

**ACTION FICHE FOR
EU BORDER ASSISTANCE MISSION TO REPUBLIC OF MOLDOVA AND UKRAINE –
EUBAM 6**

1. IDENTIFICATION

Title:	European Union Border Assistance Mission to <u>Republic of</u> Moldova and Ukraine – EUBAM 6			CRIS n° 19591
Total cost:	EUR 12 million			
Aid method / Management mode:	Project approach – joint management			
DAC-code:	15220	Sector:	Civilian peace-building, conflict prevention and resolution	

2. RATIONALE

2.1. Sector context

The region of Transnistria proclaimed its independence from Republic of Moldova in 1992, one year after the dissolution of the Soviet Union. A short conflict ensued, with some 1,000 casualties. A ceasefire brokered with Russian mediation left Tiraspol in control of the region east of the Dniestr River in a self-proclaimed Republic of Transnistria, which is not recognised by any member of the international community.

The arrival in power of the administration of President Yushchenko in Ukraine in 2005, and the launching of the so-called “Yushchenko Plan” created a window of opportunity to advance the resolution of the “frozen” Transnistria conflict. Since September 2005, the EU and the U.S. participate as observers in the negotiation process in the enlarged format “5+2”; the EU is represented by the EU Special Representative for Republic of-Moldova accompanied by the Commission.

Following a request from Moldova’s President Voronin and Ukraine’s President Yushchenko in June 2005, the EU decided to launch an EU Border Assistance Mission (EUBAM) which was inaugurated on 30 November 2005 after the Commission had signed a Memorandum of Understanding with Republic of Moldova and Ukraine on 7 October 2005. Since then, EUBAM has enjoyed high political support from all stakeholders. Importantly, the Mission has also enjoyed continued attention and political and financial support from the EU side, including not only the Commission but also EU Member States. The latter’s active involvement as stakeholders in, and contributors to, EUBAM, has been a key element in the Mission’s success to date. This has enabled EUBAM to operate effectively and help achieve improvements in cross-border cooperation and the fight against cross-border criminal activities, especially against large-scale smuggling activities. EUBAM’s activities also evidenced that indeed much needs to be done in order to bring border and customs control procedures in line with EU standards. In May 2006 EUBAM came up with 41 recommendations on measures required to improve control standards and to approximate them to those of the EU.

The EU’s involvement increased trust and cooperation between Republic of Moldova and Ukraine and led to remarkable results: a joint declaration signed by the Prime Ministers of Republic of Moldova and Ukraine, Tarlev and Yekhanurov, set in place the May 2003 bilateral customs agreement which enforcement started on 3 March 2006; two Protocols on mutual exchange of pre-arrival, analytical, operational and statistical information on goods and persons were signed between the Customs services

and between the Border Guard services at the 5th Trilateral meeting in Brussels on 21 November 2006; Republic of Moldova simplified the registration of Transnistrian enterprises with the Moldovan Chamber of Commerce in March 2007 and extended access to preferential trade certificates of origin also to temporarily registered Transnistrian-based companies.

Ukraine and Republic of Moldova showed continued commitment to a peaceful settlement of the Transnistria conflict and the effective implementation of the 2003 bilateral customs regime. Moreover, both countries expressed at a number of occasions their satisfaction with EUBAM's work and the assistance which is provided by the Mission; this resulted in a tri-partite agreement to extend the Mission's mandate for further two years until November 2009. All relevant authorities fully cooperate with the Mission which is an important indicator regarding the project's consistency with the partner Government's policies and strategies.

2.2. Lessons learnt

- a) EUBAM has demonstrated that the innovative institutional compromise under which it was established is able to deliver significant results. The integrated interface between this European Commission Mission and the Council, through the EUSR, and the enhanced border team which includes personnel seconded directly by EU Member States (which also constitutes a considerable equivalent financial contribution), has provided an excellent framework for the Mission to provide technical advice and assistance, while maintaining awareness of, and responsiveness to, the context in which it operates. The enhanced credibility that EUBAM has gained through the employment of seconded, serving officers from EU Member States has been complemented by a cohesive, supranational culture on the Mission.
- b) EUBAM has benefited from dynamic, ambitious and imaginative leadership, which would help any mission, but this needs to be backed up with sufficient managerial, analytical, planning and organisational capacity from the outset. The creation of mission "start-up kits" including readymade management reporting systems and products may help to enhance the institutional learning process and prevent unnecessary reinvention of wheels.
- c) EUBAM benefits from the mix of professional and national backgrounds, taking in both "older" and "newer" EU Member States, enabling it to give practical expression to the phrase "United in Diversity". Increased contextual awareness and attention to linguistic and cultural acclimatisation and integration into the communities where mission members live and work may pay dividends in future.
- d) The effectiveness of non-executive missions could be increased by improving the mechanisms for escalating issues, and particularly obstacles, from the technical level to the political. If this were explicitly clear to all parties, it would leverage the influence of the Mission in its dealings with counterparts, through the creation of a credible and empowered accountability mechanism.
- e) Excellent public relations, as EUBAM has had, are essential in promoting the role of the Mission, maintaining momentum and ensuring that publics and customers are aware of the value of such a mission, which also supports the confidence building process with partner services.
- f) The nature of the tasks of a non-executive mission such as EUBAM are challenging, particularly in scenarios where there is no immediate accession perspective, and careful framing of the role of a mission as a partner, not an auditor and as an opportunity, not a threat needs to inform all dealings with host countries. The increasingly systematic approach to capacity building has paid dividends, particularly in tandem with the newly streamlined planning process, which creates clearer objectives for each unit, while enhancing the possibilities for devolved decision making, with improved quality management facilitating the necessary supervision and support from the headquarters.
- g) After the re-establishing of the May 2003 customs agreement based on the Joint Statement of the Moldovan and Ukrainian Prime Ministers, dated 30 December 2005 and enforced as of 3 March 2006,

another major success in the settlement process was the issuing of Decree no. 301 by the Moldovan Government on 17 March 2007 (later replaced by Decree no. 743/2007, establishing more favourable implementing procedures) amending Decree no. 815 of 2 August 2005 extending access to preferential trade certificates of origin to companies located in the Transnistrian region of [Republic of Moldova](#) and temporarily registered in the Moldovan State Registration Chamber. Continued EU technical support to the implementation of the Joint Declaration is required (i.e., facilitating dialogue between the two countries, facilitating the exchange of information, risk analysis). EUBAM has been providing this technical support.

- h) Targeting only border guard and customs services in the fight against smuggling has proven being not sufficient. Smugglers have been released and the smuggled goods were returned to the smugglers. Corruption continues to be a serious issue. This calls for including the Prosecutor's offices, the courts and the Ministry of Justice either in EUBAM activities or in accompanying technical assistance projects. For this purpose, an Investigation Advisory Unit was established under EUBAM 4, and will continue under EUBAM 5 and 6, corruption will be tackled more prominently. However, there is also a need to include these topics regularly at political-level meetings between the EU and [Republic of Moldova](#) and Ukraine.
- i) Implementation and practical backstopping of the Mission's logistic set-up by UNDP proved to be an effective way to manage complex operations of this nature. In particular, the flexibility and organisational capacity of UNDP proved to be of essence to the Mission of this size and nature. It has to be noted that both the EU and UNDP showed commendable flexibility in finding a compromise that combined adherence to procedure, while reflecting the unique character and needs of the Mission, which made this arrangement workable.

2.3. Complementary actions

The Commission is financing EUBAM-flanking measures (BOMMOLUK projects) under the RAPs 2003 and 2005 with a total of € 9.9 million, as well as under the ENPI NAPs 2007 for [Republic of Moldova](#) and Ukraine amounting to € 11 million and € 5 million respectively. These interventions build upon EUBAM's 41 recommendations of May 2006. Follow-up projects are under consideration for the 2007 ENPI NAPs. The major objective of these projects is to support Moldovan and Ukrainian partner services in their efforts to approximate to EU standards.

In 2006 and 2007, the Commission has funded an IOM implemented and U.S. co-funded project aiming at reforming the Ukrainian State Border Guard Service's human resources management (NAP 2003, € 4.3 million, HUREMAS project). The project targets border management legislation, as well as recruitment, training and career development of border guard personnel. A follow-up project is under preparation (NAP 2006, € 1 million). The project is supported by the Border Guard Services from Hungary and Poland.

At the Ukrainian-Moldovan State border, the U.S. Defence and Threat Reduction Agency is funding a programme amounting to USD 28 million targeted at fighting the proliferation of weapons of mass destruction, nuclear material and components of dual use. Under the U.S. Millennium Challenge Account, USD 46 million was made available for anti-corruption measures in Ukraine which could have a certain impact on EUBAM's work. Coordination between the activities of the EUBAM with the EU Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) will be ensured.

2.4. Donor coordination

Under the Paris Pact Declaration, a sub-working group on border management issues has been established in which donor activities are being coordinated. As regards border management improvement, the U.S.A. is the only serious donor other than the EC. Close cooperation and coordination of activities are ongoing

on a permanent basis in order to ensure synergy effects. Coordination is also achieved through quarterly EUBAM Advisory Board and monthly EUBAM Coordination meetings.

3. DESCRIPTION

3.1. Objectives

3.1.1 Overall objectives

- a) To contribute to enhancing the overall border and customs management capacities and the abilities of Republic of Moldova and Ukraine to fight against cross-border and organised crime and to approximate the border and law enforcement authorities' standards to those of the EU.
- b) To assist Republic of Moldova and Ukraine in fulfilling their commitments under the European Neighbourhood Policy Action Plans (ENP AP) and the Partnership and Cooperation Agreements (PCA) in relations to the Mission's mandate.
- c) To contribute to a peaceful resolution of the Transnistria conflict.

3.1.2 Specific objectives

- a) Capacity building and knowledge of EU standards/best practice: To build up appropriate tactical, operational and institutional capacity in Republic of Moldova and Ukraine to ensure effective border and customs controls and surveillance as well as effective fight against criminal cross-border activities and organised crime with particular attention to the Moldovan-Ukrainian state border, including relevant inland areas and locations.
- b) Risk analysis capacity: To improve the partner services' risk analysis capacity in terms of gathering, analysing, and disseminating of information and intelligence at strategic, operational, and tactical level as well as to reinforce the use of risk assessment techniques by Border Guard and Customs Services.
- c) Integrated border management: To increase the cooperation between all services involved in border management with a view to allow developing integrated border management in the medium and long term, with growing cooperation between border management and law enforcement services.
- d) Anti-corruption: To support partner services' anti-corruption efforts at operational and tactical levels.
- e) Capacity building in public relations: To enhance public relations skills, capabilities and technical infrastructure of the public relations sections of the Moldovan and Ukrainian partner services.
- f) Confidence building between Republic of Moldova and Ukraine: To help promoting cooperation between the agencies involved in border and customs controls and fight against crime in Republic of Moldova and Ukraine through transparency, exchange of analytical and tactical information, close cross-border cooperation and development of an atmosphere for extended economic relations, for instance through joint border operations, joint border/customs controls, or the drafting of joint border security assessment reports, with a view to allow self-sustaining development of integrated border management in the long term (IBM-2: international integration).
- g) Monitoring the implementation of the 2003 Ukraine-Republic of Moldova customs regime: To monitor the correct and effective implementation of the 2003 Customs Protocol concluded between the State Customs Service of Ukraine and the Customs Service of the Republic of Moldova as agreed

between the Prime Ministers of the Republic of Moldova and Ukraine in the Joint Declaration of 30 December 2005.

- h) Public awareness raising: To provide objective information to the local population in Republic of Moldova and Ukraine regarding EUBAM's tasks and assistance provided to the countries, ongoing activities at the border of which travellers and/or the local population benefits, rights and responsibilities of persons crossing the border (in order to complement anti-corruption measures), health risks of purchasing smuggled food (in order to complement consumer protection measures), etc.

3.2. Expected results and main activities

- a) Professional capacity of border, customs and law enforcement officials enhanced: EUBAM found clear indications that the Moldovan-Ukrainian border is frequently used for illegal activities, in particular smuggling. EUBAM experts also identified, together with their national counterparts, a number of cases of large-scale cases related to drug trafficking, trafficking of stolen vehicles, cigarette smuggling, etc. which remained undetected before the Mission's operation due to a lack of professional skills of the competent authorities. EUBAM will therefore continue providing on-the-job training and coaching to border guard, customs and law enforcement personnel at operational / tactical level at relevant locations (at border crossing points, inland customs houses, and main transit points) with a view to upgrade the personnel's skills and make them acquainted with EU standards and best practices regarding border and customs controls and the investigation of crime. Furthermore, EUBAM will pay particular attention to the partner services' middle management which management knowledge will be increased through advice and mentoring.
- b) Risk analysis capacity further improved: EUBAM has supported the border guard and customs services in establishing risk analysis capacity at central level and will continue providing assistance to these units. A Tacis project funded under the 2003 Regional Programme – BOMMOLUK 1 – has aimed, amongst others, at institutionalising risk analysis units in the partner services. This project has further enhanced the professional capacity in the analytical units and allowed the partner services to switch fully to risk based controls. The partner services capacity to gather, analyse and disseminate information and intelligence at strategic, operational and tactical level has been increased, and the use of risk assessment techniques has been reinforced. The partner services' senior management can now benefit from a better overview on the situation at the border. This will allow them to react on time when certain organisational or structural measures need to be initiated.
- c) Cross-border cooperation between border, customs and law enforcement authorities increased: Criminal groups still benefit from a lack of cross-border cooperation between border, customs and law enforcement authorities (though cooperation improved considerably since EUBAM's operation) and use this circumstance to their advantage. EUBAM will continue supporting authorities of Republic of Moldova's and Ukraine's authorities to strengthen bilateral cooperation and information exchange on statistical, analytical and tactical data through a variety of measures such as initiating/ participating in joint cross-border operations, facilitating the exchange of liaison officers in such operations, offering training for conducting joint border and customs controls, drafting of joint border security assessment reports, etc. In particular the installation of an automatic information exchange on the pre-arrival of goods, based on an agreement signed at the 5th Trilateral meeting on border issues on 21 November 2006 in Brussels, will improve customs controls and the fight against smuggling and undervaluation once fully operational. These measures will lead to an improved fight against cross-border crime and will, at the same time, facilitate legal movement of persons and goods across the border. Border and customs services will also get an increased understanding of an integrated approach to border management.

- d) Analytical overview on border security and cross-border movement of goods and persons improved: EUBAM will perform visits and inspections to relevant locations including along the green border by joining border surveillance activities. This monitoring activity will encourage partner services to strictly implement the 2003 customs regime agreed between Ukraine and Republic of Moldova as well as to take serious counter-measures when criminal activities are detected. This will lead – in the mid-term – to a considerable reduction of illegal cross-border activities due to the increased risk of being detected, apprehended and prosecuted.
- e) Corruption of border guards and customs officials at operational / tactical level decreased: The permanent cooperation with and being monitored by EUBAM experts will motivate partner services' personnel to carry out their duties objectively and according to existing laws. This will reduce the border and customs staff preparedness to demand or accept bribes. Moreover, the partner services' anti-corruption efforts will be further supported through advice from a short-term anti-corruption expert. All activities will be coordinated with other anti-corruption initiatives, in particular those initiated by the Commission and the United States.
- f) Level of information in the local population of EUBAM's activities and the partner services' efforts increased: Awareness in the local population of, for instance, the scale of smuggling and health risks, as well as the losses for the State budget when consuming smuggled food stuff, is extremely low. Targeted and objective information shall help the local population and policy makers to better understand the dimension of the scale of illegal activity and the results of the assistance rendered to the partner countries.
- g) Public relations capabilities of partner services enhanced: Border Guard and Customs Services will be further familiarised with public relations methodologies and tools as well as with the principles of public information. This will, on the one hand, promote a positive image of the services and, on the other hand, help the services to inform citizens professionally about border and customs related issues. The intervention will be completed by supporting partner services in drafting technical specifications for related equipment for the services' public relations sections and, if appropriate, by supplying such equipment.

3.3. Stakeholders

3.3.1 Border Guard Service of the Republic of Moldova

The border guard service of Republic of Moldova is structured into four regional departments, and its transformation from a military structured entity into a fully professional law enforcement service should be completed by 2010. It still includes a proportion of conscripts, being gradually replaced by professional border guards, with staffing number generally adequate. Passport controls at BCPs appear to be carried out in a satisfactory manner, but there seems to be little expertise in the identification of forged documents or in search methods to fight smuggling or illicit products. Surveillance of the green and blue border is generally inadequate, due also to a lack of means (communication network, vehicles, and patrol boats).

3.3.2 Customs Service of the Republic of Moldova

The customs service is structured in a Central Administration and 15 sub-ordinate offices. There exist 113 customs points across the country. The customs service employs 1,550 customs officers. The customs service has overall adequate administrative capacity / staffing and adequate knowledge of customs rules; customs procedures appear to be normally in line with international standards (Republic of Moldova is a member of WTO). However processing capacities are low and certain specialised skills are lacking (e.g. the implementation of transit procedures, the use of modern techniques of selectivity or risk analysis, etc). A considerable part of customs clearance of commercial traffic takes place in inland customs houses rather than at BCPs.

3.3.3 State Border Guard Service of Ukraine

The State Border Guard Service is structured into five regional departments, with the Odessa one in charge of nearly the entire border with [Republic of Moldova](#). The SBGS has been – to a certain extent – demilitarised but, in addition to classical tasks of control and surveillance of persons and goods, and the fight against cross-border crime and irregular migration, still also has the function of defending the state border, and a somewhat military structure / training system. The SBGS has the overall responsibility for border management, including coordinating the work of customs and other law enforcement agencies present at the border, and green and blue border surveillance. Staff numbers and professional capacity appear as mostly adequate but operational-level staff is often inexperienced, and enhancement of some specialised skills appears necessary. Passport controls appear to be carried out in a satisfactory manner, with some specific problems noted due to short control time of trains. Surveillance of the green / blue border has generally better means at its disposals but could be significantly improved.

3.3.4 State Customs Service of Ukraine

The State Customs Service is generally adequately staffed, but comparably less well equipped than border guards. The overall border management responsibility lies with the border guards, with daily meetings taking place. The role of customs at the borders is often limited to preliminary documentary review, as most procedures are initiated and completed at the customs office of departure or destination. Administrative capacity appears to need reinforcement in some areas. Knowledge and harmonised application of customs rules and procedures is generally better at the main transit points (including the ports of Odessa or Illichevsk) than at BCPs; training in certain specialised skills (e.g. application of risk assessment techniques) appears as necessary.

3.4. Risks and assumptions

3.4.1 Assumptions underlying the project intervention

Assumption 1: Ukrainian and Moldovan authorities will remain committed to the reform of their border and customs services, the fight against corruption, and bilateral co-operation, and will accept (at central, regional and local level) the presence and tasks of the Mission personnel throughout its duration.

The realisation of this assumption is likely, as the countries' political commitment emanates from the highest political level and was confirmed by the signature of the Memorandum of Understanding on the Border Assistance Mission between Ukraine, [Republic of Moldova](#), and the Commission, as well as by the agreement of all parties to extend the Mission's mandate for further two years. Continued commitment and cooperation at the level of services was good during the two years of implementation, and will continue being regularly reported on by the Mission. Moreover, the President of Ukraine adopted the State Border Guard's development strategy up to 2015 in June 2006, a reform document aiming at achieving Schengen standards within the set time horizon. A similar reform strategy is underway for the Moldovan Border Guard Service. Also the State Customs Service of Ukraine is considering elaborating a strategy paper for the service's development for the next decade.

Assumption 2: EU Member States customs and border police administrations will accept to prolong the secondment of the staff currently engaged in the Mission as well as to suggest further suitably qualified personnel for reinforcing the Mission and will continue contributing towards the successful operation of this Mission, notably through exchange of information.

The realisation of this assumption is likely. EU Member States demonstrated strong support during 2006 and 2007 for EUBAM and a healthy interest in continuing / enhancing their contribution to this joint EU endeavour, through seconding own personnel as "field personnel" of the Mission, and accepting to allow continued detachment from national service of the contracted "core" personnel of the Mission.

Assumption 3: The presence of the Mission personnel alongside counterpart operational services along this border will contribute to improving the effectiveness of controls towards EU standards and best practices, to diminishing risks of corruption, and to curbing the main illegal cross-border flows.

The two years of the Mission's operation demonstrated the counterparts' sincere interest to improve the effectiveness of border and customs controls. All services cooperate closely with the Mission and implement their recommendations. The practitioner-to-practitioner training in a live work environment is proving to be the right approach. This logic has underpinned all EC twinning projects deploying Member States practitioners in the pre-accession context.

Assumption 4: Improved border and customs controls and border surveillance along the whole border is a crucial element in the peaceful resolution of the Transnistrian conflict.

This assumption intervenes at the level of wider / overall objectives. Clearly the realisation of this overall objective is beyond the remit of this Mission alone and depends also on other external factors. There is already a clear indication that the expected results and the achievement of specific objectives will significantly contribute to this overall objective. Moldovan-Ukrainian relations improved considerably after the signing and implementing of a Joint Declaration of both countries' Prime Ministers dated 30 December 2005 and implemented since 3 March 2006 as well as the adoption of Decree no. 301/2007, later replaced by Decree no. 743/2007, by the Moldovan Government allowing companies located in the Transnistrian region of [Republic of Moldova](#) and temporarily registered in the State Registration Chamber fully benefiting from Moldova's preferential trade certificates of origin.

3.4.2 Risks

The evident high level of corruption in all services could reduce the positive impact of EUBAM's operation. EUBAM is addressing this challenge through assisting the partner services in implementing anti-corruption strategies. These activities will be coordinated with an EC-funded anti-corruption project, as well as with an U.S.-funded anti-corruption initiative financed under the Millennium Challenge Cooperation.

3.5. Crosscutting Issues

The programme has a strong good governance dimension since prevention of, and fight against corruption is targeted.

4. IMPLEMENTATION ISSUES

4.1. Implementation method

Joint management through the signature of standard agreement with an international organisation, most likely the United Nations Development Programme (UNDP) who was the Commission's implementing partner for the previous five phases, or International Organisation of Migration (IOM) taking into account their experience in the area concerned.

4.2. Procurement and grant award procedures

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the International Organisation concerned.

4.3. Budget and calendar

Indicative breakdown of overall amount by main components:

Supplies (in EUR)	Services (in EUR)
1,000,000	11,000,000

The project is planned to be implemented within 12 months after conclusion of a joint management agreement.

4.4. Performance monitoring

Performance will be monitored by the EC Delegation and the Tacis/ENPI Monitoring Team. The implementing partner will have to submit regular progress reports.

4.5. Evaluation and audit

Please state status of play of existing evaluation mechanism(s) – internal or external. An ex-post / impact evaluation and an audit could be considered within a year after the end of the Mission’s mandate.

4.6. Communication and visibility

EUBAM and the Commission’s implementing partner will follow the communication and visibility strategy already in place. No additional measures will be required since EUBAM ensures the highest EU visibility possible.