PROTOCOL

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

THE EUROPEAN UNION, hereinafter referred to as ‘the Union’,
of the one part, and

UKRAINE,
of the other part,

hereinafter together referred to as ‘the Parties’,

Whereas:

(1) Ukraine has concluded a Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and Ukraine, of the other part (1), (hereinafter referred to as ‘the Agreement’) which entered into force on 1 March 1998.

(2) The European Council held in Brussel on 17 and 18 June 2004 welcomed the Commission’s proposals for a European Neighbourhood Policy (ENP) and endorsed the Council conclusions of 14 June 2004.

(3) The Council has, on numerous further occasions, repeatedly concluded in favour of that policy.

(4) The Council, on 5 March 2007, expressed support for the general and global approach outlined in the Commission’s Communication of 4 December 2006, to enable ENP partners to participate in Community agencies and Community programmes on their merits and where the legal bases so allow.

(5) Ukraine has expressed its wish to participate in a number of Union programmes.

(6) The specific terms and conditions, in particular financial contribution and reporting and evaluation procedures, regarding the participation of Ukraine in each particular programme should be determined in a Memorandum of Understanding between the Commission and the competent authorities of Ukraine,

HAVE AGREED AS FOLLOWS:

Article 1
Ukraine shall be allowed to participate in all current and future programmes of the Union opened to the participation of Ukraine in accordance with the relevant provisions adopting those programmes.

Article 2
Ukraine shall contribute financially to the general budget of the Union corresponding to the specific programmes in which Ukraine participates.

Article 3
Ukraine’s representatives shall be allowed to take part, as observers and for the points which concern Ukraine, in the management committees responsible for monitoring the programmes to which Ukraine contributes financially.

Article 4
Projects and initiatives submitted by participants from Ukraine shall, as far as possible, be subject to the same conditions, rules and procedures pertaining to the programmes concerned as applied to Member States.

Article 5
The specific terms and conditions regarding the participation of Ukraine in each particular programme, in particular the financial contribution payable and reporting and evaluation procedures, shall be determined in a Memorandum of Understanding between the Commission and the competent authorities of Ukraine on the basis of the criteria established by the programmes concerned.

If Ukraine applies for external assistance of the Union to participate in a given Union programme on the basis of Article 3 of Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument (1) or pursuant to any similar Regulation providing for external assistance of the Union to Ukraine that may be adopted in the future, the conditions governing the use by Ukraine of external assistance of the Union shall be determined in a financing agreement, respecting in particular Article 20 of Regulation (EC) No 1638/2006.

Article 6

In accordance with the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (2), each Memorandum of Understanding concluded pursuant to Article 5 shall stipulate that financial control or audits or other verifications, including administrative investigations, will be carried out by, or under the authority of, the Commission, the European Anti-Fraud Office and the Court of Auditors.

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

Article 7

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

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

Either Party may denounce this Protocol by written notification to the other Party. This Protocol shall terminate 6 months after the date of such notification.

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

Article 8

No later than 3 years after the date of entry into force of this Protocol, and every 3 years thereafter, both Parties may review the implementation of this Protocol on the basis of the actual participation of Ukraine in Union programmes.

Article 9

This Protocol shall apply, on the one hand, to the territories in which the Treaty on the Functioning of the European Union is applied and under the conditions laid down in that Treaty, and, on the other hand, to the territory of Ukraine.

Article 10

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

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

Article 11

This Protocol shall form an integral part of the Agreement.

Article 12

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

Done at Brussels on the twenty-second day of November in the year two thousand and ten.