

# **PARTNERSHIP AND COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF IRAQ, OF THE OTHER PART**

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC, ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty on European Union and the Treaty on the Functioning of the European Union, hereinafter referred to as the "Member States" and

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

Of the one part, and

THE REPUBLIC OF IRAQ, hereinafter referred to as "Iraq"

Of the other part,

Hereinafter jointly referred to as "the Parties",

CONSIDERING the links between the Union, its Member States and Iraq and the common values that they share,

RECOGNISING that the Union, its Member States and Iraq wish to strengthen those links and to establish trade and cooperation, supported by a political dialogue,

CONSIDERING the importance which the Parties attach to the purposes and principles of the Charter of the United Nations, the observance of human rights, democratic principles and political and economic freedoms, which form the very basis of the Partnership,

REAFFIRMING their attachment to the democratic principles and human rights and fundamental freedoms as laid down in the United Nations Universal Declaration on Human Rights and other relevant international human rights instruments,

ACKNOWLEDGING the great importance of sustainable and social development which should go hand in hand with economic development,

RECOGNISING the importance of enhancing cooperation between them, and their common will to consolidate, deepen and diversify their relations in areas of mutual interest on the basis of respect for sovereignty, equality, non-discrimination, the rule of law and good governance, respect for the natural environment and mutual benefit,

RECOGNISING the need to support Iraq's efforts to continue political reforms and economic rehabilitation and reforms, as well as in improving the living conditions of the poor and disadvantaged sections of the population,

RECOGNISING the need to strengthen women's role in political, civil, social, economic and cultural spheres, as well as to fight discrimination,

DESIROUS of creating favourable conditions for a substantial development and diversification of trade between the Union and Iraq and enhancing cooperation in economic, commercial, investment, science and technology and cultural fields,

AIMING to promote trade and investment and harmonious economic relations between the Parties based on the principles of market economy,

HAVING REGARD to the need to create favourable conditions for improving business and investment,

CONSCIOUS of the need to improve conditions affecting business and investment, and conditions in areas such as establishment of companies, labour, provision of services and capital movements,

TAKING into account the Parties' right to regulate the provision of services within their territories and to guarantee the achievement of legitimate public policy objectives,

TAKING into account their commitment to conduct trade in accordance with the Marrakesh Agreement Establishing the World Trade Organization, done on 15 April 1994 (hereinafter referred to as the "WTO Agreement"), and in that respect their mutual interest in Iraq's accession to that Agreement,

RECOGNISING the specific needs of developing countries under the WTO,

RECOGNISING the fact that terrorism, organised crime, money laundering and drug trafficking represent serious threats to international stability and security as well as to the fulfilment of the objectives of their cooperation,

NOTING the importance of fostering and strengthening regional cooperation,

CONFIRMING that the provisions of this Agreement which fall within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union, bind the United Kingdom and Ireland, as separate contracting parties, and not as part of the European Union, unless the European Union notifies Iraq that either State has become bound on these matters as part of the European Union in accordance with Protocol (No 21) on the position of the United Kingdom and Ireland in Respect of the Area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union. The same applies to Denmark, in accordance with Protocol (No 22) on the position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union,

HAVE AGREED AS FOLLOWS:

## **Article 1. Establishment of Partnership**

1. A partnership is hereby established between the Union and its Member States of the one part, and Iraq, of the other part.

2. The objectives of this Partnership are:

(a) to provide an appropriate framework for the political dialogue between the Parties allowing the development of political relations;

(b) to promote trade and investment and harmonious economic relations between the Parties and so to foster their sustainable economic development; and

(c) to provide a basis for legislative, economic, social, financial and cultural cooperation.

## **Article 2. Basis**

Respect for democratic principles and human rights, as laid down in the Universal Declaration of Human Rights and other relevant international human rights instruments, as well as for the principle of the rule of law, underpins the internal and international policies of both Parties and constitutes an essential element of this Agreement.

## **Title I. Political Dialogue and Cooperation In the Field of Foreign and Security Policy**

### **Article 3. Political Dialogue**

1. A regular political dialogue shall be established between the Parties. It shall strengthen their relations, contribute to the development of a partnership and increase mutual understanding and solidarity.

2. The political dialogue shall cover all subjects of common interest, and in particular peace, foreign and security policy, national dialogue and reconciliation, democracy, the rule of law, human rights, good governance and regional stability and integration.

3. The political dialogue shall take place on an annual basis at ministerial and at senior official level.

### **Article 4. Combating Terrorism**

The Parties reaffirm the importance of the fight against terrorism and, in accordance with international conventions, international human rights, humanitarian and refugee law and with their respective legislation and regulations, agree to cooperate in the prevention and suppression of terrorist acts. They shall do so in particular:

(a) in the framework of the full implementation of the UN Security Council Resolution 1373 (2001) and other relevant UN resolutions, the UN Counter-Terrorism Strategy, international conventions and instruments;

(b) by exchange of information on terrorist groups and their support networks in accordance with international and national law; and

(c) by exchanges of view on means and methods used to counter terrorism, including in technical fields and training, and by exchange of experiences in respect of terrorism prevention.

The Parties continue to be committed to reaching an agreement on the UN Comprehensive Convention on International Terrorism as soon as possible.

The Parties are deeply concerned about incitement of terrorist acts and emphasise their commitment to take all necessary and appropriate measures in accordance with international and national law, to reduce the threat posed by such incitement.

### **Article 5. Countering Proliferation of Weapons of Mass Destruction**

The Parties consider that the proliferation of weapons of mass destruction (WMD) and their means of delivery, both to state

and non-state actors, represents one of the most serious threats to international stability and security. The Parties therefore agree to cooperate and to contribute to countering the proliferation of WMD and their means of delivery through full compliance with and national implementation of their existing obligations under international disarmament and non-proliferation treaties and agreements and other relevant international obligations. The Parties agree that this provision constitutes an essential element of this agreement.

The Parties furthermore agree to cooperate and to contribute to countering the proliferation of WMD and their means of delivery by:

- (a) taking steps to sign, ratify, or accede to, as appropriate, and fully implement all other relevant international instruments;
- (b) the establishment of an effective system of national export controls, controlling the export as well as transit of WMD related goods, including a WMD end-use control on dual-use technologies and containing effective sanctions for breaches of export controls.

The Parties agree to establish a regular political dialogue that will accompany and consolidate these elements.

## **Article 6. Small Arms and Light Weapons**

1. The Parties recognise that the illicit manufacture, transfer and circulation of small arms and light weapons (SALW), including their ammunition, and their excessive accumulation, poor management, inadequately secured stockpiles and uncontrolled spread continue to pose a serious threat to peace and international security.
2. The Parties agree to observe and fully implement their respective obligations to deal with the illicit trade in SALW, including their ammunition, under existing international agreements and UN Security Council resolutions, as well as their commitments within the framework of other international instruments applicable in this area, such as the UN Programme of Action to prevent, combat and eradicate the illicit trade in SALW in all its aspects.
3. The Parties undertake to cooperate and to ensure coordination, complementarity and synergy in their efforts to deal with the illicit trade in SALW, including their ammunition, at global, regional, sub-regional and national levels and agree to establish regular political dialogue that will accompany and consolidate this undertaking.

## **Article 7. International Criminal Court**

1. The Parties reaffirm that the most serious crimes of concern to the international community as a whole should not go unpunished and that their prosecution should be ensured by measures at either the domestic or international level.
2. The Parties recognise that Iraq is not yet a State Party to the Rome Statute of the International Criminal Court, but that Iraq is considering the possibility of acceding to it in the future. In so doing, Iraq will take steps to accede to, ratify and implement the Rome Statute and

Related instruments.

3. The Parties reaffirm their determination to cooperate on this issue, including by sharing experience in the adoption of legal adjustments required by the relevant international law.

## **Title II. Trade and Investments**

### **Section I. Trade In Goods**

#### **Chapter I. General Provisions**

##### **Article 8. Scope and Coverage**

This Chapter shall apply to trade in goods between the Parties.

##### **Article 9. Customs Duties**

For the purpose of this Chapter, a "customs duty" includes any duty or charge of any kind imposed on or in connection with the importation or exportation of a good, including any form of surtax or surcharge imposed on or in connection with such importation or exportation. A "customs duty" does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article 11;
- (b) duty imposed consistently with Chapter II of Section 1 of Title II of this Agreement;
- (c) duty applied consistently with Articles VI, XVI and XIX of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "GATT 1994"), the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, the WTO Agreement on Subsidies and Countervailing Measures, the WTO Agreement on Safeguards, Article 5 of the WTO Agreement on Agriculture or the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as the "DSU");
- (d) fee or other charge imposed pursuant to a Party's domestic law and consistently with Article VIII of the GATT 1994 and its Notes and Supplementary Provisions.

## **Article 10. MFN Treatment**

1. The Parties shall accord to one another most-favoured-nation treatment in accordance with Article I.1 of the GATT 1994 and its Notes and Supplementary Provisions.
2. The provisions of paragraph 1 shall not apply to:
  - (a) advantages granted with the object of establishing a customs union or a free-trade area according to the GATT 1994 or pursuant to the establishment of such customs union or free-trade area;
  - (b) advantages granted to particular countries in accordance with the GATT 1994 and with other international arrangements in favour of developing countries.

## **Article 11. National Treatment**

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, including its Notes and Supplementary Provisions. To this end, Article III of the GATT 1994 and its Notes and Supplementary Provisions are incorporated into and made part of this Agreement, *mutatis mutandis*.

## **Article 12. Tariff Policy**

1. Products originating in Iraq and imported into the Union shall be subject to the Union MFN tariff. No customs duties exceeding those applied to imports from WTO Members in accordance with Article I of the GATT 1994 shall be applied to products originating in Iraq and imported into the Union.
2. Products originating in the Union shall, on their importation into Iraq, not be subject to customs duties exceeding the current 5 % Reconstruction Levy on imported goods.
3. The Parties agree that until Iraq accedes to the WTO, the Parties may amend the level of customs duties on imports after mutual consultation between the Parties.
4. If, after the signature of this Agreement, any tariff reduction is applied by Iraq to imports on an *erga omnes* basis, in particular reductions resulting from the tariff negotiations in the WTO, such reduced customs duties shall be applied to imports originating in the Union and replace the basic duty or Reconstruction Levy as from the date when such reductions are applied.

## **Article 13. Application of Relevant Provisions of the GATT 1994**

The following Articles of the GATT 1994 shall be incorporated into and made part of this Agreement and shall apply between the Parties, *mutatis mutandis*:

- (a) Article V including its Notes and Supplementary Provisions;
- (b) Article VII, paragraphs 1, 2, 3, 4(a), 4(b), 4(d) and 5 including its Notes and Supplementary provisions and the WTO Agreement on Implementation of Article VII of the GATT 1994;
- (c) Article VIII including its Notes and Supplementary Provisions;
- (d) Article IX;

(e) Article X.

## **Article 14. Harmonised Commodity Description**

The classification of goods in trade between the Parties shall be that set out in each Party's respective tariff nomenclature interpreted in conformity with the Harmonised System of the International Convention on the Harmonised Commodity Description and Coding System, done at Brussels on 14 June 1983 (hereinafter referred to as the "HS").

## **Article 15. Temporary Admission of Goods**

Without prejudice to the rights and obligations stemming from international conventions on the temporary admission of goods which bind both Parties, each Party shall grant the other Party exemption from import charges and duties on goods admitted temporarily. The temporary admission procedure shall be applied taking account of the conditions under which the obligations stemming from such conventions have been accepted by the Parties in question.

## **Article 16. Prohibition of Quantitative Restrictions**

The Union and Iraq shall, upon the entry into force of this Agreement, abolish and shall not adopt or maintain in trade between themselves any restrictions on imports or exports or any measures having equivalent effect in accordance with Article XI of the GATT 1994 and its Notes and Supplementary Provisions. To this end Article XI of the GATT 1994 and its Notes and Supplementary Provisions are incorporated into and made part of this Agreement, *mutatis mutandis*.

## **Article 17. Export Duties**

Neither party may maintain or institute any customs duties, taxes or other fees and charges imposed on or in connection with the exportation of goods to the other Party. Neither Party may maintain or institute any internal taxes, fees, and charges on goods exported to the other party that are in excess of those imposed on like products destined for internal sale.

# **Chapter II. Trade Remedies Instruments**

## **Article 18. Anti-dumping**

1. Nothing in this Agreement shall prevent the Parties from adopting anti-dumping or countervailing measures in accordance with Article VI of the GATT 1994, including its Notes and Supplementary Provisions, and the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and with the WTO Agreement on Subsidies and Countervailing Measures.

2. This article shall not be subject to the provisions of Section VI of Title II of this Agreement.

## **Article 19. Safeguard Measures**

1. Nothing in this Agreement shall prevent the Parties from adopting measures in accordance with Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.

2. This article shall not be subject to the provisions of Section VI of Title II of this Agreement.

# **Chapter III. Exceptions**

## **Article 20. General Exceptions**

The provisions of Article XX of the GATT 1994, including its Notes and Supplementary Provisions, and of Article XXI of the GATT 1994, which are incorporated into and made part of this Agreement, shall apply between the Parties, *mutatis mutandis*.

# **Chapter IV. Non-tariff Issues**

## **Article 21. Industrial Standards and Conformity Assessment, Technical Regulations**

## 1. Relationship with the WTO Agreement on Technical Barriers to Trade

The provisions of the WTO Agreement on Technical Barriers to Trade (hereinafter referred to as the "TBT Agreement"), which is incorporated into and made part of this Agreement, shall apply between the Parties, *mutatis mutandis*.

## 2. Scope and coverage

The provisions of this Chapter shall apply to the preparation, adoption and application of technical regulations, standards and conformity assessment procedures, as defined in the TBT Agreement.

## 3. Objectives

The objectives of cooperation in the areas of technical regulations, standards and conformity assessment procedures between the Parties shall be:

- (a) to avoid or reduce technical barriers to trade, in order to facilitate trade between the Parties;
- (b) to enhance access for products to each other's markets through improvements in safety, quality and competitiveness of products;
- (c) to promote a greater use of international technical regulations, standards and conformity assessment procedures, including sector specific measures, and the use of international best practices for drawing them up;

## 4. Technical regulations, standards and conformity assessment procedures

(a) The Parties shall ensure that technical regulations, standards and conformity assessment procedures, are not prepared, adopted or applied with a view to, or with an effect of, creating unnecessary obstacles to trade between the Parties, subject to the provisions of the TBT Agreement.

(b) The Parties shall endeavour where possible to harmonise their standards, technical regulations and conformity assessment procedures.

## 5. Transparency and notification

(a) Obligations concerning the sharing of information on technical regulations, standards and conformity assessment procedures provided for by the TBT Agreement shall apply between the Parties.

(b) The Parties agree to exchange information on issues of potential relevance to their trade relations, including rapid alerts, scientific opinions and events through contact points.

(c) The Parties may cooperate in the establishment and maintenance of contact points, and in the setting up and maintenance of common data bases.

# Chapter V. Sanitary and Phytosanitary Measures

## Article 22. Sanitary and Phytosanitary Measures

1. The Parties shall cooperate in the area of Sanitary and Phytosanitary measures with the objective of facilitating trade while protecting human, animal or plant life or health. The provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter referred to as the "SPS Agreement"), which is incorporated into and made part of this Agreement, shall apply between the Parties, *mutatis mutandis*.

2. On request the Parties may identify and address problems arising from the application of specific SPS-measures with a view to reaching mutually acceptable solutions.

## Section II. Trade In Services and Establishment

### Article 23. Coverage

1. This Section hereby lays down the necessary arrangements for the progressive liberalisation of trade in services and establishment between the Parties.

2. This Section applies to measures affecting trade in services and establishment 1 in all economic activities, with the exception of:

- (a) mining, manufacturing and processing of nuclear materials;
- (b) production of or trade in arms, munitions and war material;
- (c) audio-visual services and cultural services;
- (d) education services;

Investment protection, other than the treatment deriving from Article 25, including investor-state dispute settlement procedures, is not covered by this Section.

- (e) health and social services;
- (f) national maritime cabotage;
- (g) air transport services and services auxiliary to air transport other than:
  - (i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;
  - (ii) the selling and marketing of air transport services;
  - (iii) computer reservation system services;
  - (iv) ground handling services;
  - (v) rental services of aircraft with crew;
  - (vi) airport operation services; and
  - (h) space transport services.

3. Nothing in this Section shall be construed to impose any obligation with respect to government procurement.

4. The provisions of this Section shall not apply to subsidies granted by the Parties.

5. Consistent with the provisions of this Section, each Party retains the right to regulate and to introduce new regulations to meet legitimate policy objectives.

## **Article 24. Definitions**

For the purposes of this Section:

- (a) a "natural person of the Union" means a national of one of the Member States of the Union according to its legislation and a "natural person of Iraq" means a national of Iraq according to its legislation;
- (b) a "juridical person" means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;
- (c) a "juridical person of the Union" or a "juridical person of Iraq" means a juridical person set up in accordance with the laws of a Member State of the Union or of Iraq, respectively, and having its registered office, central administration, or principal place of business in the territory to which the Treaty on European Union and the Treaty on the Functioning of the European Union apply or in the territory of Iraq, respectively. Should the juridical person have only its registered office, central administration, or principal place of business in the territory to which the Treaty on European Union and the Treaty on the Functioning of the European Union apply or in the territory of Iraq, respectively, it shall not be considered as a juridical person of the Union or a juridical person of Iraq, respectively, unless its operations possess a real and continuous link with the economy of the Union or of Iraq, respectively;
- (d) notwithstanding point (c), shipping companies established outside the Union or Iraq and controlled by nationals of a Member State of the Union or of Iraq, respectively, shall also be beneficiaries of the provisions of this Agreement, if their vessels are registered in accordance with their respective legislation, in that Member State of the Union or in Iraq, and carry the flag of a Member State of the Union or of Iraq;
- (e) "economic activity" does not include activities carried out in the exercise of governmental authority, which means activities carried out neither on a commercial basis nor in competition with one or more economic operators;



(f) "subsidiary" means a juridical person which is effectively controlled by another juridical person 1;

(g) "branch" of a juridical person means a place of business not having legal personality which has the appearance of permanency, such as the extension of a parent body, has a management and is materially equipped to negotiate business with third parties so that the latter, although knowing that there will if necessary be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of business constituting the extension.

(h) "service suppliers" of a Party means any natural or juridical person of a Party that seeks to supply or supplies a service;

(i) "trade in services" is defined as the supply of a service through the following modes:

(i) from the territory of a Party into the territory of the other Party;

(ii) in the territory of a Party to the service consumer of the other Party;

(iii) by a service supplier of a Party, through establishment in the territory of the other Party;

(iv) by a service supplier of a Party, through presence of natural persons in the territory of the other Party;

A juridical person is controlled by another juridical person if the latter has the power to name a majority of its directors or otherwise to legally direct its actions.

(j) "measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

(k) "measures adopted or maintained by a Party" means measures taken by:

(i) central, regional or local governments and authorities; and

(ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;

(l) "services" includes any service in any sector except services supplied in the exercise of governmental authority;

(m) "establishment" means any type of business or professional establishment through:

(i) the constitution, acquisition or maintenance of a juridical person 1, or

(ii) the creation or maintenance of a branch or representative office within the territory of a Party for the purpose of performing an economic activity;

The terms "constitution" and "acquisition" of a juridical person shall be understood as including capital participation in a juridical person with a view to establishing or maintaining lasting economic links.

(n) "investor" of a Party means any natural or juridical person that seeks to perform or performs an economic activity through setting up an establishment;

(o) a "service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.

## **Article 25.**

1. From the entry into force of this Agreement the Union shall extend to services or service suppliers of the Iraq the treatment resulting from the schedule of specific commitments of the Union and its Member States on national treatment and market access under the General Agreement on Trade in Services (hereinafter referred to as the "GATS").

Treatment arising from commitments of the Union on the supply of services by contractual services suppliers and independent professionals shall be excluded from this provision. Treatment deriving from agreements concluded by the Union or its Members States providing for mutual recognition in accordance with Article VII of the GATS, shall also be excluded from this provision.

2. From the entry into force of this Agreement, and subject to paragraph 3, the Iraq shall grant to services, service suppliers, establishments and investors of the Union in the services and non-services sector, treatment no less favourable than that granted to like services, services suppliers, establishments and investors 1 of Iraq or to like services, service suppliers, establishments and investors of any third country, whichever is the better.

3. Iraq may modify the treatment granted to services, service suppliers, establishments and investors of the Union by subjecting it to conditions and qualifications which result in treatment less favourable than that granted to its own like services, service suppliers, establishments and investors. Such modification shall respect the following conditions:

(a) The treatment granted to services, services suppliers, establishments and investors of the Union shall remain no less favourable than that granted by Iraq to like services, service suppliers, establishments and investors of any third country.

Iraq may meet the requirement of this paragraph by according to services, service suppliers, establishments and investors of the Union, either formally identical treatment or formally different treatment to that it accords to its own like services, service suppliers, establishments and investors. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of Iraq compared to like services, service suppliers, establishments and investors of the Union.

(b) Iraq shall notify such intention to the Commission of the European Union (hereinafter referred to as "the Commission") 1 four months before the intended date of implementation of such conditions. At the request of the Commission, the Iraq shall provide detailed information on the reasons that justify the intended imposition of conditions and qualifications. These conditions and qualifications shall be deemed accepted by the Union if no communication is sent to Iraq within eight weeks.

(c) At the request of any Party, the proposed conditions and qualifications shall be referred to the Cooperation Committee for examination and approval.

4. Without prejudice to the benefits arising from the treatment granted to services, service suppliers, establishments and investors of the Union pursuant to paragraph 2 of this article, following its accession to the WTO, Iraq shall also extend to services or service suppliers of the Union the treatment resulting from its schedule of specific commitments under the GATS.

For greater certainty, the notification should be addressed to the Director General of the Directorate General for Trade, or its successor.

## **Article 26.**

1. The most-favoured-nation treatment granted in accordance with the provisions of this Section shall not apply to tax advantages which the Parties are providing or will provide in the future on the basis of agreements to avoid double taxation, or other tax arrangements.

2. Nothing in this Section shall be construed to prevent the adoption or enforcement by the Parties of any measure aimed at preventing the avoidance of taxes pursuant to the tax provisions of agreements to avoid the double taxation and other tax arrangements, or domestic fiscal legislation.

3. Nothing in this Section shall be construed to prevent the Member States or Iraq from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in identical situations, in particular as regards their place or residence.

## **Article 27. Other Agreements**

Nothing in this Section shall limit the rights of investors of the Parties to benefit from any more favourable treatment provided for in any existing or future international agreement relating to investment to which a Member State of the Union and Iraq are Parties.

## **Article 28. Transparency**

Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application or international agreements which pertain to or affect this Agreement. Each Party shall also establish one or more enquiry points to provide specific information to services providers of the other Party, upon request, on all such matters. Such enquiry points are listed in ANNEX 3. Enquiry points need not be depositories of laws and regulations.

## **Article 29. Exceptions**

1. The provisions of this Section are subject to the exceptions contained in this Article. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services, nothing in this Section shall be

construed to prevent the adoption or enforcement by any Party of measures:

(a) necessary to protect public security or public morals or to maintain public order;

(b) necessary to protect human, animal or plant life or health;

(c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Section including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on services contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

(iii) safety;

(d) inconsistent with the objectives of Article 25, provided that the difference in treatment is aimed at ensuring the effective or equitable imposition or collection of direct taxes in respect of services or service suppliers of the other Party;

(e) inconsistent with the objectives of Article 25, provided that the difference in treatment is aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements or domestic fiscal legislation.

2. The provisions of this Section shall not apply to the Parties' respective social security systems or to activities in the territory of each Party, which are connected, even occasionally, with the exercise of official authority.

3. The provisions of this Section shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

4. Nothing in this Section shall prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that, in so doing, it does not apply them in a manner as to nullify or impair the benefits accruing to the other Party under Article 25 1.

5. Nothing in this Section applies to activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies.

6. Nothing in this Section shall be construed to prevent a Party, including its public entities, from exclusively conducting or providing in its territory activities or services for the account or with the guarantee or using the financial resources of the Party, or its public entities.

7. The provisions of this Section shall not prejudice the application by each Party of any measures necessary to prevent the circumvention of its measures concerning third country access to its market, through the provisions of this Agreement.

The sole fact of requiring a visa shall not be regarded as nullifying or impairing those benefits.

## **Article 30. Security Exceptions**

Nothing in this Section shall be construed:

(a) to require any Party to furnish any information, the disclosure of which it considers contrary to its essential security interests; or

(b) to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to economic activities carried out directly or indirectly for the purpose of provisioning a military establishment;

(ii) relating to fissionable and fusionable materials or the materials from which they are derived;

(iii) connected with the production of or trade in arms, munitions and war materials and related to traffic in other goods and materials;

(iv) relating to government procurement indispensable for national security or for national defence purposes;

(v) taken in time of war or other emergency in international relations; or

(c) to prevent any Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

## **Article 31. Progressive Liberalisation of Trade In Services and Establishment**

As circumstances allow, including the situation arising from the accession of Iraq to the WTO, the Cooperation Council may make recommendations to the Parties to expand progressively trade in services and establishment between them and ensure full consistency with the provisions of the GATS, notably Article V. Where accepted, those recommendations could be put into effect by virtue of agreements between the Parties.

## **Section III. Provisions Affecting Business and Investment**

### **Article 32. Encouragement of Investment**

The Parties shall encourage an increase in mutually beneficial investment by establishing a more favourable climate for private investment.

### **Article 33. Contact Points and Exchange of Information**

In order to facilitate the communication between the Parties on any trade matter related to private investment, each Party shall designate a contact point. On the request of either Party, the contact point of the other Party shall indicate the office or official responsible for the matter and provide the required support to facilitate communication with the requesting Party.

## **Section IV. Current Payments and Capital**

### **Article 34. Objective and Scope**

1. The Parties shall aim at the liberalisation of current payments and capital movements between them, in conformity with the commitments undertaken in the framework of the international financial institutions.
2. This Section applies to all current payments and capital movements between the Parties.

### **Article 35. Current Account**

The Parties shall allow, in freely convertible currency and in accordance with the Articles of Agreement of the International Monetary Fund, any payments and transfers of the current account between the Parties.

### **Article 36. Capital Account**

From the entry into force of the Agreement, the Parties shall allow the free movements of capital relating to direct investments made in accordance with the laws of the host country and investments made in accordance with the provisions of this Agreement, and the liquidation or repatriation of these capitals and of any profit stemming there from.

### **Article 37. Standstill**

The Parties shall not introduce any new restrictions on current payments and movements of capital between their residents and shall not make the existing arrangements more restrictive.

### **Article 38. Safeguard Measures**

1. Where, in exceptional circumstances, movements of capital between the Union and Iraq cause, or threaten to cause, serious difficulties for the operation of exchange rate policy or monetary policy in the Union or Iraq, the Union and Iraq, respectively, may take safeguard measures with regard to movements of capital between the Union and Iraq for a period not exceeding six months if such measures are strictly necessary.
2. The Party adopting the safeguard measures shall inform the other Party as soon as possible, of a time schedule for their removal.

### **Article 39. Final Provisions**

1. Nothing in this Section shall limit the rights of economic operators of the Parties from benefiting from any more favourable treatment that may be provided for in any existing bilateral or multilateral agreement to which they are parties. 2
2. The Parties shall consult each other with a view to facilitating the movement of capital between them in order to promote the objectives of this Agreement

## **Section V. Trade-related Issues**

### **Chapter I. State Trading Enterprises**

#### **Article 40.**

1. The Parties aim to comply with the provisions of Article XVII of the GATT 1994, its Notes and Supplementary Provisions and the WTO Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994, which are incorporated into and made part of this Agreement, mutatis mutandis.
2. If one of the Parties requests information from the other Party on individual cases of state trading enterprises, the manner of their operation and the effect of their operations on bilateral trade, the requested Party shall ensure maximum transparency possible without prejudice to Article XVII.4(d) of the GATT 1994 on confidential information.
3. Each party shall ensure that any state trading enterprise supplier of a good or service shall comply with that Party's obligation under this Agreement.

## **Section II. Public Procurement**

#### **Article 41. Introduction**

1. The Parties recognise the contribution of transparent, competitive and open tendering to sustainable economic development and set as their objective the effective, reciprocal and gradual opening of their respective procurement markets.
2. For the purposes of this Chapter:
  - (a) "commercial goods or services" means goods or services of a type generally sold or offered for sale in the commercial marketplace to, and customarily purchased by, non-governmental buyers for non-governmental purposes;
  - (b) "construction service" means a service that has as its objective the realization by whatever means of civil or building works, based on Division 51 of the United Nations Provisional Central Product Classification (hereinafter referred to as the "CPC");
  - (c) "days" means calendar days;
  - (d) "electronic auction" means an iterative process that involves the use of electronic means for the presentation by suppliers of either new prices, or new values for quantifiable non-price elements of the tender related to the evaluation criteria, or both, resulting in a ranking or re-ranking of tenders;
  - (e) "in writing or written" means any worded or numbered expression that can be read, reproduced and later communicated. It may include electronically transmitted and stored information;
  - (f) "limited tendering" means a procurement method whereby the procuring entity contacts a supplier or suppliers of its choice;
  - (g) "measure" means any law, regulation, procedure, administrative guidance or practice, or any action of a procuring entity relating to a covered procurement;
  - (h) "multi-use list" means a list of suppliers that a procuring entity has determined satisfy the conditions for participation in that list, and that the procuring entity intends to use more than once; (i)
  - (i) "notice of intended procurement" means a notice published by a procuring entity inviting interested suppliers to submit a request for participation, a tender, or both;
  - (j) "offset" means any condition or undertaking that encourages local development or improves a Party's balance-of-

payments accounts, such as the use of domestic content, the licensing of technology, investment, counter-trade and similar action or requirement;

(k) "open tendering" means a procurement method whereby all interested suppliers may submit a tender;

(l) "person" means a natural person or a juridical person;

(m) "procuring entity" means an entity covered under a Party's Appendix I of ANNEX 1 to this Agreement;

(n) "qualified supplier" means a supplier that a procuring entity recognises as having satisfied the conditions for participation;

(o) "selective tendering" means a procurement method whereby only qualified suppliers are invited by the procuring entity to submit a tender;

(p) "services" includes construction services, unless otherwise specified;

(q) "standard" means a document approved by a recognised body that provides for common and repeated use, rules, guidelines or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a good, service, process or production method;

(m) "procuring entity" means an entity covered under a Party's Appendix I of ANNEX 1 to this Agreement;

(n) "qualified supplier" means a supplier that a procuring entity recognises as having satisfied the conditions for participation;

(o) "selective tendering" means a procurement method whereby only qualified suppliers are invited by the procuring entity to submit a tender;

(p) "services" includes construction services, unless otherwise specified;

(q) "standard" means a document approved by a recognised body that provides for common and repeated use, rules, guidelines or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a good, service, process or production method;

(r) "supplier" means a person or group of persons that provides or could provide goods or services; and

(s) "technical specification" means a tendering requirement that:

(i) lays down the characteristics of goods or services to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production or provision; or

(ii) addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a good or service.

## **Article 42. Scope and Coverage**

1. This Chapter applies to any measure regarding covered procurement. For the purposes of this Chapter, covered procurement means procurement for governmental purposes:

(a) of goods, services, or any combination thereof:

(i) as specified in each Party's Sub-Annexes of Appendix I of ANNEX 1 to this Agreement; and

(ii) not procured with a view to commercial sale or resale, or for use in the production or supply of goods or services for commercial sale or resale;

(b) by any contractual means, including purchase, lease, and rental or hire purchase, with or without an option to buy;

(c) for which the value equals or exceeds the relevant threshold specified in each Party's Sub-Annexes of Appendix I of ANNEX 1 to this Agreement, at the time of publication of a notice in accordance with Article 45;

(d) by a procuring entity; and

(e) that is not otherwise excluded from coverage.

2. Except where provided, this Chapter does not apply to:

- (a) the acquisition or rental of land, existing buildings or other immovable property or the rights thereon;
- (b) non-contractual agreements or any form of assistance that a Party provides, including cooperative agreements, grants, loans, equity infusions, guarantees and fiscal incentives;
- (c) the procurement or acquisition of fiscal agency or depositary services, liquidation and management services for regulated financial institutions or services related to the sale, redemption and distribution of public debt, including loans and government bonds, notes and other securities;
- (d) public employment contracts;
- (e) procurement conducted:
  - (i) for the specific purpose of providing international assistance, including development aid;
  - (ii) under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project;
  - (iii) under the particular procedure or condition of an international organisation, or funded by international grants, loans or other assistance where the applicable procedure or condition would be inconsistent with this Chapter.

3. Each Party shall define and specify the following information in its Sub-Annexes of Appendix I of ANNEX 1 to this Agreement:

- (a) In Sub-Annex 1, the central government entities whose procurement is covered by this Chapter;
- (b) In Sub-Annex 2, all other entities whose procurement is covered by this Chapter;
- (c) In Sub-Annex 3, the services, other than construction services, covered by this Chapter;
- (d) In Sub-Annex 4, the construction services covered by this Chapter;
- (e) In Sub-Annex 5, any General Notes.

4. Where a procuring entity, in the context of covered procurement, requires persons not covered under a Party's Sub-Annexes of Appendix I of ANNEX 1 to this Agreement to procure in accordance with particular requirements, Article 43 shall apply *mutatis mutandis* to such requirements.

5. In estimating the value of a procurement for the purpose of ascertaining whether it is a covered procurement, a procuring entity shall neither divide a procurement into separate procurements nor select or use a particular valuation method for estimating the value of a procurement with the intention of totally or partially excluding it from the application of this Chapter.

6. Nothing in this Chapter shall be construed to prevent any Party from taking any action or not disclosing any information that it considers necessary for the protection of its essential security interests relating to the procurement of arms, ammunition or war materials, or to procurement indispensable for national security or for national defence purposes.

7. Subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or a disguised restriction on international trade, nothing in this Chapter shall be construed to prevent any Party from imposing or enforcing measures:

- (a) necessary to protect public morals, order or safety;
- (b) necessary to protect human, animal or plant life or health;
- (c) necessary to protect intellectual property; or
- (d) relating to goods or services of persons with disabilities, philanthropic institutions or prison labour.

## **Article 43. General Principles**

1. With respect to any measure and any covered procurement, each Party, including its procuring entities, shall accord immediately and unconditionally to the goods and services of the other Party and to the suppliers of the other Party offering the goods or services, treatment no less favourable than the treatment the Party, including its procuring entities, accords to

domestic goods, services and suppliers.

2. With respect to any measure regarding covered procurement, a Party, including its procuring entities, shall not:

(a) treat a locally established supplier less favourably than another locally established supplier on the basis of degree of foreign affiliation or ownership; nor

(b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party. 3

3. With respect to any laws, regulations, procedures and practices regarding government procurement, as well as in respect of specific procurements by public authorities at all levels, opened to goods, services and suppliers of third countries, Iraq shall provide to the goods, services and suppliers of the Union treatment no less favourable than that accorded to goods, services and suppliers of any third country.

Use of electronic means

4. When conducting covered procurement by electronic means, a procuring entity shall:

(a) ensure that the procurement is conducted using information technology systems and software, including those related to authentication and encryption of information, that are generally available and interoperable with other generally available information technology systems and software; and

(b) maintain mechanisms that ensure the integrity of requests for participation and tenders, including establishment of the time and receipt and the prevention of inappropriate access.

Conduct of procurement

5. A procuring entity shall conduct covered procurement in a transparent and impartial manner that avoids conflicts of interest and prevents corruptive practices and that is consistent with this Chapter.

Rules of origin

6. For purposes of covered procurement, no Party may apply rules of origin to goods or services imported from or supplied by the other Party that are different from the rules of origin the Party applies at the same time in the normal course of trade to imports or supplies of the same goods or services from the same Party.

## **Article 44. Publication of Procurement Information**

1. Each Party shall:

(a) promptly publish any law, regulation, judicial decision, administrative ruling of general application, standard contract clauses that is mandated by a law or regulation and is incorporated by reference in notices and tender documentation and procedure regarding covered procurement, and any modifications thereof, in officially designated electronic or paper medium that is widely disseminated and remains readily accessible to the public;

(b) provide an explanation thereof to any Party, on request;

(c) list in Appendix II of ANNEX 1 to this Agreement, the electronic or paper media in which the Party publishes the information described in point (a);

(d) list in Appendix III of ANNEX 1 to this Agreement, the electronic media in which the Party publishes the notices required by Articles 45, 47(4) and 55(2). 2

2. Each Party shall promptly notify the other Party of any modification to the Party's information listed in Appendix II or III of ANNEX 1 to this Agreement.

## **Article 45. Publication of Notices**

Notice of Intended Procurement

1. For each covered procurement, except in the circumstances described in Article 52, a procuring entity shall publish a notice of intended procurement in the appropriate media listed in Appendix III of ANNEX 1 to this Agreement. Each such notice shall include the information set out in Appendix IV of ANNEX 1 to this Agreement. These notices shall be accessible by electronic means free of charge through a single point of access.



## Summary Notice

2. For each case of intended procurement, a procuring entity shall publish a summary notice that is readily accessible, at the same time as the publication of the notice of intended procurement, in one of the WTO languages. The summary notice shall contain at least the following information:

(a) the subject-matter of the procurement;

(b) the final date for the submission of tenders or, where applicable, any final date for the submission of requests for participation in the procurement or for inclusion on a multi-use list; and

(c) the address from which documents relating to the procurement may be requested.

## Notice of Planned Procurement

3. Procuring entities are encouraged to publish as early as possible in each fiscal year a notice regarding their future procurement plans (hereinafter referred to as a "notice of planned procurement"). The notice should include the subject-matter of the procurement and the planned date of the publication of the notice of intended procurement.

4. A procuring entity listed in Sub-Annex 2 of Appendix I of ANNEX 1 to this Agreement may use a notice of planned procurement as a notice of intended procurement provided that it includes as much of the information in Appendix IV of ANNEX 1 to this Agreement as is available and a statement that interested suppliers should express their interest in the procurement to the procuring entity.

## Article 46. Conditions for Participation

1. A procuring entity shall limit the conditions for participation in a procurement to those that are essential to ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to undertake the relevant procurement.

2. In assessing whether a supplier satisfies the conditions for participation, a procuring entity:

(a) shall evaluate the financial, commercial and technical abilities of a supplier on the basis of that supplier's business activities both inside and outside the territory of the Party of the procuring entity;

(b) shall not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of a given Party or that the supplier has prior work experience in the territory of a given Party; and

(c) may require relevant prior experience where essential to meet the requirements of the procurement.

3. In making this assessment, the procuring entity shall base its evaluation on the conditions that it has specified in advance in notices or tender documentation.

4. A procuring entity must exclude a supplier on grounds such as bankruptcy, false declarations, significant deficiencies in performance of any substantive requirement or obligation under a prior contract or contracts, judgments in respect of serious crimes or other judgments in respect of serious public offences, professional misconduct or failure to pay taxes.

## Article 47. Qualification of Suppliers

### Selective tendering

1. Where a procuring entity intends to use selective tendering, the entity shall:

(a) include in the notice of intended procurement at least the information specified in Points 1, 2, 6, 7, 10, and 11 of Appendix IV of ANNEX 1 to this Agreement and invite suppliers to submit a request for participation; and

(b) provide by the commencement of the time-period for tendering, at least the information in points 3, 4, 5, 8 and 9 of Appendix IV of ANNEX 1 to this Agreement to the qualified suppliers that it notifies as specified in paragraph 2, point (b) of Appendix VI of ANNEX 1 to this Agreement.

2. A procuring entity shall recognise as qualified suppliers any domestic suppliers and any suppliers of the other Party that meets the conditions for participation in a particular procurement, unless the procuring entity states in the notice of intended procurement any limitation on the number of suppliers that will be permitted to tender and the criteria for

selecting the limited number of suppliers.

3. Where the tender documentation is not made publicly available from the date of publication of the notice referred to in paragraph 1, a procuring entity shall ensure that those documents are made available at the same time to all qualified suppliers selected in accordance with paragraph 2.

Sub-Annex 2 entities

4. A procuring entity covered under Sub-Annex 2 of Appendix I of ANNEX 1 to this Agreement may maintain a multi-use list of suppliers, provided that a notice inviting interested suppliers to apply for inclusion in the list is published annually, and where published by electronic means, made available continuously in the appropriate medium listed in Appendix III of ANNEX 1 to this Agreement. Such a notice shall include the information set out in Appendix V of ANNEX 1 to this Agreement.

5. Notwithstanding paragraph 4, where a multi-use list will be valid for three years or less, a procuring entity covered under Sub-Annex 2 of Appendix I of ANNEX 1 to this Agreement may publish a notice referred to in that paragraph only once, at the beginning of the period of validity of the list, provided that the notice states the period of validity and that further notices will not be published.

6. A procuring entity covered under Sub-Annex 2 of Appendix I of ANNEX 1 to this Agreement shall allow suppliers to apply at any time for inclusion on a multi-use list and shall include on the list all qualified suppliers within a reasonable short time.

A procuring entity covered under Sub-Annex 2 of Appendix I of ANNEX 1 to this Agreement may use a notice inviting suppliers to apply for inclusion in a multi-use list as a notice of intended procurement, provided that:

(a) the notice is published in accordance with paragraph 4 and includes the information required by Appendix V of ANNEX 1 to this Agreement and as much of the information required by Appendix IV of ANNEX 1 to this Agreement as is available and contains a statement that it constitutes a notice of intended procurement;

(b) the entity promptly provides to suppliers that have expressed an interest to the entity in a given procurement, sufficient information to permit them to assess their interest in the procurement, including all remaining information required by Appendix IV of ANNEX 1 to this Agreement, to the extent that such information is available.

7. A procuring entity covered under Sub-Annex 2 of Appendix I of ANNEX 1 to this Agreement may allow a supplier that has applied for inclusion on a multi-use list in accordance with paragraph 6 to tender in a given procurement, where there is sufficient time for the procuring entity to examine whether the supplier satisfies the conditions for participation.

8. A procuring entity covered under Sub-Annex 2 of Appendix I of ANNEX 1 to this Agreement shall promptly inform any supplier that submits a request for participation or application for inclusion on a multi-use list of the procuring entity's decision with respect to the request.

9. Where a procuring entity covered under Sub-Annex 2 of Appendix I of ANNEX 1 to this Agreement rejects a supplier's request to qualify or application for inclusion on a multi-use list, ceases to recognise a supplier as qualified, or removes a supplier from a multi-use list, the entity shall promptly inform the supplier and, on request of the supplier, promptly provide the supplier with a written explanation of the reasons for its decision.

## **Article 48. Technical Specifications**

1. A procuring entity shall not prepare, adopt or apply any technical specification or prescribe any conformity assessment procedure with the purpose or the effect of creating unnecessary obstacles to international trade.

2. In prescribing the technical specifications for the goods or services being procured, a procuring entity shall, where appropriate:

(a) set out the technical specifications in terms of performance and functional requirements, rather than design or descriptive characteristics; and

(b) base the technical specifications on international or European standards, where these exist; otherwise, on national technical regulations, recognised national standards or building codes.

3. Where design or descriptive characteristics are used in the technical specifications, a procuring entity shall indicate, where appropriate, that it will consider tenders of equivalent goods or services that demonstrably fulfil the requirements of the procurement by including such words as "or equivalent" in the tender documentation.

4. A procuring entity shall not prescribe technical specifications that require or refer to a particular trademark or trade

name, patent, copyright, design, type, specific origin, producer or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements and provided that, in such cases, the entity includes words such as "or equivalent" in the tender documentation.

5. A procuring entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation of adoption of any technical specification for a specific procurement from a person that may have a commercial interest in the procurement.

6. Each Party, including its procuring entities, may, in accordance with this Article, prepare, adopt or apply technical specifications to promote the conservation of natural resources or protect the environment.

## **Article 49. Tender Documentation**

1. A procuring entity shall provide to suppliers tender documentation that includes all information necessary to permit suppliers to prepare and submit responsive tenders. Unless already provided in the notice of intended procurement, such documentation shall include a complete description of the issues set out in Appendix VIII of ANNEX 1 to this Agreement.

2. A procuring entity shall promptly provide, on request, the tender documentation to any supplier participating in the procurement and shall reply to any reasonable request for relevant information by a supplier participating in the procurement, provided that such information does not give that supplier an advantage over its competitors in the procurement.

3. Where, prior to the award of a contract, a procuring entity modifies the criteria or requirements set out in the notice of intended procurement or tender documentation provided to participating suppliers, or amends a notice or tender documentation, it shall transmit in writing all such modifications or amended or re-issued notice or tender documentation:

(a) to all suppliers that are participating at the time the information is amended, if known, and in all other cases, in the same manner as the original information; and

(b) in adequate time to allow such suppliers to modify and re-submit amended tenders, as appropriate.

## **Article 50. Time Periods**

A procuring entity shall, consistent with its own reasonable needs, provide sufficient time for suppliers to prepare and submit requests for participation and responsive tenders, taking into account such factors as the nature and complexity of the procurement, the extent of subcontracting anticipated, and the time for transmitting tenders from foreign as well as domestic points where electronic means are not used. Such time-periods, including any extension of the time-periods, shall be the same for all interested or participating suppliers. The applicable time periods are set out in Appendix VI of ANNEX 1 to this Agreement.

## **Article 51. Negotiations**

1. A Party may provide for its procuring entities to conduct negotiations:

(a) in the context of procurements in which they have indicated such intent in the notice of intended procurement; or

(b) where it appears from the evaluation that no one tender is obviously the most advantageous in terms of the specific evaluation criteria set forth in the notices or tender documentation.

2. A procuring entity shall:

(a) ensure that any elimination of suppliers participating in negotiations is carried out in accordance with the evaluation criteria set out in the notices or tender documentation; and

(b) where negotiations are concluded, provide a common deadline for the remaining suppliers to submit any new or revised tenders.

## **Article 52. Limited Tendering**

A procuring entity may use limited tendering and may choose not to apply Articles 45 to 47, 49 to 51, 53 and 54 only under the following conditions:

(a) where

(i) no tenders were submitted, or no suppliers requested participation;

(ii) no tenders that conform to the essential requirements of the tender documentation were submitted;

(iii) no suppliers satisfied the conditions for participation; or

(iv) the tenders submitted have been collusive, provided that the requirements of the tender documentation are not substantially modified;

(b) where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist because the requirement is a work of art; due to the protection of patents, copyrights or other exclusive rights; or due to the absence of competition for technical reasons;

(c) for additional deliveries by the original supplier of goods and services that were not included in the initial procurement where a change of supplier for such additional goods or services:

(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and

(ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;

(d) in so far as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering;

(e) for goods purchased on a commodity market;

(f) where a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development;

(g) for purchases made under exceptionally advantageous conditions which only arise in the very short term in the case of unusual disposals such as arising from liquidation, receivership or bankruptcy and not for routine purchases from regular suppliers; and

(h) where a contract is awarded to a winner of a design contest provided that the contest has been organised in a manner that is consistent with the principles of this Chapter, and the participants are judged by an independent jury with a view to a design contract being awarded to a winner.

## **Article 53. Electronic Auctions**

Where a procuring entity intends to conduct a covered procurement using an electronic auction, the entity shall provide each participant, before commencing the electronic auction, with:

(a) the automatic evaluation method, including the mathematical formula, that is based on the evaluation criteria set out in the tender documentation and that will be used in the automatic ranking or re-ranking during the auction;

(b) the results of any initial evaluation of the elements of its tender where the contract is to be awarded on the basis of the most advantageous tender and

(c) any other relevant information relating to the conduct of the auction.

## **Article 54. Treatment of Tenders and Award of Contracts**

7. A procuring entity shall not use options, cancel a procurement or modify awarded contracts in a manner that circumvents the obligations under this Agreement.

## **Article 55. Transparency of Procurement Information**

1. A procuring entity shall promptly inform participating suppliers of the entity's contract award decisions and, on request, shall do so in writing. Subject to paragraphs 2 and 3 of Article 56, a procuring entity shall, on request, provide an unsuccessful supplier with an explanation of the reasons why the entity did not select its tender and the relative advantages of the successful supplier's tender.

2. Not later than 72 days after the award of each contract covered by this Chapter, a procuring entity shall publish a notice in the appropriate paper or electronic medium listed in Appendix III. Where only an electronic medium is used, the information shall remain readily available for a reasonable period of time. The notice shall include at least the information set out in Appendix VII of ANNEX 1 to this Agreement.

## **Article 56. Disclosure of Information**

1. On request of the other Party, the Party shall provide promptly any information necessary to determine whether the procurement was conducted fairly, impartially and in accordance with the Chapter, including information on the characteristics and relative advantages of the successful tender. In cases where release of this information would prejudice competition in future tenders, the Party that receives that information shall not disclose it to any supplier, except after consultation with, and agreement of, the Party that provided the information.

2. Notwithstanding any other provision of this Chapter, a Party, including its procuring entities, shall not provide to any supplier information that might prejudice fair competition between suppliers.

3. Nothing in this Chapter shall be construed to require a Party, including its procuring entities, authorities and review bodies, to disclose confidential information where disclosure would impede law enforcement; might prejudice fair competition between suppliers; would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or would otherwise be contrary to the public interest.

## **Article 57. Domestic Review Procedures**

1. Each Party shall provide a timely, effective, transparent and non-discriminatory administrative or judicial review procedure through which a supplier may challenge:

(a) a breach of this Chapter; or

(b) where the supplier does not have a right to challenge directly a breach of the Chapter under the domestic law of the Party, a failure to comply with a Party's measures implementing this Chapter, arising in the context of a covered procurement, in which the supplier has, or has had, an interest. The procedural rules for all challenges shall be in writing and made generally available.

2. In the event of a complaint by a supplier, arising in the context of covered procurement in which the supplier has, or has had, an interest, that there has been a breach or a failure as set out in paragraph 1, the Party concerned shall encourage its procuring entity and the supplier to seek resolution of the complaint through consultation. The procuring entity shall accord impartial and timely consideration to any such complaint in a manner that is not prejudicial to the supplier's participation in ongoing or future procurement or right to seek corrective measures under the administrative or judicial review procedure.

3. Each supplier shall be allowed a sufficient period of time to prepare and submit a challenge, which in no case be less than ten days from the time when the basis of the challenge became known or reasonably should have become known to the supplier.

4. Each Party shall establish or designate at least one impartial administrative or judicial authority that is independent of its procuring entities to receive and review a challenge by a supplier arising in the context of a covered procurement.

5. Where a body other than an authority referred to in paragraph 4 initially reviews a challenge, the Party shall ensure that the supplier may appeal the initial decision to an impartial administrative or judicial authority that is independent of the procuring entity whose procurement is the subject of the challenge. A review body that is not a court shall either be subject to judicial review or have procedural guarantees that provide for:

(a) the procuring entity shall respond in writing to the challenge and disclose all relevant documents to the review body;

(b) the participants to the proceedings (hereinafter referred to as "participants") shall have the right to be heard prior to a decision of the review body being made on the challenge;

(c) the participants shall have the right to be represented and accompanied;

(d) the participants shall have access to all proceedings;

(e) the participants shall have the right to request that the proceedings take place in public and that witnesses may be present; and

(f) decisions or recommendations relating to challenges by suppliers shall be provided, in a timely fashion, in writing, with an explanation of the basis for each decision or recommendation.

6. Each Party shall adopt or maintain procedures that provide for:

(a) prompt interim measures to preserve the supplier's opportunity to participate in the procurement. Such interim measures may result in suspension of the procurement process.

The procedures may provide that overriding adverse consequences for the interests concerned, including the public interest, may be taken into account when deciding whether such measures should be applied. The case for not acting shall be provided in writing; and

(b) where a review body had determined that there has been a breach or a failure as set out in paragraph 1, corrective action or compensation for the loss or damages suffered, which may be limited to either the costs for the preparation of the tender or the costs relating to the challenge, or both.

## **Article 58. Further Negotiations**

1. The Parties will review annually the effective operation of this Chapter and the mutual opening of procurement markets. In no later than one year from the entry into force of this Agreement the Parties will enter into negotiations for the extension of the list(s) of covered entities in Sub-Annex 1 and Sub-Annex 2 of Appendix 1 of ANNEX 1 to this Agreement.

2. Iraq will in the context of the WTO accession negotiations acknowledge its commitment for accession to the plurilateral Agreement on Government Procurement (hereinafter referred to as the "GPA").

## **Article 59. Asymmetrical Regime and Transitional Measures**

Taking into account the development, financial and trade needs, Iraq will benefit from the following transitional measure:

(a) Iraq may provide for a temporary price preference programme consisting of a price differential of 5 % for goods and services and 10 % for works, applicable to supplies and services from purely Iraqis suppliers.

(b) The price preference programme will be phased-out within ten years from the entry into force of this Agreement.

# **Chapter III. Intellectual Property Protection**

## **Article 60. Nature and Scope of Obligations**

1. Pursuant to the provisions of this Article and of ANNEX 2 to this Agreement, Iraq shall adopt, within five years of the entry into force of the Agreement, legislation in order to ensure adequate and effective protection of intellectual, industrial and commercial property rights according to the highest international standards including the rules set by the Agreement on Trade-Related Aspects of Intellectual Property Rights, contained in Annex 1C to the WTO Agreement (hereinafter referred to as the "TRIPS Agreement"), as well as effective means of enforcing such rights.

2. Within three years of the entry into force of the Agreement, Iraq shall accede to the multilateral conventions on intellectual, industrial and commercial property rights referred to in paragraph 2 of ANNEX 2 to this Agreement to which Member States are parties or which are de facto applied by Member States according to the relevant provisions contained in these conventions.

For the purpose of this Agreement, intellectual property rights includes copyright, including copyright in computer programs and in databases, sui generis rights for non original databases, and rights related to copyright, rights related to patents, trademarks, trade names in so far as these are protected as exclusive property rights in the domestic law concerned, designs, layout-designs (topographies) of integrated circuits, geographical indications, including designations of origin, indications of source, plant varieties, protection of undisclosed information and the protection against unfair competition as referred to in Article 10bis of the Paris Convention for the Protection of Industrial Property (Stockholm Act 1967).

3. Within three years of the entry into force of the Agreement, Iraq shall comply with the multilateral conventions on intellectual, industrial and commercial property rights referred to in paragraph 3 of ANNEX 2 to this Agreement to which one or several Member States are parties or which are de facto applied by one or several Member States according to the relevant provisions contained in these conventions.

4. The implementation of this Article and of ANNEX 2 to this Agreement shall be regularly reviewed by the Parties. In

preparing its legislation or if problems in the area of intellectual, industrial and commercial property affecting trading conditions were to occur, urgent consultations will be undertaken, at the request of either Party, with a view to reaching mutually satisfactory solutions. In no later than three years from the entry into force of this Agreement, the Parties will enter into negotiations for more detailed IPR provisions.

5. Each Party shall accord to the national of the other Party treatment no less favourable than that it accords to its own nationals with regard to the protection of intellectual property rights, subject to the exceptions already provided for in the international instruments which are included or may be included from time to time in ANNEX 2 to this Agreement and as of the moment in which they are ratified by that Party.

6. From the entry into force of this Agreement, Iraq shall grant to companies and national of the Union, in respect of the recognition and protection of intellectual, industrial and commercial property, treatment no less favourable than that granted by it to any third country under bilateral agreements.

## **Section VI. Dispute Settlement**

### **Chapter 1. Objective and Scope**

#### **Article 61. Objective**

The objective of this Section is to avoid and settle any dispute between the Parties with a view to arrive at, where possible, a mutually agreed solution.

#### **Article 62. Scope**

This Section applies with respect to any dispute concerning the interpretation and application of the provisions of Title II of this Agreement, except as otherwise expressly provided.

### **Chapter 2. Consultations**

#### **Article 63. Consultations**

1. The Parties shall endeavour to resolve any dispute regarding the interpretation and application of the provisions referred to in Article 62 by entering into consultations in good faith with the aim of reaching a prompt, equitable and mutually agreed solution.

2. A Party shall seek consultations by means of a written request to the other Party, copied to the Cooperation Committee, identifying any measure at issue and the provisions referred to in Article 62 that it considers applicable.

3. Consultations shall be held within 30 days of the date of the submission of the request and take place, unless the Parties agree otherwise, on the territory of the Party complained against. The consultations shall be deemed concluded within 30 days of the date of the submission of the request, unless both Parties agree to continue consultations. All information disclosed during the consultations shall remain confidential.

4. Consultations on matters of urgency, including those regarding perishable or seasonal goods shall be held within 15 days of the date of the submission of the request, and shall be deemed concluded within 15 days of the date of the submission of the request.

5. If consultations are not held within the timeframes laid down in paragraph 3 or in paragraph 4 respectively, or if consultations have been concluded and no agreement has been reached on a mutually agreed solution, the complaining Party may request the establishment of an arbitration panel in accordance with Article 64.

### **Chapter III. Dispute Settlement Procedures**

#### **Article 64. Initiation of the Arbitration Procedure**

1. Where the Parties have failed to resolve the dispute by recourse to consultations as provided for in Article 63, the complaining Party may request the establishment of an arbitration panel.

2. The request for the establishment of an arbitration panel shall be made in writing to the Party complained against and

the Cooperation Committee. The complaining Party shall identify in its request the specific measure at issue, and it shall explain how such measure constitutes a breach of the provisions referred to in Article 62 in a manner sufficient to present the legal basis for the complaint.

## **Article 65. Establishment of the Arbitration Panel**

1. An arbitration panel shall be composed of three arbitrators.
2. Within ten days of the date of the submission of the request for the establishment of an arbitration panel to the Cooperation Committee, the Parties shall consult in order to reach an agreement on the composition of the arbitration panel.
3. In the event that the Parties are unable to agree on its composition within the time frame laid down in paragraph 2, either party may request the chair of the Cooperation Committee, or the chair's delegate, to select all three members by lot from the list established under Article 78, one among the individuals proposed by the complaining Party, one among the individuals proposed by the Party complained against and one among the individuals selected by the Parties to act as chairperson. Where the Parties agree on one or more of the members of the arbitration panel, any remaining members shall be selected by the same procedure in the applicable list of panellists.
4. The chair of the Cooperation Committee, or the chair's delegate, shall select the arbitrators within five days of the request referred to in paragraph 3 by either Party and in the presence of a representative of each Party.
5. The date of establishment of the arbitration panel shall be the date on which the three arbitrators are selected.
6. Should any of the lists provided for in Article 78 not be established at the time a request is made pursuant to paragraph 3 the three arbitrators shall be drawn by lot from the individuals which have been formally proposed by one or both of the Parties.

## **Article 66. Interim Panel Report**

The arbitration panel shall issue an interim report to the Parties setting out its findings of the facts, the applicability of relevant provisions and the basic rationale behind any findings and recommendations that it makes, not later than 90 days from the date of establishment of the arbitration panel. Any Party may submit a written request for the arbitration panel to review precise aspects of the interim report within 15 days of its notification. The findings of the final panel ruling shall include a sufficient motivation of the arguments made at the interim review stage, and shall answer clearly to the questions and observations of the two Parties.

## **Article 67. Arbitration Panel Ruling**

1. The arbitration panel shall notify its ruling to the Parties and to the Cooperation Committee within 120 days from the date of the establishment of the arbitration panel. Where it considers that this deadline cannot be met, the chairperson of the arbitration panel must notify the Parties and the Cooperation Committee in writing, stating the reasons for the delay and the date on which the panel plans to conclude its work. Under no circumstances should the ruling be notified later than 150 days from the date of the establishment of the arbitration panel.
2. In cases of urgency, including those involving perishable or seasonal goods, the arbitration panel shall make every effort to notify its ruling within 60 days from the date of its establishment. Under no circumstances should it take longer than 75 days from its establishment. The arbitration panel may give a preliminary ruling within 10 days of its establishment on whether it deems the case to be urgent.

## **Article 68. Compliance with the Arbitration Panel Ruling**

Each Party shall take any measure necessary to comply in good faith with the arbitration panel ruling, and the Parties shall endeavour to agree on the period of time to comply with the ruling.

## **Article 69. The Reasonable Period of Time for Compliance**

1. No later than 30 days after the notification of the arbitration panel ruling to the Parties, the Party complained against shall notify the complaining Party and the Cooperation Committee of the time it will require for compliance (hereinafter referred to as "reasonable period of time") if immediate compliance is not possible.



2. If there is disagreement between the Parties on the reasonable period of time to comply with the arbitration panel ruling, the complaining Party shall, within 20 days of the notification made under paragraph 1 by the Party complained against, request in writing the original arbitration panel to determine the length of the reasonable period of time. Such request shall be notified simultaneously to the other Party and to the Cooperation Committee. The arbitration panel shall notify its ruling to the Parties and to the Cooperation Committee within 20 days from the date of the submission of the request.

3. In the event of the original arbitration panel, or some of its members, being unable to reconvene, the procedures set out in Article 65 shall apply. The time limit for notifying the ruling shall be 35 days from the date of the submission of the request referred to in paragraph 2. 4

4. The reasonable period of time may be extended by mutual agreement of the Parties.

## **Article 70. Review of Any Measure Taken to Comply with the Arbitration Panel Ruling**

1. The Party complained against shall notify the complaining Party and the Cooperation Committee before the end of the reasonable period of time of any measure that it has taken to comply with the arbitration panel ruling.

2. In the event that there is disagreement between the Parties concerning the existence or the consistency of any measure notified under paragraph 1, with the provisions referred to in Article 62, the complaining Party may request in writing the original arbitration panel to rule on the matter. Such request shall identify the specific measure at issue and it shall explain how such measure is incompatible with the provisions referred to in Article 62. The arbitration panel shall notify its ruling within 45 days of the date of the submission of the request.

3. In the event of the original arbitration panel, or some of its members, being unable to reconvene, the procedures set out in Article 65 shall apply. The time limit for notifying the ruling shall be 60 days from the date of the submission of the request referred to in paragraph 2.

## **Article 71. Temporary Remedies In Case of Non-compliance**

1. If the Party complained against fails to notify any measure taken to comply with the arbitration panel ruling before the expiry of the reasonable period of time, or if the arbitration panel rules that the measure notified under paragraph 1 of Article 70 is inconsistent with that Party's obligations under the provisions referred to in Article 62, the Party complained against shall, if so requested by the complaining Party, present an offer for temporary compensation.

2. If no agreement on compensation is reached within 30 days of the end of the reasonable period of time or of the arbitration panel ruling under Article 70 that a measure taken to comply is inconsistent with the provisions referred to in Article 62, the complaining Party shall be entitled, upon notification to the Party complained against and to the Cooperation Committee, to suspend obligations arising from any provision referred to in Article 62 at a level equivalent to the nullification or impairment caused by the violation. The complaining Party may implement the suspension 10 days after the date of the notification, unless the Party complained against has requested arbitration under paragraph 3.

3. If the Party complained against considers that the level of suspension is not equivalent to the nullification or impairment caused by the violation, it may request in writing the original arbitration panel to rule on the matter. Such request shall be notified to the complaining Party and to Cooperation Committee before the expiry of the 10 day period referred to in paragraph 2. The original arbitration panel shall notify its ruling on the level of the suspension of obligations to the Parties and to the Cooperation Committee within 30 days of the date of the submission of the request. Obligations shall not be suspended until the original arbitration panel has notified its ruling, and any suspension shall be consistent with the arbitration panel ruling.

4. In the event of the original arbitration panel, or some of its members, being unable to reconvene, the procedures laid down in Article 65 shall apply. The period for notifying the ruling shall be 45 days from the date of the submission of the request referred to in paragraph 3.

5. The suspension of obligations shall be temporary and shall be applied only until any measure found to be inconsistent with the provisions referred to in Article 62 has been withdrawn or amended so as to bring it into conformity with those provisions, as established under Article 72, or until the Parties have agreed to settle the dispute.

## **Article 72. Review of Any Measure Taken to Comply after the Suspension of Obligations**

1. The Party complained against shall notify the complaining Party and the Cooperation Committee of any measure it has taken to comply with the ruling of the arbitration panel and of its request for an end to the suspension of obligations

applied by the complaining Party.

2. If the Parties do not reach an agreement on the compatibility of the notified measure with the provisions referred to in Article 62 within 30 days of the date of the submission of the notification, the complaining Party shall request in writing the original arbitration panel to rule on the matter. Such request shall be notified simultaneously to the Party complained against and to the Cooperation Committee. The arbitration panel ruling shall be notified to the Parties and to the Cooperation Committee within 45 days of the date of the submission of the request. If the arbitration panel rules that any measure taken to comply is in conformity with the provisions referred to in Article 62, the suspension of obligations shall be terminated

3. In the event of the original arbitration panel, or some of its members, being unable to reconvene, the procedures laid down in Article 65 shall apply. The period for notifying the ruling shall be 60 days from the date of the submission of the request referred to in paragraph 2.

### **Article 73. Mutually Agreed Solution**

The Parties may reach a mutually agreed solution to a dispute under this Section at any time. They shall notify the Cooperation Committee and the arbitration panel of any such solution. Upon notification of the mutually agreed solution, the panel shall terminate its work and the procedure shall be terminated.

### **Article 74. Rules of Procedure**

1. Dispute settlement procedures under this Section shall be governed by the Rules of Procedure and the Code of Conduct which shall be adopted by the Cooperation Committee.

2. The Parties may decide to modify the Rules of Procedure and the Code of Conduct.

3. Any hearing of the arbitration panel shall be open to the public in accordance with the Rules of Procedure.

### **Article 75. Information and Technical Advice**

At the request of a Party, or upon its own initiative, the arbitration panel may obtain information from any source, including the Parties involved in the dispute, it deems appropriate for the arbitration panel proceeding. The arbitration panel also has the right to seek the relevant opinion of experts as it deems appropriate. Any information obtained in this manner must be disclosed to each of the Parties and submitted for their comments. Interested natural or legal persons established in the Parties' territories are authorised to submit amicus curiae briefs to the arbitration panel in accordance with the Rules of Procedure.

### **Article 76. Rules of Interpretation**

Any arbitration panel shall interpret the provisions referred to in Article 62 in accordance with customary rules of interpretation of public international law, including those codified in the Vienna Convention on the Law of Treaties. The rulings of the arbitration panel cannot add to or diminish the rights and obligations provided in the provisions referred to in Article 62.

### **Article 77. Arbitration Panel Decisions and Rulings**

1. The arbitration panel shall make every effort to take any decision by consensus. Where, nevertheless, a decision cannot be arrived at by consensus, the matter at issue shall be decided by majority vote. However, in no case dissenting opinions of arbitrators shall be published.

2. Any ruling of the arbitration panel shall be binding on the Parties and shall not create any rights or obligations for natural or legal persons. The ruling shall set out the findings of fact, the applicability of the relevant provisions of the Agreement and the basic rationale behind any findings and conclusions that it makes. The Cooperation Committee shall make the arbitration panel rulings publicly available in its entirety unless it decides not to do so in order to ensure the confidentiality of business confidential information.

## **Chapter IV. General Provisions**

### **Article 78. List of Arbitrators**

1. The Cooperation Committee shall, no later than six months after the entry into force of the Agreement, establish a list of 15 individuals who are willing and able to serve as arbitrators. Each of the Parties shall propose five individuals to serve as arbitrators. The two Parties shall also select five individuals that are not nationals of either Party and who shall act as chairperson to the arbitration panel. The Cooperation Committee shall ensure that the list is always maintained at this level.
2. Arbitrators shall have specialised knowledge or experience of law and international trade. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government, or be affiliated with the government of any of the Parties, and shall comply with the Code of Conduct.

## **Article 79. Relation with Wto Obligations**

1. Until Iraq accedes to the WTO, arbitration panels shall adopt an interpretation that is fully consistent with the relevant decisions of the Dispute Settlement Body of the World Trade Organisation when ruling on an alleged violation of a provision of the provisions referred to in Article 62 that incorporates or refers to a provision under the WTO Agreement.
2. Upon the accession of Iraq to the WTO, paragraphs 3 to 6 shall apply.
3. Recourse to the dispute settlement provisions of this Section shall be without prejudice to any action in the WTO framework, including dispute settlement action.
4. However, where a Party has, with regard to a particular measure, instituted a dispute settlement proceeding, either under paragraph 1 of Article 64 of this Agreement or under the WTO Agreement, it may not institute a dispute settlement proceeding regarding the same measure in the other forum until the first proceeding has ended. In addition, a Party shall not seek redress for the breach of an obligation which is identical under the Agreement and under the WTO Agreement in the two fora. In such case, once a dispute settlement proceeding has been initiated, the Party shall not bring a claim seeking redress for the breach of the identical obligation under the other agreement to the other forum, unless the forum selected fails for procedural or jurisdictional reasons to make findings on the claim seeking redress of that obligation.
5. For the purposes of paragraph 4:
  - (a) dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the DSU and are deemed to be ended when the Dispute Settlement Body adopts the Panel's report, and the Appellate Body's report as the case may be, under Articles 16 and 17(14) of the DSU;
  - (b) dispute settlement proceedings under this Section are deemed to be initiated by a Party's request for the establishment of an arbitration panel under paragraph 1 of Article 64 and are deemed to be ended when the arbitration panel notifies its ruling to the Parties and to the Cooperation Committee under Article 67.
6. Nothing in this Section shall preclude a Party from implementing the suspension of obligations authorised by the Dispute Settlement Body of the WTO. The WTO Agreement shall not be invoked to preclude a Party from suspending obligations under Title II of this Agreement.

## **Article 80. Time Limits**

1. All time limits laid down in this Section, including the limits for the arbitration panels to notify their rulings, shall be counted in calendar days, the first day being the day following the act or fact to which they refer.
2. Any time limit referred to in this Section may be extended by mutual agreement of the Parties.

## **Title III. Areas of Cooperation**

### **Article 81. Financial and Technical Assistance**

1. In order to achieve the objectives of this Agreement Iraq shall benefit from financial and technical assistance from the Union in the form of grants to accelerate the economic and political transformation of Iraq.
2. This assistance shall be covered within the framework of the Union's development cooperation provided for in the relevant regulations of the European Parliament and of the Council. The objectives and the areas of the Union's assistance shall be laid down in an indicative programme reflecting established priorities to be agreed between the two parties taking into account Iraq's development needs and strategies, sectoral absorption capacities and progress with reform.
3. The Parties shall ensure that technical assistance contributions from the Union are made in close coordination with those

from other sources. The Union's development cooperation policy and international action are guided by the United Nations' Millennium Development Goals and the main development objectives and principles in the context of the UN and other competent international organisations. In implementing the Union's development policy, full account shall be taken of the principles of Aid Effectiveness, including the Paris Declaration of 2 March 2005 and the Accra Agenda for Action.

4. Without prejudice to provisions on mutual legal assistance, the Party benefiting from technical or financial assistance shall promptly respond to requests for administrative cooperation by the competent authorities of the other Party, with a view to enhancing the fight against fraud and irregularities in the context of assistance from the Union.

5. The Government of Iraq shall ensure the appointment of an anti-fraud contact point. This contact point shall be responsible for effective cooperation with the Institutions and bodies of the Union, including the European Court of Auditors and the European Anti-fraud Office, in particular as regards the implementation of their audit and control measures in the field of the protection of the Union's financial interests.

## **Article 82. Social and Human Development Cooperation**

Cooperation in this area will affirm the social dimension of globalisation and recall the link between social development and economic development as well as with environmentally sustainable development. Cooperation will also underline the importance of poverty alleviation, the promotion of human rights and fundamental freedoms for all, including vulnerable groups and displaced and the response to core health, education and employment needs. Cooperation activities in all those areas will notably aim at focusing on capacity and institution building taking into account the principles of inclusiveness, good governance and sound and transparent management.

## **Article 83. Education, Training and Youth**

1. The Parties shall endeavour to promote cooperation in education, training and youth towards mutual benefit, taking into account the availability of resources and promoting gender equality. 2

2. The Parties shall particularly encourage exchanges of information, know-how, students, scholars, technical resources, young people and youth workers and strengthening of capacities, while taking advantage of the facilities offered by the existing cooperation programmes as well as the experience that both Parties have acquired in this area.

3. Both Parties also agree to intensify cooperation between higher education institutions through such means as the Erasmus Mundus programme with the aim of supporting excellence and internationalisation of their education systems.

## **Article 84. Employment and Social Development**

1. The Parties agree to enhance cooperation in the field of employment and social affairs, including cooperation on social cohesion, decent work, health and safety at the workplace labour legislation, social dialogue, human resources development and gender equality, with a view to promote full and productive employment and decent work for all as key elements of sustainable development and poverty reduction.

2. The Parties reaffirm their commitments to promote and effectively implement internationally recognised labour and social standards. The implementation of relevant multilateral social and labour agreements shall be taken into account in all activities undertaken by the Parties under this Agreement.

3. The forms of cooperation may include, inter alia, specific programs and projects, as mutually agreed, as well as dialogue, capacity building, cooperation and initiatives on topics of common interest at bilateral or multilateral level.

4. The Parties agree to involve social partners and other relevant stakeholders in the dialogue and cooperation.

## **Article 85. Civil Society**

The Parties recognise the role and potential contribution of organised civil society, especially academics and links between think-tanks, in the dialogue and cooperation process under this agreement and agree to promote effective dialogue with organised civil society and its effective participation.

## **Article 86. Human Rights**

1. The Parties agree to cooperate in the promotion and effective protection of human rights, including with regard to the ratification and implementation of international human rights instruments and the provision of technical assistance, training

and capacity building as appropriate. The parties are aware that the impact of any cooperation and development program will be limited if it does not protect, enhance and respect human rights.

2. Cooperation on human rights may include, inter alia:

(a) strengthening governmental human rights related institutions and non-governmental organisations that are working in this field;

(b) provision of human rights promotion and education at national and local level, especially among public administration, judiciary and law enforcement bodies, with respect to the rights of women and children;

(c) development of the legislation of Iraq in compliance with international humanitarian and human rights law;

(d) cooperation and information exchange within the human rights related institutions of the United Nations;

(e) support to the Government of Iraq's efforts to provide a suitable standard of living to Iraqi citizens and safeguard their political, economic, social, and cultural rights without discrimination;

(f) support to national reconciliation and fight against impunity;

(g) establishment of a comprehensive human rights dialogue.

## **Article 87. Industrial and Small and Medium-sized Enterprises Policies Cooperation**

1. The aim of cooperation in this area must facilitate the restructuring and modernisation of Iraqi industry while fostering its competitiveness and growth and to create conditions favourable to mutually beneficial cooperation between industry in Iraq and the Union.

(d) cooperation and information exchange within the human rights related institutions of the United Nations;

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A. General

2. The cooperation shall:

(a) foster a comprehensive industrial strategy in Iraq that takes into consideration the reality of the current state of industrial enterprises on the public and private sectors;

(b) encourage Iraq to restructure and modernise its industry, under conditions ensuring environmental protection, sustainable development and economic growth;

(c) foster an environment which favours private initiatives on the industrial field, with the aim of stimulating and diversifying output for the domestic and export markets;

3. The forms of cooperation may include, inter alia, specific programs and projects, as mutually agreed, as well as dialogue, capacity building, cooperation and initiatives on topics of common interest at bilateral or multilateral level.

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(c) foster an environment which favours private initiatives on the industrial field, with the aim of stimulating and diversifying output for the domestic and export markets;

(d) promote an environment favourable to stimulate the growth and the diversification of industrial production in a sustainable development perspective;

(e) work on the provision of information that serves the joint cooperation in industrial fields;

(f) promote the use of Union and international technical regulations standards and conformity assessment procedures in order to facilitate Iraq's integration into the global economy; establishing regular exchanges between both sides' standardisation and normalisation entities;

(g) cooperate to create an appropriate industrial business environment;

(h) promote and encourage the improvement of information support services as a key element of growth potential for business activities and economic development;

(i) develop links between the Parties' industrial operators (companies, professionals, sectoral and other business organisations, organised labour, etc.);

(j) encourage joint industrial projects and establish joint ventures and information networks.

## B. Small and Medium-Sized Enterprises

3. The Parties, taking into account their respective economic policies and objectives, agree to promote industrial policy cooperation in all fields deemed suitable with a view to improving the competitiveness of small and medium-sized enterprises (SMEs).

4. The Parties shall:

(a) aim to develop and strengthen SMSs and to promote the cooperation among SMEs;

(b) develop assistance required by Micro-Enterprises and SMEs in areas such as financing, skills training, technology and marketing, innovation and other requirements for SMEs establishment, such as incubator parks, and other development areas;

(c) support SMEs activities through relevant networking; and

(d) facilitate business cooperation, supporting the relevant cooperation activities established by the private sectors of both sides through appropriate links between Iraqi and Union private sector operators in order to improve the flow of information.

## Article 88. Cooperation In the Field of Investment

1. The Parties shall cooperate to establish a favourable climate for investments, both domestic and foreign, to provide adequate protection for investment, the transfer of capital and the exchange of the information on investment opportunities.

2. The Parties agree to support the promotion and protection of investments on the basis of the principles of non-discrimination and reciprocity.

3. The Parties shall encourage the exchange of information on laws, regulations and administrative practices in the field of investments.

4. The Parties undertake to encourage cooperation between their respective financial institutions to facilitate investments opportunities.

5. In order to facilitate investment and trade, the Union is ready to assist Iraq, when requested, in its endeavours to bring its legislative and regulatory frameworks closer to those of the Union in the areas covered by this Agreement.

## Article 89. Industrial Standards and Conformity Assessment

The Parties may cooperate in the following areas of standards, technical regulations and conformity assessment:

1. Promotion of greater use of international standards in technical regulations and conformity assessment, including sector specific measures, in the Parties' territories, and increasing cooperation between the Parties in relation to the work of relevant international institutions and organisations;

2. Support for capacity building initiatives in the fields of standardisation, conformity assessment, accreditation, metrology and market surveillance in Iraq;

3. Promoting and encouraging bilateral cooperation between organisations in Iraq and the Union responsible for standardisation, conformity assessment, accreditation, metrology and market surveillance.

4. Developing common views on good regulatory practices, including, but not limited to:

(a) Transparency in the preparation, adoption and application of technical regulations, standards and conformity assessment procedures;

(b) Necessity and proportionality of regulatory measures and related conformity assessment procedures, including the use of suppliers declaration of conformity;

(c) Use of international standards as a basis for setting up technical regulations, except where such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued;

(d) Enforcement of technical regulations and market surveillance activities.

5. Enhancing regulatory, technical and scientific cooperation by, inter alia, exchanging information, experiences and data, with a view to improving the quality and level of technical regulations and making efficient use of regulatory resources;

6. Developing the compatibility and convergence of technical regulations, standards and conformity assessment procedures;

## **Article 90. Cooperation on Agriculture, Forestry and Rural Development**

The objective is to promote cooperation in the agriculture, forestry and rural development sectors with a view to promoting diversification, environmentally sound practices, sustainable economic and social development and food security. To this end the Parties will examine:

(a) capacity building and training to public institutions;

(b) measures aimed at enhancing the quality of agricultural products, capacity building measures for producers associations and supporting trade promotion activities;

(c) environmental health, animal and plant health measures and other related aspects, taking account of the legislation in force for both parties, in compliance with WTO and multilateral environmental agreement rules;

(d) measures relating to sustainable economic and social development of rural territories, including environmentally sound practices, forestry, research, transfer of know-how, access to land, water management and irrigation, sustainable rural development and food security;

(e) measures relating to preservation of agricultural traditional knowledge that give their populations their specific identities, including cooperation on geographical indications, exchanges of experiences at local level and development of cooperation networks;

(f) modernisation of agricultural sector including farming practices and diversification of agricultural production.

## **Article 91. Energy**

1. The Parties endeavour to enhance cooperation in the energy sector in respect of the principles of free, competitive and open energy markets with the aim to:

(a) Enhancing energy security while ensuring environmental sustainability and promoting economic growth;

(b) Developing institutional, legislative and regulatory frameworks in the energy sector, to ensure efficient energy market functioning and promoting energy investments;

(c) Developing and promoting partnerships between companies in the Union and Iraq in the field of exploration, production, processing, transportation, distribution and services in the energy sector;

(d) Developing a regular and effective energy dialogue between between the Parties and in the regional context, including through the Euro-Arab Mashreq Gas Market and other relevant regional initiatives.

2. To this end, the Parties agree to promote mutually beneficial contacts with a view to:

(a) supporting the development of appropriate energy policy, its regulatory framework and infrastructure in Iraq, founded on principles of environmental sustainability, sound management of energy resources and on free, competitive and open market;

(b) cooperating towards improving administrative and legal capabilities and towards establishing stable and transparent legal framework conditions to stimulate economic activity and international energy investments in Iraq;

(c) fostering technical cooperation for the exploration and field development of the Iraqi oil and natural gas reserves, as well as for the development and modernisation of the oil and gas infrastructure, including transport and transit networks to the Mashreq region, other relevant regional initiatives and towards the market in the Union;

(d) improving the reliability of the electricity supply system in Iraq;

(e) enhancing cooperation to improve energy security and to combat climate change, through the promotion of renewable energy sources, energy efficiency and reduction of gas-flaring;

(f) facilitating the exchange of know-how and the transfer of technology, best practices as well as training professionals;



(g) promoting Iraq's participation in the process of regional integration of the energy markets.

## **Article 92. Transport**

1. The Parties endeavour to enhance cooperation in the transport sector in respect of the establishment of a sustainable and efficient transport system, with the aim to:

(a) enhancing transport development and interconnections while ensuring environmental sustainability and promoting economic growth;

(b) developing institutional, legislative and regulatory frameworks in all transport sectors, to ensure efficient transport market functioning and promoting transport investments;

(c) developing and promoting partnerships between companies in the Union and in Iraq in the field of exploration, capacity building, infrastructure developments, transport safety and security and services in the transport sector;

(d) developing a regular and effective transport dialogue between the Parties and in the regional context, including through the Euro-Mediterranean transport cooperation and other relevant regional initiatives.

2. To this end, the Parties agree to promote mutually beneficial contacts with a view to:

(a) supporting the development of appropriate transport policy for the development of all modes of transport, its regulatory framework and the rehabilitation and development of transport infrastructures in Iraq, emphasising the importance of sustainability; ensure intermodality and integration of all transport modes; examine the possibility of further approximation of legislative and regulatory frameworks with Union and International standards, in particular for safety and security;

(b) cooperating in improving/re-establishing the administrative and legal capabilities in view to prepare specific plans for priority sectors and to establish stable and transparent legal framework conditions to stimulate transport economic activity and international transport investment in Iraq, on the basis of Union policies and practices; and develop the necessary independent regulatory authorities;

(c) fostering technical cooperation for the exploration and development of all transport sectors in Iraq, as well as for the development and modernisation of transport infrastructures, including the interconnections to the transport networks to the Mashreq region, other relevant regional initiatives and towards the Union market;

(d) improving the reliability of the transport flows towards and through Iraq;

(e) facilitating the exchange of know-how and the transfer of technology, best practices as well as training professionals, are essential steps of cooperation and should be tackled in priority;

(f) promoting Iraq's participation in the process of interconnection to the transport regional systems;

(g) implementing a national aviation policy including the development of the airports, air traffic management and further reinforce administrative capacity (including the establishment of an autonomous Civil Aviation Authority as a genuine regulator); negotiate a "horizontal" air transport agreement in order to restore legal certainty to bilateral air services agreements; and explore the opportunities for negotiations on a comprehensive Union-Iraq aviation agreement.

## **Article 93. Environment**

1. The Parties agree on the need to strengthen and enhance environmental protection efforts, for example on climate change, sustainable natural resource management, and the safeguarding of biological diversity as a basis for the development of current and future generations.

2. The Parties agree that cooperation in this field should promote environmental protection in pursuit of sustainable development. The agreed outcome of the World Summit on Sustainable Development shall be taken into account in all activities undertaken by the Parties under this agreement.

3. Cooperation in this field should focus, inter alia, on:

(a) exchanging information and expertise in the area of environment (for example on urban issues, nature protection, water and waste management, disaster management, etc.);

(b) encouraging and promoting regional cooperation in the field of environmental protection, including encouraging investments in environmental projects and programmes;

- (c) promoting environmental awareness and enhanced participation of local communities in environmental protection and sustainable development efforts;
- (d) supporting capacity building in the field of environment, for example climate change mitigation and adaptation;
- (e) cooperating in the negotiation and implementation of Multilateral Environmental Agreements;
- (f) encouraging the exchange of technical assistance in environmental programming and in integrating environmental considerations into other policy areas;
- (g) supporting environmental research and analysis.

## **Article 94. Telecommunications**

The Parties shall cooperate:

- (a) to foster enhanced exchange of information regarding the applicable legislation and possible future legislative reforms in the telecommunications sector in order to allow a better understanding of each other's regulatory framework on telecommunications;
- (b) to exchange information on developments in information and communications technology and standards.

## **Article 95. Science and Technology**

1. The Parties shall promote cooperation in civil scientific research and technological development (RTD) on the basis of mutual benefit and, taking into account the availability of resources, adequate access to their respective research programmes and subject to appropriate levels of effective protection of intellectual, industrial and commercial property rights.

2. Science and technology cooperation shall cover:

- (a) the exchange of scientific and technical cooperation programmes;
- (b) the organisation of joint scientific meetings;
- (c) Joint RTD activities;
- (d) training activities and mobility programmes for scientists, researchers and technicians engaged in RTD on both sides.

3. Such cooperation shall be implemented according to specific arrangements to be negotiated and concluded in accordance with the procedures by each Party, and which shall set out, inter alia, appropriate intellectual property rights provisions.

## **Article 96. Customs and Tax Cooperation**

1. The Parties will establish cooperation in the customs field in particular in the areas of training, simplification of customs formalities, documentation and procedures, prevention, investigation and repression of infringements of the rules on customs matters with the aim of guaranteeing compliance with all the provisions scheduled for adoption in connection with trade and to achieve the approximation of Iraq's customs system to that of the Union.

2. Without prejudice to their respective competences, and with a view to strengthening and developing economic activities while taking into account the need to develop an appropriate regulatory framework, the Parties recognise and commit themselves to implement the principles of good governance in the tax area, namely the principles of transparency, exchange of information and fair tax competition. To that effect, in accordance with their respective competences, the Parties will improve international cooperation in the tax area and develop measures for the effective implementation of the above-mentioned principles.

## **Article 97. Statistical Cooperation**

The Parties agree to promote cooperation activities in the field of statistics. These will be oriented towards institution and capacity building and strengthening of the national statistical system, including the development of statistical methods and the production and dissemination of statistics on trade in goods and services and, more generally, on any other area in support of the national social and economic development priorities covered by this Agreement and lending themselves to

statistical processing.

## **Article 98. Macro-economic Stability and Public Finances**

1. The Parties agree on the importance to achieve macro-economic stability in Iraq through a sound monetary policy aimed at achieving and maintaining price stability, as well as through fiscal policy aimed at achieving debt sustainability.
2. The Parties agree on the importance to achieve public expenditure effectiveness, transparency and accountability at the national and the local level in Iraq.
3. The Parties agree to cooperate inter alia to improve the Iraqi public finance management system that aims, among others, at the comprehensiveness of the budget planning and a single treasury account.

## **Article 99. Development of the Private Sector**

The Parties agree to cooperate in order to develop a market economy in Iraq, by enhancing the investment climate, diversifying the economic activity, booking progress with the privatisation program and by improving other conditions for accelerating private sector job creation.

## **Article 100. Tourism**

1. The Parties call for efforts to improve their cooperation to ensure a balanced and sustainable development of tourism and related issues.
2. Therefore the Parties agree on developing cooperation in the field of tourism and especially to exchange information, experience and best practices regarding the organisation of the institutional framework in the tourism sector and regarding the general environment in which tourism enterprises operate.

## **Article 101. Financial Services**

The Parties shall cooperate with the view to the approximation of their standards and rules, in particular:

- (a) to strengthen the financial sector in Iraq;
- (b) to improve accounting and supervisory and regulatory systems of banking, insurance and other financial sectors in Iraq;
- (c) exchange of information on the respective laws in force or under preparation;
- (d) developing compatible auditing systems.

## **Title IV. Justice, Freedom and Security**

2. The Parties agree to facilitate and encourage alternative means of dispute resolution for civil and commercial disputes whenever possible according to the applicable international instruments.
3. As regards criminal matters, the Parties will seek to enhance judicial cooperation on mutual legal assistance and extradition. This would include, where appropriate, accession to, and implementation of, the relevant international instruments of the United Nations including the Rome Statute of the International Criminal Court as referred to in Article 7 of this Agreement.

## **Article 104. Personal Data Protection**

1. The Parties agree to cooperate in order to improve the level of protection of personal data to the highest international standards, such as, inter alia, the United Nations Guidelines for the Regulation of Computerised Personal Data Files (UN General Assembly Resolution 45/95 of 14 December 1990).
2. Cooperation on protection of personal data may include, inter alia, technical assistance in the form of exchange of information and expertise.

## **Article 105. Cooperation on Migration and Asylum**

1. The Parties reaffirm the importance, which they attach to a joint management of migration flows between their territories. With a view to strengthening cooperation between them, they shall establish a comprehensive dialogue on all migration-related issues, including illegal migration, smuggling of migrants and trafficking in human beings, as well as the inclusion of the migration concerns in the national strategies for economic and social development of the areas from which migrants originate.
2. Cooperation shall be based on a specific needs assessment conducted in mutual consultation between the Parties and be implemented in accordance with the relevant Union and national legislation in force. It will, in particular, focus on:
  - (a) the root causes of migration;
  - (b) the development and implementation of national legislation and practices as regards international protection, with a view to satisfying the provisions of the Geneva Convention of 1951 related to the status of refugees and of the Protocol of 1967 and other relevant international instruments, and to ensuring the respect of the principle of "non-refoulement";
  - (c) the admission rules and rights and status of persons admitted, fair treatment and integration of lawfully residing non-nationals, education and training and measures against racism and xenophobia;
  - (d) the establishment of an effective and preventive policy against illegal migration, smuggling of migrants and trafficking in human beings including the issue of how to combat networks of smugglers and traffickers and how to protect the victims of such trafficking;

## **Article 108. Combating Illicit Drugs**

1. In accordance with their respective laws and regulations, the Parties will aim at reducing the supply and trafficking of, and demand for, illicit drugs as well as their impact on drug users and society at large and to achieve a more effective prevention of diversion of chemical precursors used for the illicit manufacture of narcotic drugs and psychotropic substances. In their cooperation, the Parties shall ensure that a comprehensive and balanced approach is taken in pursuing this aim through legal market regulations and effective action and coordination between the competent authorities including those from the health, education, social, law enforcement and justice sectors.
2. The Parties shall agree on means of cooperation to attain these objectives. Actions shall be based on commonly agreed principles along the lines of the relevant international conventions, the Political Declaration and the Special Declaration on the guiding principles of drug demand reduction, approved by the Twentieth United Nations General Assembly Special Session on Drugs in June 1998.

## **Article 109. Cultural Cooperation**

1. The Parties undertake to promote bilateral cooperation in the field of culture, in order to enhance mutual understanding and foster cultural relations between the Parties.
2. The Parties support the exchange of information and expertise, as well as initiatives, contributing to increased capacity building, in particular as regards the preservation of cultural heritage.
3. The Parties will intensify cooperation as regards the fight against illicit trafficking of cultural property, in accordance with relevant UN Security Council Resolutions concerning Iraq. They will promote the ratification and effective implementation of relevant international agreements, including the 1970 Unesco Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.
4. The Parties shall encourage intercultural dialogue between individuals, cultural institutions and organisations representing organised civil society from the Union and Iraq.
5. The Parties shall coordinate their efforts in international forums, including in the context of UNESCO, and/or other international bodies, with a view to promoting cultural diversity, in particular on the ratification and implementation of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

## **Article 110. Regional Cooperation**

1. The Parties agree that cooperation should help to facilitate and support Iraq's stability and regional integration. To such an end they agree to promote activities aimed at strengthening relations with Iraq, its neighbouring countries and other regional partners.

2. The parties agree that cooperation between them may include actions undertaken under cooperation agreements with other countries in the same region, provided that such action is compatible with this agreement and in their interests.

3. Without excluding any area, the Parties agree to give particular consideration to the following actions:

(a) the promotion of intra-regional trade;

(b) support for regional institutions and for joint projects and initiatives established under relevant regional organisations.

## **Title V. Institutional, General and Final Provisions**

### **Article 111. Cooperation Council**

1. A Cooperation Council is hereby established which shall supervise the implementation of this Agreement. It shall meet at ministerial level once a year. It shall examine any major issues arising within the framework of this Agreement and any other bilateral or international issues of mutual interest for the purpose of attaining the objectives of this Agreement. The Cooperation Council may also make appropriate recommendations, by mutual agreement between the two Parties.

2. The Cooperation Council shall consist of the representatives of the Parties.

3. The Cooperation Council shall establish its rules of procedure.

4. Either Party may refer to the Cooperation Council any dispute relating to the application or interpretation of this Agreement.

5. The Cooperation Council may settle the dispute by means of a recommendation.

6. The provisions of this Article shall in no way affect and are without prejudice to specific provisions regarding settlement of disputes under Title II of this Agreement.

### **Article 112. Cooperation Committee and Specialised Sub-committees**

1. A Cooperation Committee is hereby established composed of representatives of the Parties and with a view to assist the Cooperation Council in its duties.

2. The Cooperation Council may decide to set up any other specialised sub-committee or body that can assist it in carrying out its duties and shall determine the composition and duties of such committees or bodies and how they shall function.

### **Article 113. Parliamentary Cooperation Committee**

1. A Parliamentary Cooperation Committee is hereby established. It shall be a forum for Members of the Iraqi Parliament and the European Parliament to meet and exchange views.

2. The Parliamentary Cooperation Committee shall consist of Members of the European Parliament, on the one hand, and of Members of the Iraqi Parliament, on the other.

3. The Parliamentary Cooperation Committee shall be informed of the recommendations of the Cooperation Council.

4. The Parliamentary Cooperation Committee may make recommendations to the Cooperation Council.

### **Article 114. Facilities**

To facilitate cooperation in the framework of this Agreement, both Parties agree to grant necessary facilities to duly authorised experts and officials involved in implementing cooperation for the performance of their functions, in accordance with internal rules and regulations of both Parties.

### **Article 115. Territorial Application**

This Agreement shall apply, on the one hand, to the territories in which the Treaty on European Union and the Treaty of the Functioning of the European Union are applied and under the Conditions laid down in those Treaties and, on the other, to the territory of Iraq.

### **Article 116. Entry Into Force and Renewal**

1. This Agreement shall enter into force on the first day of the month following the date of receipt, by the depositary, of the last of the notifications by the Parties of the completion of the procedures necessary for this purpose.

2. This Agreement is concluded for a period of ten years. It shall be automatically renewed on a yearly basis unless one of the Parties renounces it at least six months before its expiry date. The termination shall take effect six months after receipt of the notification by the other Party. Such termination shall not affect ongoing projects commenced under this Agreement prior to the receipt of the notification.

## **Article 117. Provisional Application**

1. Notwithstanding Article 116, the Union and Iraq agree to apply Article 2, and Titles II, III and V of this Agreement from the first day of the third month following the date on which the Union and Iraq have notified each other of the completion of the procedures necessary for this purpose. Notifications shall be sent to the Secretary-General of the Council of the European Union, who shall be the depositary of this agreement.

2. Where in accordance with paragraph 1, a provision of this Agreement is applied by the Parties pending its entry into force, any reference in such provision to the date of entry into force of this Agreement shall be understood to be made to the date from which the Parties agree to apply that provision in accordance with paragraph 1.

## **Article 118. Non-discrimination**

In the fields covered by this Agreement and without prejudice to any special provisions contained therein:

(a) the arrangements applied by Iraq in respect of the Union shall not give rise to any discrimination between the Member States, their nationals or their companies or firms;

(b) the arrangements applied by the Union in respect of Iraq shall not give rise to discrimination between Iraqi nationals or its companies or firms.

## **Article 119. Evolutive Clause**

1. The Parties may by mutual consent amend, revise, and expand this Agreement with a view to enhancing the level of cooperation, including through supplementing it by means of agreements or protocols on specific sectors or activities.

2. With regard to the implementation of this Agreement, either of the Parties may put forward suggestions for widening the scope of cooperation, taking into account the experience gained in its application. Any widening of the scope of the cooperation under this Agreement will be decided at the Cooperation Council.

## **Article 120. Other Agreements**

1. Without prejudice to the relevant provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union, neither this Agreement nor action taken hereunder shall in any way affect the powers of the Member States to undertake bilateral cooperation activities with Iraq or to conclude, where appropriate, new cooperation agreements with Iraq.

2. This Agreement shall not affect the application or implementation of commitments undertaken by the respective Parties in relations with third parties.

## **Article 121. Non-execution of Agreement**

1. The Parties shall adopt any general or specific measures required for them to fulfill their obligations under this Agreement and shall ensure that they comply with the objectives laid down in this Agreement.

2. If one of the Parties considers that the other Party has failed to fulfill an obligation under this Agreement it may take appropriate measures. Before doing so, it must supply the Cooperation Council within 30 days with all the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In this selection of measures, priority must be given to those which least disturb the functioning of this Agreement. These measures shall be notified immediately to the Cooperation Council and shall be the subject of consultations in the Cooperation Council if the other Party so requests.

3. By way of derogation from paragraph 2, any Party may immediately take appropriate measures in accordance with international law in case of:

(a) denunciation of this Agreement not sanctioned by the general rules of international law;

(b) violation by the other Party of the essential elements of this Agreement referred to in Articles 2 and 5.

The other Party may ask that an urgent meeting be called to bring the Parties together within 15 days for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

4. By way of derogation from paragraph 2, if one of the Parties considers that the other Party has failed to fulfil an obligation under Title II of this agreement, it shall exclusively have recourse to, and abide by, the dispute settlement procedures established under Section VI of Title II of this Agreement.

## **Article 122. Definition of the Parties**

For the purposes of this Agreement, "the Parties" shall mean the Union or its Member States or the Union and its Member States, in accordance with their respective powers, on the one hand, and Iraq, on the other.

## **Article 123. Authentic Texts**

This Agreement is 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, Slovene, Spanish, Swedish and Arabic languages, each of these texts being equally authentic.

Done at Brussels on the eleventh day of May in the year two thousand and twelve.

FOR THE KINGDOM OF BELGIUM,

FOR THE REPUBLIC OF BULGARIA,

FOR THE CZECH REPUBLIC,

FOR THE KINGDOM OF DENMARK,

FOR THE FEDERAL REPUBLIC OF GERMANY,

FOR THE REPUBLIC OF ESTONIA,

FOR IRELAND,

FOR THE HELLENIC REPUBLIC,

FOR THE KINGDOM OF SPAIN,

FOR THE FRENCH REPUBLIC,

FOR THE ITALIAN REPUBLIC,

FOR THE REPUBLIC OF CYPRUS,

FOR THE REPUBLIC OF LATVIA,

FOR THE REPUBLIC OF LITHUANIA,

FOR THE GRAND DUCHY OF LUXEMBOURG,

FOR THE REPUBLIC OF HUNGARY,

FOR MALTA,

FOR THE KINGDOM OF THE NETHERLANDS,

FOR THE REPUBLIC OF AUSTRIA,

FOR THE REPUBLIC OF POLAND,

FOR THE PORTUGUESE REPUBLIC,

FOR ROMANIA,

FOR THE REPUBLIC OF SLOVENIA,

FOR THE SLOVAK REPUBLIC,

FOR THE REPUBLIC OF FINLAND,

FOR THE KINGDOM OF SWEDEN,

FOR THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

FOR THE EUROPEAN UNION

FOR THE REPUBLIC OF IRAQ