into one of the languages of the proceedings.
3. Each Associated Party shall bear its own costs of the translation of the documents it submitted to the arbitration panel which are not originally drafted in English or French, as well as any costs relating to interpretation of its representatives or advisers during the hearing.

## ARTICLE 17

### Statement of claim

1. The Claimant shall transmit its statement of claim, in writing, to the Respondent, the Permanent Court of Arbitration and each member of the arbitration panel within the time limit set by the arbitration panel for that purpose in accordance with Article 20 of this Framework Protocol. The Claimant may choose to consider its notice of arbitration referred to in Article 6 of this Framework Protocol its statement of claim, provided it meets all the requirements set out in paragraphs 2 and 3 of this Article.

2. The statement of claim shall contain the following elements:

- (a) the names and addresses of the Associated Parties;
- (b) the names and addresses of their representatives and advisers;
- (c) the legal basis of the procedure: Article 90(8), Article 97(9) or Article 98(6) of the Framework Agreement;

and the identification of one of the following measures:

- (i) the compensatory measures referred to in Article 90(7) of the Framework Agreement;
  - (ii) the safeguard measures referred to in Article 97(1) of the Framework Agreement;
  - (iii) the emergency safeguard measures referred to in Article 97(5) of the Framework Agreement;
  - (iv) the rebalancing measures referred to in Article 97(8) of the Framework Agreement;
  - (v) the safeguard measures referred to in Article 98(1) of the Framework Agreement;
  - (vi) the rebalancing measures referred to in Article 98(5) of the Framework Agreement;
- (d) a statement of the facts supporting the claim;
  - (e) an outline of the dispute; and

(f) the legal grounds or arguments relied on.

3. The statement of claim should, wherever possible, be accompanied by all documents and evidence relied on by the Claimant or refer to those documents and that evidence.

## ARTICLE 18

### Statement of defence

1. The Respondent shall transmit, in writing, its statement of defence to the Claimant, the Permanent Court of Arbitration and each member of the arbitration panel within the time limit set by the arbitration panel for that purpose in accordance with Article 20 of this Framework Protocol. The Respondent may choose to consider its reply to the notice of arbitration referred to in Article 7 of this Framework Protocol its statement of defence, provided it meets the requirements set out in paragraph 2 of this Article.
2. The statement of defence shall reply to the elements set out in the statement of claim in accordance with Article 17(2) (c)-(f) of this Framework Protocol. The statement of defence should, wherever possible, be accompanied by all documents and evidence relied on by the Respondent or refer to those documents and that evidence.

## ARTICLE 19

### Other written submissions

The arbitration panel may decide what written submissions in addition to the statement of claim and the statement of defence the Parties must or may submit to it. Pursuant to Article 20 of this Framework Protocol, the arbitration panel shall set the time limit for transmitting those written submissions.

## ARTICLE 20

### Time limits

The time limits set by the arbitration panel for transmitting the statement of claim, the statement of defence and any other written submissions (should not exceed 90 days. However, the arbitration panel may extend those time limits where it deems such an extension justified.

## ARTICLE 21

### Interim measures

The arbitration panel shall not take or grant interim measures.

## ARTICLE 22

### Evidence

1. Each Associated Party shall provide evidence of the facts on which it bases its claim or defence, respectively.
2. At any time during the proceedings, the arbitration panel may ask the Associated Parties to submit supplementary evidence within a prescribed time limit.
3. The arbitration panel shall determine the admissibility, relevance and strength of the evidence submitted.

## ARTICLE 23

### Hearings

1. Based on the indicative timetable established in accordance with Article 28(1) of this Framework Protocol and after consulting the Associated Parties and the other members of the arbitration panel, the chairperson shall notify the Associated Parties of the date, time and venue of the hearing. That information shall be made publicly available, unless the hearing is closed to the public.
2. The arbitration panel may decide, in agreement with the Associated Parties, not to hold a hearing.

3. Unless the Associated Parties agree otherwise, the hearing shall be held in the premises of the Permanent Court of Arbitration in The Hague, in accordance with Article 15 of this Framework Protocol.
4. The arbitration panel may convene additional hearings where the Parties so agree.
5. All members of the arbitration panel shall be present during the entirety of the hearing.
6. Unless the Parties agree otherwise, the following persons may attend the hearing, irrespective of whether the hearing is open to the public or not:
  - (a) representatives of the Associated Parties;
  - (b) advisers;
  - (c) assistants;
  - (d) interpreters, translators and court reporters of the arbitration panel; and
  - (e) experts, as designated by the arbitration panel.
7. No later than five days before the date of a hearing, each Associated Party shall address to the arbitration panel and to the other Associated Party a list of the names of persons who will make oral arguments or presentations at the hearing on behalf of that Associated Party and the names of other representatives and advisers of that Associated Party who will be attending the hearing.



8. Ensuring that the Claimant and the Respondent are afforded equal time in both argument and reply, the hearing shall proceed in the following order:
  - (a) argument;
    - (i) argument of the Claimant;
    - (ii) argument of the Respondent;
  - (b) reply;
    - (i) reply of the Claimant;
    - (ii) counter-reply of the Respondent.
9. The arbitration panel may pose questions to either Party at any time during the hearing.
10. The arbitration panel shall arrange for a transcript of the hearing to be prepared and delivered to the Parties as soon as possible after the hearing. The Associated Parties may comment on the transcript within ten days of the date of the hearing. The arbitration panel may consider those comments.
11. Each Associated Party may address a supplementary written submission to the arbitration panel concerning any matter that arose during the hearing within ten days of the date of the hearing.

## ARTICLE 24

### Default

1. If, within the time limit laid down by the arbitration panel in accordance with Article 20 of this Framework Protocol, and in the absence of a legitimate impediment, the Claimant has not submitted its statement of claim, the arbitration panel shall order the conclusion of the arbitration procedure, unless there are issues which it may be necessary to rule on or which the panel considers to be appropriate.
2. If, within the time limit laid down by the arbitration panel in accordance with Article 20 of this Framework Protocol, and in the absence of a legitimate impediment, the Respondent has not submitted its reply to the notice of arbitration or its statement of defence, the arbitration panel shall order the continuation of the procedure, without this meaning that the arbitration panel may consider such non-submission to equate the Respondent's acceptance of the Claimant's allegations.

This paragraph shall also apply when the Claimant has failed to submit its counter-reply to a counterclaim.

3. If one of the Associated Parties, duly notified under this Framework Protocol, fails to appear at a hearing, without invoking a legitimate impediment for such failure, the arbitration panel may proceed with the arbitration.
4. If one of the Associated Parties, duly invited to submit supplementary evidence, fails to do so within the time limits laid down and without invoking a legitimate impediment, the arbitration panel shall rule on the basis of the evidence before it.

## ARTICLE 25

### Confidentiality

1. Any information submitted by an Associated Party to the arbitration panel which that Associated Party has designated as confidential shall be treated as confidential by the other Associated Party and by the arbitration panel.

Where an Associated Party submits to the arbitration panel a written submission which contains confidential information, it shall also provide, within 15 days, a submission without the confidential information, which shall be disclosed to the public.

2. Nothing in this Framework Protocol shall preclude an Associated Party from disclosing its own written submissions, responses to questions submitted by the arbitration panel or the transcript of the oral argument to the public, provided that, when making reference to information submitted by the other Associated Party, it does not disclose any information designated by the other Associated Party as confidential.
3. A hearing before the arbitration panel shall be open to the public except where the submission and arguments of an Associated Party contain confidential information or where the Associated Parties otherwise agree that the hearing shall be closed to the public. In such case the Associated Parties shall maintain the confidentiality of the hearing.

## ARTICLE 26

### *Ex parte* contacts

1. Throughout the arbitration proceedings, the members of the arbitration panel shall not meet nor otherwise communicate orally or in writing with an Associated Party in the absence of the other Associated Party.

## ARTICLE 27

### Conclusion of the procedure

When the Associated Parties have been afforded reasonable opportunity to present their arguments, the arbitration panel may conclude the procedure.

## CHAPTER 6

### TIMETABLE OF PROCEEDINGS BEFORE THE ARBITRATION PANEL

#### ARTICLE 28

##### Timetable of proceedings before the arbitration panel

1. The arbitration panel shall, after consulting the Associated Parties, establish an indicative timetable of the proceedings within ten days of its establishment. It may, at any time, after consulting the Associated Parties, extend or shorten any time limit provided for in this Framework Protocol or that the Associated Parties have agreed to.
2. The arbitration panel shall notify its ruling to the Associated Parties and the Joint Committee within twelve months of the date of establishment of the arbitration panel. Where the arbitration panel considers that it cannot comply with that time limit, its chairperson shall notify the Associated Parties in writing, stating the reasons for the delay and the date on which the panel intends to conclude its work.
3. Within ten days of the establishment of the arbitration panel, one of the Associated Parties may submit a reasoned request to treat the case as urgent. In such case, the arbitration panel shall give a ruling on the urgency of the case within 15 days of the receipt of such request. Where the arbitration panels decides that the case is urgent, the arbitration panel shall make every effort to notify its ruling on the merits of the case to the Associated Parties within six months of the date of its establishment.

## CHAPTER 7

### THE ARBITRATION RULING

#### ARTICLE 29

##### Rulings of the arbitration panel

1. The arbitration panel shall make every effort to take any rulings by consensus. Where, despite its efforts, an arbitration ruling cannot be arrived at by consensus, the arbitration ruling shall be decided by majority vote.
2. In no case dissenting opinions of members of an arbitration panel shall be published.
3. Any arbitration ruling shall be binding on the Associated Parties. The ruling shall set out the findings of fact, the applicability of the relevant provisions of this Agreement, and the reasoning behind any findings and conclusions.

#### ARTICLE 30

##### Form and effect of the arbitration ruling

1. The arbitration panel may issue separate arbitration rulings on different issues and at different times.

2. All arbitration rulings shall be in writing and give reasons.
3. All arbitration rulings shall be definitive and binding on the Associated Parties.
4. The arbitration ruling shall be signed by the members of the arbitration panel, state the date on which it was issued and indicate the place of arbitration. A copy of the arbitration ruling signed by the members of the arbitration panel shall be transmitted to the Associated Parties by the Permanent Court of Arbitration.
5. The Associated Parties shall publish arbitration rulings in their entirety, subject to the protection of confidential information provided for in Article 25 of this Framework Protocol.
6. The Associated Parties shall enforce arbitration rulings without delay.

## ARTICLE 31

### Mutually agreed solution or other reasons for terminating the procedure

1. The Associated Parties may reach a mutually agreed solution to their dispute at any time. In that case, the Associated Parties shall jointly notify the arbitration panel of any such solution. If the solution requires approval of one of the Associated Parties, the notification shall refer to such requirement, and the arbitration procedure shall be suspended pending such procedure. If such approval is not required, or upon notification of the completion of any such domestic procedures, the arbitration procedure shall be terminated.

2. If, before the ruling is issued, the continuation of the arbitration procedure becomes impossible or is rendered unnecessary for any other reason not mentioned in paragraph 1, the arbitration panel shall inform the Associated Parties of its intention to issue an order to terminate the procedure. The arbitration panel shall be authorised to issue that order except where there are outstanding issues which it may be necessary to rule on and where the arbitration panel deems such appropriate.
3. The arbitration panel shall transmit to the Parties the order terminating the arbitration proceedings or the mutually agreed settlement, signed by the members of the arbitration panel. Article 30(2) - (6) of this Framework Protocol shall apply to mutually agreed settlements.

## ARTICLE 32

### Correction of an arbitration ruling

1. Within 30 days of the receipt of the award, either Associated Party, with notice to the other Associated Party and the Permanent Court of Arbitration, may request the arbitration panel to correct in the ruling any errors in computation, any material or typographical errors, or any errors or omissions of a similar nature. Where it considers such request justified, the arbitration panel shall make such correction within 45 days of receiving that request. Such request shall not have suspensive effect.
2. The arbitration panel may make corrections on its own initiative within 30 days of the notification of its ruling.
3. Corrections shall pursuant to this Article be made in writing and shall form an integral part of the arbitration ruling. Article 30(2) - (6) of this Framework Protocol shall apply to such corrections.



## CHAPTER 8

### FINANCIAL MATTERS

#### ARTICLE 33

##### Remuneration and compensation of expenses to be paid to members of an arbitration panel and their assistants

The Parties shall agree with the arbitration panel, by any means of communication, within seven days of the establishment thereof, on:

- (a) the remuneration and compensation of expenses to be paid to the members of the arbitration panel, which shall be reasonable and comparable to the standards of panels established under the World Trade Organisation;
- (b) the remuneration to be paid to assistants, whereby for each member of the arbitration panel, the total amount of remuneration to be paid to assistants shall be reasonable and, in any event, not exceed one third of the remuneration of that member.

#### ARTICLE 34

##### Costs

1. Each Associated Party shall bear their own costs and half the costs of the arbitration panel.

2. The arbitration panel shall determine its costs in the ruling on the merits of the case. Those costs shall only cover:
  - (a) fees of the members of the arbitration panel, stated separately for each member and set by the panel itself in accordance with Article 34, point (a) of this Framework Protocol;
  - (b) travel expenses and other expenses incurred by the members of the arbitration panel;
  - (c) the fees and expenses of the Permanent Court of Arbitration.
3. The costs referred to in paragraph 2 must be reasonable considering the value in dispute, the complexity of the dispute, the time spent on it by the members of the arbitration panel and any expert appointed by the arbitration panel, and all other relevant circumstances of the specific case.

## ARTICLE 35

### Deposit of costs

1. At the beginning of the arbitration procedure, the Permanent Court of Arbitration may request the Parties to transfer in advance a deposit equal to an estimate of the total amount of the costs referred to in Article 35(2) of this Framework Protocol.
2. In the course of the arbitration procedure, the Permanent Court of Arbitration may request the Parties to deposit additional amounts.

3. All amounts deposited by the Parties pursuant to this Article shall be transferred to the Permanent Court of Arbitration, which shall disburse them to cover the costs actually incurred, including, in particular, the fees of the members of the arbitration panel and the Permanent Court of Arbitration.

**CODE OF CONDUCT FOR MEMBERS OF ARBITRATION PANELS**

**ARTICLE 1**

**Responsibilities to the process**

1. For the purposes of preserving the integrity and impartiality of the arbitration procedure, every candidate to become member of an arbitration panel shall:
  - (a) avoid impropriety and the appearance of impropriety;
  - (b) be independent and impartial;
  - (c) avoid direct and indirect conflicts of interests; and
  - (d) observe high standards of conduct so that the integrity and impartiality of the dispute settlement procedure is preserved.
2. Former candidates or members of an arbitration panel shall comply with the obligations set out in Articles 5 and 6 of this Appendix.

## ARTICLE 2

### Disclosure obligations of members of the arbitration panel

1. Before confirming their selection as member of the arbitration panel, candidates shall disclose to the Associated Parties in writing any interest, relationship or matter of which they are aware that it is likely to affect their independence or impartiality, or that it might reasonably create an appearance of impropriety or bias in the proceedings before the arbitration panel.
2. Candidates and members of an arbitration panel shall communicate matters concerning actual or potential violations of this Code of Conduct only to the Joint Committee for consideration by the Associated Parties.
3. Members of an arbitration panel shall at any stage of the proceedings before the arbitration panel disclose to the Parties in writing any interests, relationships or matters of the nature referred to in paragraph 1 of which they are or become aware.

## ARTICLE 3

### Due diligence of members of an arbitration panel

1. Upon their selection, members of an arbitration panel shall perform their duties thoroughly and expeditiously throughout the course of the proceedings before the arbitration panel, and with fairness and diligence.

2. In particular, members of an arbitration panel shall:
  - (a) consider only those issues that were raised in the proceedings before the arbitration panel and are necessary for a ruling, and shall not delegate this duty to any other person;
  - (b) take all appropriate steps to ensure that their assistants are aware of, and comply with, Articles 1, 2 and 6 of this Appendix.

#### ARTICLE 4

##### Independence and impartiality of members of an arbitration panel

Members of an arbitration panel shall:

- (a) be independent and impartial, shall avoid creating an appearance of impropriety or bias, and shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to the Union or the Associated States, or fear of criticism;
- (b) not directly or indirectly incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of their duties;
- (c) not use their position as a member of an arbitration panel to advance any personal or private interests and shall avoid actions that may create the impression that others are in a special position to influence them;
- (d) not allow financial, business, professional, family or social relationships or responsibilities to influence their conduct or judgement;

- (e) avoid entering into any relationship or acquiring any financial interest that is likely to affect their impartiality or that might reasonably create an appearance of impropriety or bias;
- (f) not discuss any aspect of the subject matter or the conduct of the proceedings before the arbitration panel with one or both of the Parties in the absence of the other members of the arbitration panel.

## ARTICLE 5

### Obligations of former members of an arbitration panel

All former members of an arbitration panel shall avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from any decision or ruling of the arbitration panel.

## ARTICLE 6

### Confidentiality

1. No member or former member of an arbitration panel shall at any time:
  - (a) disclose or use any non-public information concerning any proceedings before the arbitration panel or that was acquired during such proceedings, except for the purposes of those proceedings; and in any case shall not disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interest of others;

(b) disclose the deliberations of the arbitration panel, or the views of any member of the arbitration panel.

2. No member of an arbitration panel shall disclose a ruling of the arbitration panel or parts thereof prior to its publication in accordance with this Framework Protocol.



## FRAMEWORK PROTOCOL 7

### ON THE STATUTE OF THE PARLIAMENTARY ASSOCIATION COMMITTEE

#### ARTICLE 1

The Parliamentary Association Committee established by Article 78 of the Framework Agreement shall be constituted and function in accordance with the provisions of this Agreement and this Statute.

#### ARTICLE 2

The Parliamentary Association Committee shall consist of twelve members. The European Parliament shall appoint four members and the Parliaments of the Associated States shall each appoint four members.

#### ARTICLE 3

The Parliamentary Association Committee shall elect its own President and Vice-President from among its members. The office of President of the Committee shall be held alternately, for a period of one year, by a member appointed by the European Parliament and by a member appointed by a Parliament of an Associated State.

#### ARTICLE 4

The Parliamentary Association Committee shall hold a general session at least once a year, alternately in the EU and in an Associated State. The Committee shall decide at each session where the next general session shall be held. Extraordinary sessions may be held when the Parliamentary Association Committee so decides in accordance with the rules of procedure adopted in accordance with Article 5 of this Framework Protocol.

#### ARTICLE 5

The Parliamentary Association Committee shall adopt its rules of procedure with a two-third majority of its members.

#### ARTICLE 6

The costs for a member's participation in the Parliamentary Association Committee shall be borne by the Parliament that appointed that member.