

## SPECIAL PROVISIONS

### PRE-ACCESSION FINANCIAL ASSISTANCE: 2006 NATIONAL PROGRAMME FOR TURKEY – PART 2

These Special Provisions concern the implementation of the entire 2006 National Programme for Turkey. The financing of project TR 06.04.06 *Participation in Community Programmes and Agencies* is covered by a separate Financing Agreement, signed on 9 April 2007 and the present Financing Agreement covers the remainder of the 2006 National Programme for Turkey Part II.

## 1. SUMMARY

In line with the indication given in the Planning Document presented to the Phare Management Committee on February 17, 2006, EUR 441.650.000, out of an overall pre-accession assistance envelope of EUR 500 million, is available for the Turkey 2006 National Programme. (Emergency assistance to Turkey addressing the outbreak of Avian Influenza, representing an EU contribution of EUR 8.350.000 was the subject of a separate Financing Decision within the overall 2006 pre-accession assistance envelope). Given the considerable budget of the 2006 National Programme, this programme has been separated into two Financing Decisions. The Financing Proposal for part I of the 2006 National Programme, with a budget of EUR 105.356.600, was presented to the Management Committee on March 17, 2006 and adopted by the College on June 9, 2006. It includes some initial actions to promote the Turkey-EU Civil Society Dialogue, which the Commission wishes to launch as soon as possible, and it also takes up projects that were deferred from the 2005 programme as well as recurring programme needs. The present Financing Proposal represents part II of the 2006 National Programme and covers the remainder of the available budget.

## 2. STRATEGY

The preparation of the 2006 pre-accession financial assistance programme takes into account several developments in EU-Turkey relations. These include the opening of accession negotiations, the assessment provided by the 2005 Progress Report, the Commission's Communication on the Civil Society Dialogue adopted in June, 2005, the adoption of the revised Accession Partnership, and the planned introduction – as of 2007 -- of the Instrument for Pre-accession Assistance (IPA).

The areas of intervention, reflecting the Commission's pre-accession strategy for Turkey set out in its recommendation of October 6, 2004, and unchanged with respect to the 2005 programme, are:

- **Copenhagen political criteria**, including some closely-related subjects in the sector of Justice, Liberty and Security. Assistance in this area will seek to sustain the pace of the political transition to a democratic society, based on the respect of human rights and the rule of law and to promote a more even implementation of the reforms.
- **Economic and Social Cohesion**. Turkey is characterized by glaring regional and intra-regional disparities and the per capita GDP remains lower than in any country in the EU. Environmental and business-related infrastructure is often inadequate. The labour market is highly segmented and employment is characterised by a high level of informality. The skill level of the workforce is low and should be improved to better match labour market needs. Low labour force participation and employment rates, in particular of women and high levels of youth unemployment remain key challenges. Migration to large cities puts the social infrastructure under strain. Intervention in this area will focus on the poorest areas in Turkey. Emphasis will be placed on strategic planning, capacity building and project preparation. A Cross-Border Cooperation component will seek to strengthen of ties with neighbouring countries, notably Bulgaria.
- **Implementation of the acquis**. Further to the opening of accession negotiations, and in line with the recommendations of the 2005 Progress Report, Turkey needs to make considerable efforts to align its legislation in many areas and to strengthen its administrative capacity to implement and enforce the *acquis*. Projects to be financed

under the 2006 programme address sectors such as Customs, Internal Market, Agriculture, Environment, Energy, Transport, and Social Policy.

- **EU-Turkey Civil Society Dialogue.** The promotion of Civil Society Dialogue represents a new development in pre-accession assistance. The long-term objective of the dialogue is to prepare civil society from the EU and candidate countries for future enlargement, by encouraging a societal debate around related issues and allowing a wide participation and information of civil society during the enlargement process. In this first year of implementation, the programme will target youth, universities, professional organisations, municipalities, and NGOs.

Given the scale of the pre-accession assistance budget, and the magnitude of the issues to be addressed, it is possible to address only a limited number of priorities. Even with such concentration, however, the impact of pre-accession assistance frequently comes from the introduction of appropriate methodologies and tools, helping to mobilise Turkey's own efforts.

In accordance with the guidelines established for the programming and implementation of assistance to Turkey, an approximately even allocation among themes of institution building, investment in the *acquis*, and investment in economic and social cohesion (i.e. approximately one third to each theme) will be sought.

Although certain deficiencies in the administrative structures for programme implementation remain, they are nevertheless being addressed. The Financing Agreement corresponding to the present Financing Proposal will be signed between the Commission and the Turkish authorities only when the conditionality formulated in section 4 has been met.

### **3. OBJECTIVES AND DESCRIPTION**

**Objective 1: Addressing the Copenhagen political criteria, including some closely-related subjects in the sector of Justice, Liberty and Security**

#### *Civil-Military Relations*

##### *TR 0601.02 Civilian Oversight of Internal Security Sector*

The purpose of the project is to establish a framework within which Governors, District Governors and Ministry of Interior staff can exercise their oversight of policing in line with EU norms for security sector governance and in partnership with civil society. The project addresses an Accession Partnership priority to continue to align civilian control of the military with practice in EU Member States, to ensure that civilian authorities fully exercise their supervisory function and to promote greater accountability and transparency in the conduct of security affairs.

In the frame of this project: (1) the legislative framework (secondary legislation) will be developed in order to enable effective civilian oversight over law enforcement bodies; (2) the institutional capacity of the Ministry of Interior will be strengthened through the preparation of guidelines for security sector oversight and an assessment of the appropriate institutional set up for civilian oversight will be carried out with a view to establishing a Safety and Security Secretariat within the Ministry of Interior; (3) public administrators will receive information and training in the oversight of policing; and (4) a working framework will be established for improved cooperation and increased transparency regarding internal policing services between the Ministry of Interior and the relevant investigatory committees of the

Turkish Grand National Assembly (such as those on Internal Affairs, Planning Budget and/or the Human Rights Committees).

The project will include (for the 4<sup>th</sup> component) a twinning light contract.

### *Human Rights*

#### *TR0601.03 Training of Gendarmerie Officers on European Human Rights Standards*

This project aims to increase the knowledge of human rights and ethical standards among Turkish Gendarmerie Officers and -- in the context of a shift towards evidence-based prosecutions -- to improve the standards for statement-taking in judicial investigations. It addresses a priority of the Accession Partnership to extend the training of law enforcement agencies on human rights issues and investigation techniques, in particular in order to strengthen the fight against torture and ill-treatment. Particular attention will be devoted to training for staff of the *Gendarmerie Human Rights Violations Examination and Evaluation Centre (JIHIDEM)*. The project will also include the provision of equipment for statement-taking rooms in a number of locations in Turkey.

The Institution Building component of the project will be implemented through a twinning.

### *Judiciary*

#### *TR0601.04 Support to the Court Management System*

The overall objective of this project is the improvement of the functioning of the judiciary according to European standards. The project aims to restructure court management, strengthening the effectiveness of the judiciary and facilitating speedy judicial processes. It addresses a priority of the Accession Partnership to strengthen the efficiency of the judiciary through, in particular, reinforcing its institutional capacity.

The project will be implemented in two phases. In the first phase the project will identify the deficiencies of the existing court management system and develop a strategic plan and road map to address them. The second phase will include the establishment of the court administration system with improved management of case flow, fiscal and human resources and technology, and with higher court performance standards. It is expected that a more rapid and effective conclusion of adjudication will be achieved due, among others, to the establishment of a better technological infrastructure. Improvement of the professional knowledge and problem solving capacity of the judicial officers and of the administrative staff will be achieved through training activities. The project will cover the public prosecution office, criminal and civil courts, enforcement offices and administrative and tax courts.

### *Gender Equality*

#### *TR0601.05 Shelters for Women Subject to Violence*

The protection of women's human rights in Turkey is overall objective of this project. The purpose is to ensure that women subjected to violence are provided with sufficient protection through establishing and managing shelters. The project responds to an Accession Partnership priority to pursue measures against all forms of violence against women, including crimes committed in the name of honour and to establish shelters for women at risk of violence in all larger municipalities, in line with current legislation.

Through this project, the construction of 8 shelters will be financed and women subjected to violence in Istanbul, Ankara, Izmir, Samsun, Gaziantep, Antalya, Eskisehir, and Bursa will be able to receive protection and modern delivery of appropriate services. Technical assistance will be provided for the joint management of the shelters by municipalities and women's NGOs in each city. The project will co-finance works and delivery of supplies to the shelters. Moreover, a number of activities aiming to increase awareness about gender equality and violence against women at local level, training activities for public officials providing services to victims, improving cooperation between local authorities and women's NGOs for combating violence against women, will be undertaken. Necessary local mechanisms will be put in place to monitor the situation of victims of violence. Upon the completion of the shelters, the operational costs will be partially covered by the municipalities.

### *Justice, Liberty and Security*

#### *TR0601.06 Strengthening the Capacity of Turkey on the Struggle against Drug Trafficking*

The overall objective of this project is to increase the efficiency and effectiveness of law enforcement authorities in Turkey against drug trafficking in compliance with EU standards and procedures, thereby addressing short-term priorities of the Accession Partnership to strengthen the fight against drugs and to implement Turkey's National Drugs Strategy. As a medium-term priority it also aims at adopting and implementing the *acquis* in the fight against drugs.

The re-organization and increase of Turkey's capacity against drug trafficking will be made through modern anti-drug training and personnel management in the field of the fight against drugs and through the introduction of modern equipment. In addition to cooperation with international bodies, the project will also promote cooperation among law enforcement agencies active in this field.

#### *TR0601.07 Combating Human Trafficking*

The objective of this project is to build up the capacity within the relevant Turkish institutions to fight against human trafficking through improvement of the identification and protection of its victims and through a more effective prosecution of its perpetrators. The project responds to an Accession Partnership priority to continue to strengthen the fight against trafficking in persons.

A data exchange mechanism will be established to promote a coordinated response to human trafficking between Turkey and the main countries of origin. Through sustaining the operation of a Helpline, the project will provide a tool for self-rescue for potential and actual victims. Prevention and awareness raising activities will be conducted in Turkey and the countries of origin to reduce stigma associated with trafficking. Technical assistance will be provided to the National Task Force (Ministry of Justice, Ministry of the Interior, Ministry of Labour and Social Affairs, Prime Ministry, Ministry of Health and Ministry of Foreign Affairs) to improve identification and the investigation of traffickers.

#### *TR0601.08 Ethics for the Prevention of Corruption in Turkey*

The objective of this project is to contribute to the prevention of corruption in Turkey, in accordance with European and other international standards, by supporting the effective implementation of the Code of Ethics for public officials and the adoption of such codes by

other categories of officials. It addresses a short term priority of the Accession Partnership to strengthen the fight against fraud and corruption.

Staff of the Ethics Council of Public Officials will receive training and the working procedures of the Council will be reviewed. Thereafter, governors, assistant governors and members of ethics commissions of Turkey's 81 provinces as well as officials of central institutions and organisations will also receive training in the application of the code of ethics for public officials. It is foreseen that codes of conduct for elected office holders and the judiciary will be developed. The effectiveness of codes of conduct and other anti-corruption measures in Turkey will be evaluated and recommendations for future prevention strategies formulated.

## **Objective 2: Economic and Social Cohesion**

### *Human Resources Development*

#### ***TR0602.03 Active Employment Measures and Support to Turkish Employment Organization at Local Level***

This project aims to improve the capacity to design, develop and implement policies and programmes in order to contribute to the human resource development in Turkey and align it with the European Employment Strategy. It contributes to the medium term Accession Partnership of ensuring implementation and enforcement of the social policy and employment acquis.

The project will provide assistance to the Employment Organisation, ISKUR. ISKUR's job-matching capacity and career counselling services will be improved, and the operational performance of a number of its local branch offices will be enhanced. In addition a system for the management, implementation and monitoring of grants promoting active employment measures of disadvantaged people will be designed.

The project is composed of two main components: Institution Building and Active Employment Measures. The IB component will focus on the consolidation of the operational performance of model offices and pilot offices and improvement of ISKUR's capacity to provide better public employment services, while the Active Employment Measures component will consist of support for the implementation of a grant scheme, including delivery of vocational training and other measures based on locally determined needs, opportunities and solutions. The grants will target unemployed young people and women, and will be implemented in 28 provinces of Turkey. Stakeholders' views will be incorporated into the project design, in order to have projects responding to the real needs of the intended beneficiaries.

This project will build upon the experience gained by ISKUR in successfully implementing a 2002 EC project for active labour market strategy and it will be aimed at disseminating and consolidating the related achievements at local level.

#### ***TR0602.04 Support to Human Resources Development through Vocational Education and Training***

The overall objective of the project to promote the development and competitiveness of small and medium enterprises (SMEs) in Eastern and South-Eastern regions of Turkey through the participation of a qualified and skilled labour force. The project purpose is to promote human resources development through up-grading and modernization of initial and continuing training (VET) in the selected provinces within a lifelong learning perspective. The project addresses a short-term Accession Partnership priority, related to the development of a comprehensive

approach to reduce regional disparities, and in particular to improve the situation in Southeast Turkey.

The project will help determine labour force demands, through needs analysis carried out in 8 provinces in the frame of a close cooperation between education institutions and enterprises. Information and awareness campaigns for students, the unemployed and workers who want to improve their skills will be conducted with relevant partner institutions and complementarity will be ensured in those provinces which will be eligible for assistance under the above-mentioned ISKUR programme.

The employability of VET graduates and the competence and skills of teaching and managing staff will be improved through the development and delivery of employment-centred skill modules for the unemployed and employees of SMEs. In particular, modular training programmes in 7-8 sectors (automotive, textile, machine and metal works, electric and electronics, tourism, computer agriculture and food processing) will be developed or revised. The project will build upon the experience gained during the implementation of EC MEDA programmes supporting the reform of initial vocational education and teachers training systems. A special attention will be provided to ensure that, in the selected provinces, this project promotes a higher participation of women in vocational education and training as a way to improve their employability in particular in SMEs or as potential entrepreneurs.

#### *TR0602.05 Support to the Solution of Economic and Social Integration Problems in Istanbul, Izmir, Ankara and Bursa as Major In-Migrant Destinations*

This project addresses the difficulties of social inclusion in selected large municipalities with rapidly increasing populations. It mainly aims to mitigate the socio-economic integration and environment-related infrastructure problems derived from migration in Istanbul, Ankara, Izmir and Bursa. Expanding squatter settlements and shantytowns results in growing number of migrant families who are unable to adapt to the city life and integrate to city. The overall objective of the project is coherent with the Accession Partnership priority to develop a comprehensive approach to reduce regional disparities with a view to enhancing economic, social and cultural opportunities for all citizens.

In each municipality, two kinds of intervention are foreseen. Technical assistance will be provided to improve the capacity of local administrations in the planning, design and execution of projects to mitigate the adverse impacts of rapid immigration. A second component, providing a concrete application of these capacity building activities will concern the implementation of specific actions to remedy the situation of street children in the municipalities concerned

#### *Business development*

#### *TR0602.06 Expansion of the European Turkish Business Centres Network*

The overall objective of the project is to create a favourable environment for Small and Medium Enterprises in pursuit of the Lisbon Strategy. The purpose of the project is support SME's business operations through the expansion of a network of Business Centres providing of information, training and consultancy services. The project addresses Accession Partnership priorities to improve the business climate and to mitigate regional disparities. Building on a highly successful project financed under the MEDA programme, in the frame a which 3 sustainable Business Centres were established, the project envisages the establishment of 3 further Business Centres in Afyon, Corum, Denizli, Erzurum, Eskişehir,

Kayseri, Konya, Malatya, to widen the geographical coverage of the network, together with a National Coordination Centre within the Turkish Union of Chambers and Exchanges (TOBB).

#### *TR0602.07 Access of Tradesmen and Craftsmen to Finance*

This project aims to improve the access to finance for SMEs in Turkey, through the provision of assistance for the restructuring of the Union of Credit and Guarantee Cooperatives for Tradesmen and Craftsmen of Turkey (TESKOMB). The project addresses Accession Partnership priorities to improve the business climate.

The planned restructuring of TESKOMB will re-orient its activities from the provision of subsidised interest rates toward a loan counter-guarantee system, within a framework that foresees the intermediation for multiple financial products, working with multiple banks, risk sharing, and IT based management. The project will develop a Restructuring Support Package and appropriate software. This will then be implemented on a pilot basis in 50 to 100 member cooperatives. The provision of IT equipment is also foreseen.

#### *TR0602.08 Industrial Restructuring of Sanliurfa*

The overall objective is to reduce the regional disparities in Turkey, by contributing to social stability and economic development in TRC2 NUTS II region. The project aims to enhance the industrial restructuring and competitiveness in Sanliurfa through the construction of infrastructure for Sanliurfa Organized Industrial Zone 2 (OIZ 2), including a wastewater treatment plant, and the provision of support to SME's establishing themselves in the OIZ. The project responds to a series of short term Accession Partnership priorities concerning the situation in the South eastern Turkey, Regional policy, and Environment. It is expected that as a result of this project a core of industrial SMEs will be established on the OIZ2, industrial pollution of surface waters will be reduced; and the competitiveness of SMEs will be improved. The infrastructure works will be split into 2 lots: the first one including roads, canalisation and similar services for 96 ha. of the Sanliurfa OIZ and the second one being the construction of a Wastewater Treatment Plant with the capacity to process a flow of some 2000 m<sup>3</sup>/day of industrial wastewater. Technical assistance for SMEs establishing themselves in the OIZ in areas such as marketing, production and management will also be provided.

#### *Infrastructure*

#### *TR0602.09 Improvement of Road Safety in Turkey*

The overall objective of this project is to decrease the social and economic losses stemming from accidents on the state and provincial roads. It responds to a medium term priority of the accession partnership to continue alignment with the transport acquis in all transport modes. The project targets pre-identified roads that have a high accident risk and aims to improve safety through enhanced geometrical and physical standards.

The activities to be undertaken under this project comprise works and technical assistance. More particularly the work activities include: Structural Improvements on Specific Sections Selected According to the Accident Data; Construction of Underpasses on Village Passages Selected According to the Accident Data; Supply and Installation of Guardrails and Control Stations.

#### *Regional Solid Waste Management Projects*

The objective of the following three projects is to contribute to Turkey's efforts to achieve a high level of environmental protection and compliance with the EU directives in the waste



sector. They address a medium term Accession Partnership priority to continue alignment on the acquis in the environment sector, and, although Turkey has yet to adopt a national waste management plan, it is expected that these projects will represent a significant contribution to its implementation.

The projects will finance the construction of a functional and environmentally sound solid waste management system, in accordance with the Turkish Legislation and the environmental acquis, thereby reducing pollution of groundwater and increasing reuse and recycling. As the result of these investments the closure of existing dumps that do not meet environmental norms will be possible. It is expected that the volume of bio-degradable waste land filled will be reduced from the current high level to the levels required by relevant EU directives and that recycling requirements of the packaging waste directive will be met as a consequence of an improved system of recycling including bring banks and civic amenity centres.

**TR0602.10 Amasya Solid Waste Management:** This project will establish a solid waste management system for Amasya, Suluova, Merzifon, Yeşilyenice, Borabay, Gümüşhacıköy, Eraslan, Doğanstepe, Aydinca, Ziyaret, Ballidere, Belevi and Akinoğlu municipalities. A landfill with a storage capacity of approximately 2.4 million m<sup>3</sup> will be constructed. Rehabilitation of up to 12 dump sites and the procurement of containers and collection vehicles for the project area are foreseen.

**TR0602.11 Kütahya Solid Waste Management:** This project will establish a solid waste management system for Kütahya Centre, Tavsanlı, Aslanapa, Altıntaş, Emet municipalities. The landfill shall be built with a storage capacity of 2.8 million m<sup>3</sup>. Rehabilitation of seven dump sites and the procurement of containers and collection vehicles for the project area are foreseen.

**TR0602.12 Bitlis Solid Waste Management:** This project will establish a solid waste management system for Bitlis City, Tatvan and Güroymak Districts and the two villages Günkürü and Gölbaşy. The landfill shall be built with a storage capacity of 2.4 million m<sup>3</sup>. Rehabilitation of three dump sites and the procurement of containers and collection vehicles for the project area are foreseen.

#### *Cross Border Cooperation*

The principal objective of the Turkish-Bulgarian Cross Border Cooperation (CBC) Programme is to help the border region between Turkey and Bulgaria to overcome specific development problems resulting from its relative isolation in the framework of national economies and to support the establishment and development of co-operative networks on both sides of the border. The CBC programme responds to the Accession Partnership priorities of promoting good neighbourly relations, strengthening the administrative capacity for the implementation of regional policy at both central and regional level, and developing an integrated approach for addressing regional disparities.

The 2005 Turkey National Programme had a shortfall in the programming of the Turkey-Bulgaria CBC component, in relation to the indicative budget that was foreseen for the 2004-2006 period. The projects described below therefore make up this shortfall, to ensure that allocations on the Phare CBC programme in Bulgaria are adequately matched by allocations from the Turkey National Programme over the 2004-2006 period.

***TR0602.13 Technical Assistance for the Management of the Ekmekçizade Caravanserai in Edirne***

This project aims to encourage the intensification of cultural and economic exchanges and relations by providing a venue for joint Turkish and Bulgarian cultural events, business forums, congresses, seminars, visits by commercial delegations, trade fairs, activities of non-governmental organizations and other bi-lateral events. It is part of a process of creating "integration-minded" local community and supports the cultural, social and economic integration between the border regions of candidate countries. The main result of the project will be the planning of the utilisation of the Caravanserai (which was restored with EU funds from an earlier programme) as a space for public events and particularly as a venue for cultural and business exchanges between Turkey and Bulgaria. If savings are realised in the implementation of the programme, some supplementary restoration works may be financed under this project.

***TR0602.14 Upgrading of Kırklareli-Dereköy –Aziziye –Turkish Bulgarian Border State Road Project***

The objective of this project is to facilitate road communication within the region and across the border, thereby contributing to the socio-economic development of the border region. It will facilitate the transportation of international commercial freight and passenger transport along the Turkish and Bulgarian border, as well as provide international road infrastructure with contemporary technical standards and in conformity with EU norms. The project will finance the reconstruction of 5,378 km. of road, including earth works, hydraulic structure and pavement works.

***TR0602.15 Capacity Improvement for Flood Forecasting and Flood Control in the TR-BG CBC Region***

The objective of this project is to decrease the negative consequences of floods such as soil erosion, sedimentation, and infrastructure damages in the TR-BG border region. The project will finance activities leading to a reduced number of accidents, injuries, deaths, and economic losses, as a result of improved flood protection and flood hazard prevention measures. Consequently the life security and quality in the border region including flooded area will be improved.

***TR0602.16 Protection and Sustainable Development of Natural Resources and Biodiversity in the Yildiz Mountains***

This project aims to strengthen the cross-border cooperation for the conservation, and sustainable development of natural resources and biodiversity of the Yildiz Mountains. Three main results are expected from this project, namely: a completed inventory, planning and nomination dossier of the Yildiz Mountains; an improved cooperation between relevant institutions of both sides, for the conservation, and sustainable development of natural resources and biodiversity of the Yildiz Mountains.

***TR0602.17 Joint Small Project Fund***

The Joint Small Projects Fund (JSPF) supports the establishment and development of co-operative networks on both sides of the border and the creation of linkages between these networks and wider European Union networks. It is foreseen that the project will be implemented in line with the Implementing Guidelines for Neighbourhood Programmes

(adapted for the Turkey pre-accession instrument) and using joint management structures foreseen therein. The Fund will support small-scale people-to-people actions in the following priority areas: Economic development; Tourism; Cultural Exchanges; Institutional capacity building at local level. Eligible beneficiaries include all non-profit decentralised, local organisations, such as: Municipalities within the defined border region, District level organisations, Inter-communal co-operation organisations, Chambers of Commerce, Industry and Agriculture, Professional associations, NGOs, and universities. The project will be implemented through a grant scheme.

### **Objective 3: Approximation to the *acquis communautaire***

#### *Public Administration Reform*

##### ***TR0603.05 Strengthening the Capacity of the Turkish Grand National Assembly***

The objective of this project is to improve the quality of the Turkish legislation concerning harmonization with the *acquis communautaire* by establishing an Office for EU Affairs serving the EU Harmonization Committee and the permanent committees of the Turkish Grand National Assembly. This project addresses an Accession Partnership priority to pursue reform of public administration in order to ensure greater efficiency, accountability and transparency.

It is foreseen to equip the Office for EU Affairs, and to provide training to its staff, so that this unit can meet the requirements of the Members of Parliament dealing with EU issues. Further, the knowledge of permanent staff in Standing Committees concerning the EU *acquis* will be enhanced and information will be provided on drafting procedures for efficient law adoption in use in the EU.

The Institution Building component of the project will be implemented through a twinning.

##### ***TR0603.06 Introducing Regulatory Impact Analysis into the Turkish Legal Framework***

The overall objective of this project is to contribute to the improvement of the policy-making and regulation processes. It aims at increasing the quality of regulation and improving the regulatory process by implementing Regulatory Impact Assessment (RIA) methodologies. The project responds to the Accession Partnership (AP) principle of strengthening and reforming the administrative structures, in order to implement and enforce the *acquis* and the priority of pursuing the reform of public administration in order to ensure greater efficiency, accountability and transparency.

The project will result in an increased administrative capacity, due to the establishment of a body of officials knowledgeable and skilled in impact assessment and related regulation policies and tools. It will further contribute to putting in place the requisite procedures and their quality control. It is intended that a more transparent regulation-making process through the use of consultation will be achieved.

#### *Internal Market and Customs Union*

##### ***TR0603.07 Modernisation of the Turkish Customs Administration***

The objective of the project is to ensure the implementation of the EU customs regulations at all borders of the enlarged EC Customs territory through the development of skills of customs officers and the implementation of appropriate IT systems. The project addresses the

Accession Partnership priority of strengthening the administrative and operational capacity of the customs administration and aligning internal procedures with the EU standards.

Building on the Customs Modernisation projects TR0303.01 and TR0403.01, the project is composed of 3 main components. The first component aims to establish Customs IT systems, including CCN/CSI, ITMS (Integrated Tariff Management System) and NCTS (New Computerized Transit System) applications that are fully operational at the end of the project and in line with EU requirements of interconnectivity and interoperability. The second component is related to activities meant to strengthen and improve customs enforcement operations, in order to meet the responsibilities for the protection and control of external borders of the enlarged EU. The third component seeks to build-up a strengthened training capacity, to promote the harmonized implementation of EU Customs rules throughout Turkey.

The Institution Building component of the project will be implemented through twinning.

#### ***TR0603.08 Support to the Turkish Police in the Enforcement of Intellectual and Industrial Property Rights***

The project's overall objective is to improve the enforcement of intellectual and industrial property rights (IPRs) in Turkey, and to align it to EU rules and practices. It aims at strengthening the administrative and technical capacity of the Turkish Police in the enforcement of intellectual and industrial property rights and enhancing the co-ordination and co-operation with other enforcement bodies and right owner's associations.

This project proposal addresses a short term priority of the Accession Partnership to improve enforcement of the legislation on Intellectual property rights, by reinforcing administrative capacity and coordination including law enforcement agencies and the Judiciary, as well a medium term one to complete alignment and ensure the enforcement of intellectual property rights by strengthening enforcement structures and mechanisms, including enforcement authorities and the judiciary.

The project will include the preparation of strategies and procedures for a more effective functioning of the IPR Offices of Turkish National Police on the basis of best fight against piracy and counterfeiting will be provided to Police Supervisors, Police Officers, as well as staff of the Ministry of Justice (prosecutors and judges), the Undersecretariat of Customs, the Patent Institute and the Ministry of Culture and Tourism. Awareness raising activities targeting the police and other relevant governmental and non-governmental institutions will be conducted. Finally, equipment will be supplied to strengthen the evidence evaluation capacity of the IPR Offices.

The Institution Building component of the project will be implemented through a twinning.

#### ***Agriculture***

##### ***TR0603.09 Development of the seed sector in Turkey and alignment to the EU***

The project's purpose is to improve the administrative capacity and technical infrastructure of the Ministry of Agriculture and Rural Affairs (MARA) in line with the EU rules and practices in the seed sector, with special emphasis on variety registration, seed certification, and implementation of plant breeder rights. The project addresses medium term priorities of the Accession Partnership to build up the necessary administrative capacity to implement the phytosanitary legislation and to align the system of plant variety registration with EU requirements. This will lead in the medium term to the reorganisation and strengthening of the Turkish food safety and control system as well as upgrading of human and technical

resources to ensure that Community food safety standards are complied with. The Institution Building component of the project will be implemented through a twinning.

### *Education and Social Policy*

#### ***TR0603.10 Improving the Labour Inspection System***

The overall objective is the implementation and enforcement of the acquis in the area of Health & Safety at Work and labour relations. The project purpose is to strengthen the capacity of Turkish Labour Inspection Board (LIB) for effective implementation of EU legislation in this area and to strengthen the cooperation between LIB and social partners. The proposed project addresses a priority of the Accession Partnership to strengthen the administrative and enforcement structures in the area of social policy, including the labour inspectorates.

In the frame of the project, procedures for the enforcement of Occupational Health and Safety legislation in the metal products, construction, mining, and chemical industries will be prepared. Similarly, procedures for the application of labour legislation relating to issues such as equal treatment, work and flexible forms of work will be prepared. Relevant training programmes will be conducted. An inspection guide for collection, analysis and interpretation of data and risk assessment for the LIB will be established. Pilot inspections (with technical and social labour inspectors) will be carried out throughout the country, with a particular attention to SMEs, to measure the progress on occupational health and safety issues and labour relations issues.

The project will be implemented through a Twinning

#### ***TR0603.11 Capacity Building Support for the Ministry of National Education***

The overall objective is to ensure the improved efficiency and effectiveness of the Turkish education system, meeting the requirements of a modern society and in line with the EU priorities identified in the Work Programme "Education and Training 2010"

The project purpose is to assist the Ministry of National Education in implementing a restructuring process aimed at improving its planning, implementation and monitoring capacities within the scope of making the governance of the system more effective and efficient.

The project addresses priorities of the Accession Partnership relating to improvement of the general level of education as well as to the reform of public administration to ensure greater efficiency.

The project will provide management training for Ministry staff at central and regional level, prepare (in the form of a Green Paper) proposals for the restructuring of the Ministry of National Education, prepare draft legislation in line with the strategy developed, and conduct related awareness raising activities.

### *Environment*

#### ***TR0603.12 Establishment of an Environmental Information Exchange Network (TEIEN) in Turkey***

The overall objective of this project is to strengthen the National Policy Formulation, Planning, Environmental Management, Natural Resource Management, Regulatory Frameworks and Environmental Monitoring Capabilities, through the regular exchange of

environmental information. The proposed project aims to improve the integration of environmental concerns into sectoral policies, plans and programmes through the establishment of an Environmental Information Exchange Network. The project responds to a medium term priority of the Accession Partnership (AP) to continue alignment with the acquis and strengthen the institutional, administrative and monitoring capacity to ensure environmental protection, including data collection.

This project will continue from the point reached after the establishment of national Environmental Information System (EIS) in the context of a preceding project. It will include the establishment of the National Exchange Network to enhance inter-institutional collaboration in the environment sector and support national policy and planning processes. In addition, the relevant national institutions together with the Ministry of Environment and Forests will increase their capability of accessing, querying, and reporting environmental data in a timely and consistent manner. Finally the capacity of the members of the Turkish EIONET structure and NFP team will be improved.

#### *Project preparation and support to DIS institutions*

#### *TR0603.13 Support Activities to Strengthen the European Integration Process*

In the perspective of continued pre-accession assistance to Turkey in the frame of the IPA instrument, support to the Secretariat General for EU Affairs (EUSG), the Undersecretariat for State Planning Organization (SPO) and other relevant Turkish institutions is needed, in order to assist them in fulfilling their pre-accession functions and to improve Turkey's overall capacity for the absorption of EU funds. The project consists of three components:

i. Project Preparation Facility. The purpose of this component is to support to the Turkish administration for the design and appraisal of programmes and projects to be submitted for financing in the framework of the pre-accession financial assistance to Turkey, and to assist beneficiary institutions in the assessment and monitoring tasks regarding grant-schemes.

ii. Technical Assistance for ESC. This will finance the preparation of the feasibility and other studies for investment projects linked to the priorities identified in the IPA Coherence Strategic Framework (CSF) and Operational Programmes (OP), particularly in the transportation, environment, and rural development sectors.

iii. Institution Building in the context of the pre-accession process and accession negotiations. The objective of this component is to meet specific and urgent needs identified in the course of the pre-accession and negotiation processes to strengthen the capacity of beneficiaries regarding legislative alignment and enforcement of the acquis, the capacity of Turkish institutions to conduct negotiations, and the coordination between the EUSG and the other actors in the context of the accession process.

#### **Objective 4: Promotion of the EU-Turkey Civil Society Dialogue**

##### *Business associations*

#### *TR0604.03 Civil Society Dialogue - EU-Turkish Chambers Forum (ETCF)*

The overall objective of the project is to promote the integration of EU and Turkish business communities. This integration process will be realised through the establishment of long term

partnerships between EU and Turkish Chambers of Commerce and Industry (TOBB), thus facilitating the effective implementation of business-related acquis in Turkey. The project aims to: increase the mutual knowledge and understanding between EU and Turkish Chambers and their respective business community, facilitating long term collaborations; strengthen the capacity of Turkish Chambers to design and generate value-added services to their members; enable Chambers to contribute to the accession negotiations by assisting in the preparation of impact analyses and position papers; and to develop the capacity of TOBB to accredit participating Chambers.

Building on the successful pilot phase in preceding editions of the EU-Turkish Chambers Forum (Turkish Chamber Development Programme I & II), an accreditation system for Turkish Chambers will be further developed in the current programme.

### *Trade Unions*

#### ***TR0604.04 Civil Society Dialogue - Bringing together workers from Turkey and European Union through a "shared culture of work"***

This project aims to bring together workers from Turkey and European Union through a "shared culture of work", as well as to build knowledge of social, economic and political aspects of EU member states and Turkey. The project addresses an Accession Partnership priority to reinforce social dialogue, and facilitate and encourage cooperation with EU partners.

In addition to Turkish national confederations, a number of Turkish regions will be represented in the project activities, including Southeast, Black Sea, Aegean, Centre and east, South and Marmara Regions; numerous EU countries and regions will also be represented in the project. The activities to be undertaken by this project will facilitate greater familiarity with the different social, economic and political realities of the EU countries and Turkey, through the establishment of broad ranging contacts. They will include surveys, conferences, exchange seminars, training seminars, publications, and the development of a website.

### *Non Governmental Organisations*

#### ***TR0604.05 Supporting Civil Society Development and Dialogue in Turkey***

The overall objective of this project is to achieve an enhanced participatory democracy through strengthened NGOs. It particularly aims to strengthen local civil society organizations to carry out their functions and tasks and to improve their sustainability. The project addresses an Accession Partnership priority to facilitate and encourage the domestic development of civil society and its involvement in the shaping of public policies. The proposed project will include enhancement of the support services (coordination, assistance, and training) for NGOs provided by the Association of Civil Society Development Centre, STGM, establishment of local NGO centres (STGM branch offices), improvement of communication among NGOs, and grant support for exchanges and capacity building of NGOs.

### *Community Programmes*

#### ***TR0604.06 Participation in Community Programmes and Agencies***

The Framework Agreement between Turkey and the European Community on the General Principles for the Participation of Turkey in Community Programmes was signed on 26 February 2002, and entered into force on 5 September 2002. As in previous years, Turkey's participation in Community Programmes will be co-financed using 2006 pre-accession

assistance funds. It is proposed to co finance participation in the programmes such as: Lifelong learning, Youth in action, Culture 2007, Community Action in the field of public health, PROGRESS, IDABC, CIP, and the 7<sup>th</sup> Framework Programme. Participation in the European Monitoring Centre for Drugs and Drug Addiction is also foreseen. In view of the fact that the cost of participation in some of these programmes is not known at present, this list will be subject to review.

### Lessons learned

As concerns general lessons to be drawn from preceding pre-accession assistance programmes, the interim evaluation of EU pre-accession assistance (Phare, 1999-2002) has highlighted a number of weaknesses, and in particular:

- absence of adequate **planning documents and sectoral strategies** (particularly as concerns economic and social cohesion) resulting in weaknesses in needs analysis;
- insufficient attention to **horizontal public administration reforms** in the support for the development of administrative and judicial capacity; and
- weaknesses in **programme management** resulting from understaffing and instability of the DIS institutions.

#### *Planning documents and sectoral strategies*

Despite a considerable effort financed under the Turkey pre-accession instrument 2002-2005 (see section 1.3.1 above), strategic planning, sectoral analysis, needs assessments and investment plans in Turkey need to be improved and developed in a number of sectors. The lack of such a framework often means that there is not a solid basis for the allocation of resources. Consequently, significant funds are again allocated under the 2006 programme to address this issue, particularly with a view to future IPA programmes.

#### *Horizontal public administration reforms*

The sustainability of many institution building activities may be imperilled by the inconsistent implementation of horizontal reforms. In Turkey, this issue is particularly relevant, as the country is in the process of implementing potentially far-reaching reforms of the public administration, including the decentralisation of some state structures and the introduction of increased local democracy and public participation. Care has been taken in the design and selection of projects, to ensure that their sustainability is not unduly dependent on potential changes in the administrative framework.

#### *Programme Management*

The experience in Turkey, as in many other candidate countries, has been that sufficient attention has not been devoted to the structures needed for Decentralised Implementation. Agreement on successive annual IPA programmes will depend on the Turkish authorities' commitment to the continued forceful implementation of the pre-accession strategy, giving attention to the establishment of adequate administrative structures for programme implementation, in order that EU financial supports are used in the most effective manner.

The Phare Interim Evaluation recommends the introduction of a better coordination of delivery mechanisms and rigorous enforcement of conditionalities. A limited number of pre-conditions will be formulated concerning the financing of certain elements of IPA, in order to ensure that the framework necessary for the effective and sustainable implementation of EU assistance is established. These generally concern the preparation and adoption of legislation or investment strategies, sector analyses or the establishment and accreditation of appropriate institutions.

In addition to the above general considerations, the design of projects retained in the 2006 programme has taken into account the results of projects programmed in previous years,



particularly since 2002 since the programmes prior to 2002 had socio-economic development objectives that were not directly related to the institution building focus of pre-accession financial assistance. Lessons learned are usually drawn on a case by case basis, building upon relevant experience in the implementation of previous projects in a specific area and the Interim Evaluations of programme implementation. Relevant information in that respect is provided in each project fiche.

A number of projects in the 2006 programmes are directly linked to projects implemented in preceding years, and project preparation in the environment sector, undertaken in the frame of the 2002 programme, has led to the development of several infrastructure projects that represent an important component of the 2006 programme.

### Conditionality

Agreement on the 2006 pre-accession financial assistance programme will depend on the Turkish authorities' commitment to the continued forceful implementation of the pre-accession strategy, giving attention to the establishment of adequate administrative structures for programme implementation, in order that EU financial supports are used in the most effective manner.

Before the Financing Agreement for the 2006 Turkey National Programme – Part II between the Commission and the Government of Turkey is signed, the National Aid Co-ordinator will satisfy the Commission that adequate steps are being taken to maintain and resource adequately the National Fund, CFCU, the EU Secretariat General and other agencies involved in implementing this programme, and that findings of the DIS follow-up audit carried in the autumn of 2005 are being appropriately addressed. It is expected that the CFCU will reach a level of around 100 staff through phased recruitments in the course of 2006, and that a significant increase in the staff of the EU Secretariat General working on pre-accession assistance will also be achieved.

The above conditionality does not apply to *TR0604.06 Participation in Community Programmes and Agencies*, and, if necessary, a separate Financing Agreement concerning the implementation of project *TR0604.06* will be signed.

The specification of conditions that need to be fulfilled before implementation can begin continues to be used as appropriate; however it cannot be used to substitute for project maturity and proper project preparation. Projects were only considered for inclusion in this proposal if they met the criteria of adequate design, readiness for implementation upon signature of the Financing Agreement, ensured co-financing in keeping with the programming guidelines developed for Turkey, and conformity with Accession Partnership priorities.

In addition to the above, the following are project specific conditionalities (non-exhaustive):

TR0602.05 Support to the Solution of Economic and Social Integration Problems in Istanbul, Izmir, Ankara and Bursa as Major In-Migrant Destinations: The municipalities concerned will provide the necessary buildings, in good state of repair and working order, for the establishment of centres dedicated to the reduction and eventual eradication of the incidence of children working and/or living on the streets

TR0604.07 Support Activities to Strengthen the European Integration Process: The planning for the utilisation of funds under SEI 2005 and 2006 is to be submitted to the EC Delegation before funds can be contracted under this project.

TR 06 02 10, Amasya Regional Solid Waste Management Project; TR 06 02 11 Kütahya Regional Solid Waste Management Project; TR 06 02 12 Bitlis Regional Solid Waste Management Project: The EIA have to be finalized in compliance with the EC EIA Directive

85/337 as amended and the designs shall comply with the relevant EC directives including but not limited to the Landfill Directive. A memorandum of understanding shall be signed between the beneficiary and the Contracting authority before the implementation of the projects regarding the new user charges and their management plan to secure the sustainability of the projects. This should specifically address the issue of enforcement of collection.

TR 06 03 09: Development of the Seed Sector in Turkey and Alignment to the EU: Adoption of the seed law by the parliament and the Memorandum of Understanding between MARA and MEF is signed.

TR 06 04 03: Civil Society Dialogue - EU-Turkish Chambers Forum: TOBB and EUROCHAMBRES will sign a cooperation protocol before the launch of the project.

#### 4. BUDGET

##### 4.1. Budget Table

##### Turkey National Programme- Part 1I

		EU IB Support	EU INV Support	EU TOTAL (Inv + IB)	NAT CO- FIN.	OTHER CO-FIN.	TOTAL (EU + Tot. Co-fin.)
<b>Objective 1: Addressing the Copenhagen political criteria and JLS issues - DAC CODE I5162</b>							
TR 06.01.02	Civilian oversight of the internal security sector	3.000.000	0	3.000.000	0	0	3.000.000
TR 06.01.03	Training of Gendarmerie Officers on European Human Rights Standards	1.250.000	523,125	1,773.125	174.375	0	1.947.500
TR 06.01.04	Support to Court Management System	3.300.000	0	3.300.000	0	0	3.300.000
TR 06.01.05	Shelters for women subject to violence	1.360.000	6.750.000	8.110.000	2.250.000	0	10.360.000
TR 06.01.06	Strengthening the Capacity of TK on the struggle against drug trafficking	2.580.000	652.500	3.232.500	217.500	0	3.450.000
TR 06.01.07	Combating Human Trafficking	3.000.000	0	3.000.000		0	3.000.000
TR 06.01.08	Ethics for the prevention of corruption in TK	1.350.000	0	1.350.000		150.000	1.500.000
	Subtotal Obj. 1	15.840.000	7.925.625	23.765.625	2.641.875	150.000	26.557.500

**Objective 2: Economic and social cohesion - DAC CODE I5110**

TR 06.02.03	Active Employment Measures and Support to Turkish Employment Organisation at Local Level	4.000.000	12.000.000	16.000.000	4.000.000	0	20.000.000
TR 06.02.04	Support to HR development through VET	5.480.920	7.500.000	12.980.920	2.500.000	0	15.480.920
TR 06.02.05	Support to the Solution of Economic and Social Integration Problems in Istanbul, Izmir, Ankara and Bursa as Major In-Migrant Destinations	8.962.490	2.943.364	11.905.854	981.121	0	12.886.975
TR 06.02.06	Expansion of the European Turkish Business Centres Network	21.500.000	2.625.000	24.125.000	875.000	0	25.000.000
TR 06.02.07	Access of Tradesmen and Craftsmen to finance	4.542.000	337.500	4.879.500	112.500	0	4.992.000
TR 06.02.08	Industrial restructuring of Sanliurfa	2.620.000	12.893.000	15.513.000	6.067.000	0	21.580.000
TR 06.02.09	Improvement of Road Safety in Turkey	0	20.475.000	20.475.000	6.825.000	0	27.300.000
TR 06.02.10	Amasaya Solid Waste Management	0	18.000.000	18.000.000	6.000.000	0	24.000.000
TR 06.02.11	Kutahya Solid Waste Management	0	16.800.000	16.800.000	7.400.000	0	24.200.000
TR 06.02.12	Bitlis Solid Waste Management	0	14.600.000	14.600.000	4.900.000	0	19.500.000
TR 06.02.13	Technical Assistance for the Management of the Ekmekçizade Caravanserai in Edirne	150.000	7.500	157.500	2.500	0	160.000
TR 06.02.14	Upgrading of Kırklareli-Dereköy -Aziziye Turkish Bulgarian Border State Road Project	0	4.000.000	4.000.000	1.349.000	0	5.349.000
TR 06.02.15	Capacity Improvement for Flood Forecasting and Control in the TR-BG CBC Region	530.000	2.575.000	3.255.000	825.000		4.080.000

TR 06.02.16	Protection and Sustainable Development of Natural Resources and Biodiversity in the Yildiz Mountains	1.300.000	562.500	1.862.500	187.500	0	2.050.000
TR 06.02.17	Joint Small Projects Fund	700.000	0	700.000	217.000 0	0 65.100	4.547.500 765.100
	<b>Subtotal Obj. 2</b>	<b>49.835.410</b>	<b>115.418.864</b>	<b>165.254.274</b>	<b>42.024.621</b>	<b>65.100</b>	<b>207.343.995</b>

**Objective 3: Approximation to the Acquis – DAC CODE 15140**

TR 06.03.05	Strengthening the Capacity of Turkish Grand National Assembly	885.000	117.825	1.002.825	39.275	0	1.042.100
TR 06.03.06	Introducing RIA into the TK legal Framework	1.000.000	0	1.000.000	0	0	1.000.000
TR 06.03.07	Modernisation of TK Customs Admin. III	9.050.000	7.482.854	16.532.854	2.494.285	0	19.027.139
TR 06.03.08	Support to TK police in enforcement of Intellectual and Industrial Property Rights	800.000	532.500	1.332.500	177.500	0	1.510.000
TR 06.03.09	Development of the Seed Sector in Turkey and Alignment to the EU	1.075.000	945.000	2.020.000	315.000	0	2.335.000
TR 06.03.10	Improving the Labour Inspection System	1.300.000	0	1.300.000	0	0	1.300.000
TR 06.03.11	Capacity Building Support for the MoNE	3.700.000	0	3.700.000	0	0	3.700.000
TR 06.03.12	Establishment of an Environmental Information Exchange Network (TEIEN) in Turkey	5.000.000	4.875.000	9.875.000	1.625.000	0	11.500.000
TR 06.03.13	Support activities to strengthen the EU integration process	36.000.000	0	36.000.000	0	0	36.000.000
	<b>Subtotal Obj. 3</b>	<b>58.810.000</b>	<b>13.953.179</b>	<b>72.763.179</b>	<b>4.651.060</b>	<b>0</b>	<b>77.414.239</b>

**Objective 4: Promotion of the EU-Turkey Civil Society Dialogue – DAC CODE 15150**

TR 06.04.03	Civil Society Dialogue - EU-Turkish Chambers Forum (ETCF)	4.500.000	0	4.500.000	0	250.000	4.750.000
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TR 06.04.04	Civil Society Dialogue - Bringing together workers from Turkey and European Union through a "shared culture of work"	3.500.000	0	3500.000	0	0	3.500.000
TR 06.04.05	Supporting Civil Society Development and Dialogue in Turkey	4.000.000	0	4.000.000	0	0	4000000
TR 06.04.06	Participation to Community Programmes and Agencies	<i>62.510.322</i>	0	<i>62.510.322</i>	<i>25.342.442</i>	0	<i>87.852.764</i>
	Subtotal Obj. 4	74.510.322	0	74.510.322	25.342.442	250.000	100.102.764

<b>2006 Part II - TOTAL</b>	<b>198.995.732</b>	<b>137.297.668</b>	<b>336.293.400</b>	<b>74.659.998</b>	<b>465.100</b>	<b>411.418.498</b>
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(The distribution of figures between the budget lines is indicative within the limits of Art. 5 MoU/NF)

## 4.2. Principle of Co-Financing

In accordance with the Phare Guidelines, all investment projects supported by the Turkey pre-accession instrument must receive co-financing from national public funds.

The Community contribution may amount to up to 75% of the total eligible public expenditure. Taxes are not an element eligible for co-financing.

Co-financing for Institution Building projects is provided by the Beneficiary Country bearing certain infrastructure and operational implementation costs, through financing the human and other resources required for effective and efficient absorption of pre-accession instrument assistance.

Institution building projects will also have a degree of implicit co-financing, which will not be quantified. No per diems are payable to staff of the beneficiary public institution. Travel and accommodation costs of the beneficiary staff during their domestic missions for monitoring the implementation of projects, where relevant, should be covered by their respective institutions.

## 5. IMPLEMENTING AGENCIES

The Implementing Agency responsible for the programme is the Central Finance and Contracts Unit of Turkey, except for project:

*TR 06 04 05 Participation in Community Programmes and Agencies*, for which implementation consists of payments to the various Community Programmes. These payments will be made by the National Fund.

## 6. IMPLEMENTATION ARRANGEMENTS

### 6.1. Method of Implementation

Implementation of the programme will follow Art. 53 (1) b (second alternative) of the Financial Regulation<sup>1</sup>.

The Beneficiary Country will continue to ensure that the conditions laid down in Art. 164 (1) (a) - (e) of the Financial Regulation are respected at all times.

Prior to the accreditation of Implementing Agencies foreseen by Art. 7 (2) of Regulation 2500/2001, project selection, tendering and contracting by the Beneficiary Country will be subject to ex-ante approval by the Commission.

### 6.2. General rules for Procurement

Procurement shall follow the provisions of Part 2, Title IV of the Financial Regulation and Chapter 3 of Part 2, Title III of its Implementing Rules<sup>2</sup>, as well as the Commission Decision C(2006)117<sup>3</sup>.

The Contracting Authorities shall also use the procedural guidelines and standard templates and models facilitating the application of the above rules provided for in the "Practical Guide to contract procedures for EC external actions" ("PRAG") as published on the EuropeAid website<sup>4</sup> at the date of the initiation of the procurement or grant award procedure.

### 6.3. Grant Schemes

For grant schemes the precise implementation arrangements will be specified in the relevant project fiches in line with the following principles:

The procedures and formats to be used in the implementation of the schemes and award of the grants will follow the procurement rules for External Actions. In particular, due care will be given to the selection process of the projects. Grants will be awarded in conformity with the provisions of chapter 6 of the Practical Guide, and following the principles of Phare decentralised management. Prior to EDIS accreditation, the ex-ante approval of the Commission Delegation in Ankara will be required.

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<sup>1</sup> Council Regulation (EC, Euratom) 1605/2002 of 25 June 2002; OJ L 248; 16.9.2002; p. 1

<sup>2</sup> Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 as amended by Commission Regulation (EC, Euratom) No 1261/2005 of 20 July 2005, Official Journal L 201, 02/08/2005 p. 3

<sup>3</sup> Commission Decision C(2006)117 on Rules and procedures for service, supply and works contracts financed from the general budget of the European Communities for the purposes of co-operation with third countries, adopted by the Commission on 24 January 2006

<sup>4</sup> Current address: [http://europa.eu.int/comm/europeaid/tender/gestion/index\\_en.htm](http://europa.eu.int/comm/europeaid/tender/gestion/index_en.htm)

The new PRAG entered into force on 1 February 2006

The competent PAO for the programme under which the grant scheme is financed has to retain his/her contractual and financial responsibility for the implementation of the schemes. In particular, the PAO has to formally approve the call for proposals, application forms, evaluation criteria, as well as the selection process and results. The PAO also has to sign the grant agreements with the beneficiaries and to ensure adequate monitoring and financial control under his/her authority and responsibility. With this reservation, the management can be decentralised from the PAO to the appropriate bodies at sectoral or regional level.

The implementation of selected projects through provision of works, supplies and services, which are sub-contracted by the final beneficiaries of the individual grants, shall be subject to the procurement rules for External Actions at the time of implementation. Following a positive assessment of the Implementing Agency's capacity to operationally and financially manage the schemes in a sound and efficient manner<sup>5</sup>, the Commission Delegation may decide to waive its ex-ante approval of sub-contracting carried out by the final beneficiaries of the individual grants. The detailed provisions governing the role of the Delegation in the above-mentioned sub-contracting phase will be specified, as appropriate, in the Exchange of Letters between the Delegation and the national authorities following the above-mentioned assessment exercise.

Grant schemes will not involve projects for which the pre-accession instrument contribution is below € 50.000 or above € 2 million. This lower limit may be waived as a result of the above-mentioned assessment of the Implementing Agency's capacity of giving assurance of sound financial management. The lower limit is not applicable in the case of NGOs.

The financial commitments will take effect at the date of signature of the grant agreements by the competent PAO. The projects should be fully implemented before the expiry date for contract execution of the corresponding Financing Agreement.

#### **6.4. Implementation Principles for Twinning Projects**

Twinning projects are set up in the format of a grant contract (twinning contract) whereby the selected Member State administration agrees to provide the requested public sector expertise (including the long term secondment of an official assigned to provide full time counsel to the beneficiary administration as Resident Twinning Advisor) against the reimbursement of the expenses thus incurred. This twinning contract is in line with the provisions of Article 27 of the Financial Regulation and of Part One, Title VI on grants of the Financial Regulation and its Implementing rules.

Further to the provisions of Article 160, first paragraph of the aforementioned Implementing Rules, the Contracting authority shall use the rules and proceedings set out in the regularly updated Twinning Manual (which includes a system of fixed rates and prices for the reimbursement of the provided public sector expertise by the selected Member state administration for launching, selection, implementation and closing of twinning projects).

### **LIST OF PROJECTS FOR 2006 – PART II – INVOLVING TWINNING**

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<sup>5</sup> See section 11 and Annex 4 of the 2004 Phase Programming Guide

Project code	Twining code	Project Title
TR 0601.02	TR 06 IB JH 02	<i>Civilian Oversight of Internal Security Sector</i>
TR0601.03	TR 06 IB JH 03	<i>Training of Gendarmerie Officers on European Human Rights Standards</i>
TR0603.05	TR 06 IB JH 04	<i>Strengthening the Capacity of the Turkish Grand National Assembly</i>
TR0603.07	TR 06 IB FI 01	<i>Modernisation of the Turkish Customs Administration (NTCS)</i>
TR0603.07	TR 06 IB FI 02	<i>Modernisation of the Turkish Customs Administration (ITMS)</i>
TR0603.07	TR 06 IB FI 03	<i>Modernisation of the Turkish Customs Administration (training)</i>
TR0603.08	TR 06 IB JH 05	<i>Support to the Turkish Police in the Enforcement of Intellectual and Industrial Property Rights</i>
TR0603.09	TR 06 IB AG 02	<i>Development of the seed sector in Turkey and alignment to the EU</i>
TR0603.10	TR 06 IB SO 01	<i>Improving the Labour Inspection System</i>

#### 7.5. Principles for the CBC Small Projects Fund

The CBC Small Projects Fund will finance projects with a Phare/ pre-accession instrument contribution below € 50.000. It will not include physical investments other than small infrastructure not generating substantial net revenue.

For the CBC Small Project Fund, up to 7% of the Phare/ pre-accession instrument contribution may be used for expenditure relating to the preparation, selection, appraisal and monitoring of assistance.



## 7.6. Direct Agreements

Implementation of projects addressing the Copenhagen political criteria frequently requires the award of contracts without normal tendering procedures. This results from the specialised nature of the services to be provided as well as the sensitivity of the issues to be addressed which means that a relationship of trust with the beneficiary institutions is a prerequisite for the effective implementation of the project.

As regards the promotion of the EU-Turkey Civil Society Dialogue, European umbrella organisations have been established in Brussels, which enjoy de facto monopolies in representing the two target groups of projects proposed under Part II of the 2006 National Programme, namely the business communities and trade unions. Turkish institutions are members of these umbrella organisations. Consequently, the award of Direct Grant agreements is foreseen to guarantee an effective coordination of planned activities.

### *TR 0601.02 Civilian Oversight of Internal Security Sector*

*Type: Grant*

The project will be implemented through a Direct Grant agreement with UNDP. Due to the highly sensitive nature of the project at hand, it is imperative the project is delivered through a technical assistance team which enjoys the full trust and cooperation of the Ministry of Interior. UNDP, the United Nation's global development network, has an established cooperation with the Ministry of Interior in the field of civilian oversight, and is as the sole institution able to ensure the effective implementation of the project at this time. Given this de facto monopoly situation, the grant contract will be awarded in accordance with the Implementing Rules, Article 168.1.c).

### *TR0601.04 Support to the Court Management System*

*Type: Grant*

A Direct Grant will be awarded to the Council of Europe (CoE) for the implementation of this project. The Council of Europe is the "guardian of European values and principles" and joint projects present a significant opportunity for Turkey to work together with the Council of Europe and the European Union closely to consolidate democratic reforms. Numerous recommendations have been addressed by the Council of Europe to its member states to improve their legal systems. These recommendations have dealt with matters which are crucial for the project such as principles of civil procedure to improve the functioning of justice, measures to prevent and reduce the excessive workload of courts, management of criminal justice and the use of new technologies. The Council of Europe is implementing similar projects financed by the European Commission, for example in Romania. The award of the grant is made in accordance with Art 168.1.c) of the Implementing Rules of the Financial Regulation, considering that the Council of Europe has a de facto monopoly for the implementation of this action in view of this unique expertise.

### *TR0601.05 Shelters for Women Subject to Violence*

*Type: Grant*

Implementation of the project will include a Direct Agreement contract with the United Nations Population Fund (UNFPA) for the provision of technical assistance. Given the cultural, social and regional particularities of this issue in Turkey as well as its political sensitivity, the effective implementation of the project requires an excellent knowledge of the Turkish situation, including the prevalence of the issue in different regions, a comprehensive approach, previous hands-on experience in the field of violence against women, and the ability to work and collaborate with government institutions, NGOs and other stakeholders. It should be neutral to all related stakeholders for the sound implementation of the project.

UNFPA Turkey Country Office is the sole institution combining the above mentioned features. Given the de facto monopoly situation the award is made in accordance with the Implementing Rules, Article 168.1.c).

***TR0601.06 Strengthening the Capacity of Turkey on the Struggle against Drug Trafficking***

Type: Grant

Implementation of the project will include a Direct Grant Agreement contract with the United Nations Office on Drugs and Crime (UNODC). UNODC, a global institution having approximately 500 staff worldwide and a national project officer in Turkey since 1999, ensures cooperation and coordination amongst countries in fight against international crimes and illegal drugs. UNODC currently carries out EU financed projects in the area of drug trafficking in South East European countries, including Bulgaria, Romania and Macedonia. Because of the cross-border dimension of drug trafficking, the organisation's international experience in addressing this topic, and the confidence it enjoys among Turkish law enforcement bodies, UNODC has been identified as the sole institution able to ensure the effective implementation of this project. Given this de facto monopoly situation, the grant contract will be awarded in accordance with the Implementing Rules, Article 168.1.c).

***TR0601.07 Combating Human Trafficking***

Type: Grant

The project will be implemented through a Direct Grant agreement to be concluded with the International Organization for Migration (IOM). The implementation of this project requires an organisation that can guarantee effective execution of activities foreseen in Turkey and beyond its borders. It therefore calls for an internationally respected organisation able to deal with the Turkish government, neighbouring countries and NGOs alike on this sensitive issue, combined with specialised expertise on migration. The IOM with its offices in Turkey and in neighbouring countries is the sole institution combining the above mentioned features. Given this de facto monopoly situation, the grant contract will be awarded in accordance with the Implementing Rules, Article 168.1.c).

***TR0601.08 Ethics for the Prevention of Corruption in Turkey***

Type: Grant

A Direct Grant will be awarded to the Council of Europe (CoE) for the implementation of this project. The Council of Europe is the "guardian of European values and principles" and joint projects present a significant opportunity for Turkey to work together with the Council of Europe and the European Union closely to consolidate democratic reforms. With regard to corruption, the Council of Europe is uniquely placed to support Turkey. The Council of Europe's approach in this area consists of standard setting (conventions, recommendations), monitoring (through the Group of States against Corruption) and technical cooperation programmes. Turkey has ratified relevant conventions of the Council of Europe. The award of the grant is made in accordance with Art 168.1.c) of the Implementing Rules of the Financial Regulation, considering that the Council of Europe has a de facto monopoly for the implementation of this action in view of this unique expertise.

***TR0604.03 EU-Turkish Chambers Forum (ETCF)***

Type: Grant

The project will be implemented through a Direct Grant agreement to be concluded with Eurochambres. The implementation of this project under the framework of the Civil Society Dialogue requires an institution capable of representing a large majority of the EU Member States' business community. Eurochambres is the Association of European Chambers of Commerce and Industry and represents 44 national associations of Chambers of Commerce and Industry, a European network of 2000 regional and local Chambers with over 18 million member enterprises in Europe. Its mission is to represent, serve and promote European Chambers of Commerce and Industry. The Turkish Union of Chambers and Commodity Exchanges (TOBB) is also member and represents the Turkish private sector in Eurochambres. Therefore, Eurochambres being the sole institution able to ensure the effective implementation of this project, the award of the grant will be made in accordance with Art 168.1.c) of the Implementing Rules of the Financial Regulation.

*TR0604.04 Civil Society Dialogue - Bringing together workers from Turkey and European Union through a "shared culture of work"*

*Type: Grant*

The project will be implemented through a Direct Grant agreement to be concluded with ETUC, the European Trade Unions Confederation. The implementation of this project requires an EU recognised organisation ensuring coordination of planned activities between EU and Turkish trade unions having specialised expertise on union rights. The four Turkish partner-confederations involved in the project (Türk-İş, Hak-İş, Disk, Kesk) are members of ETUC. Moreover, ETUC is recognised as an EU social partner by article 138 of the EC Treaty. Consequently, ETUC is the only EU-level organisation that can implement a project involving trade unions under the framework of the Civil Society Dialogue. Given this de facto monopoly situation, the grant contract will be awarded in accordance with the Implementing Rules, Article 168.1.c).

*TR0604.05 Supporting Civil Society Development and Dialogue in Turkey*

*Type: Grant*

A Direct Grant agreement will be concluded with the Association of Civil Society Development Centre (STGM) for the implementation of this project. The Association has been established by representatives of different NGOs to provide nationwide capacity building services for grassroots NGOs. STGM is currently implementing a DIS Direct Grant contract entitled "Strengthening Freedom of Association for further Development of Civil Society" under the 2004 National Programme for Turkey. Considering that the Association is still the only civil society umbrella organisation of this kind operating throughout the country and given this de facto monopoly situation, the grant contract will be awarded in accordance with the Implementing Rules, Article 168.1.c).

7. MANAGEMENT OF ASSISTANCE

7.1. Project Management

7.1.1. Responsibilities

The National Aid Co-ordinator (NAC) will have overall responsibility for programming and monitoring of pre-accession instrument programmes.

The NAO and the Project Authorising Officer (PAO) will ensure that the programmes are implemented in line with the procedures laid down in the instructions of the Commission. They will also ensure that all contracts required to implement the Financing Agreement are awarded using the procedures and standard documents for External Actions in force at the time of implementation, and that EU state aid rules are respected.

#### *7.1.2. Project Size*

All projects will be greater than 2 M €, except the following:

TR0601.08 Ethics for the Prevention of Corruption in Turkey

TR0603.05 Strengthening the Capacity of the Turkish Grand National Assembly

TR0603.06 Introducing Regulatory Impact Analysis into the Turkish Legal Framework

TR0603.08 Support to the Turkish Police in the Enforcement of Intellectual and Industrial Property Rights

TR0603.10 Improving the Labour Inspection System

(These institution building projects, concern relatively specialised areas of activity and restricted target audiences. In the opinion of the Commission services larger projects are not warranted.)

TR0602.13 Technical Assistance for the Management of the Ekmekçizade Caravanserai in Edirne

TR0602.16 Protection and Sustainable Development of Natural Resources and Biodiversity in the Yildiz Mountains

TR0602.17 Joint Small Project Fund

(The budgets for these Cross Border Cooperation projects reflect the overall allocation for this component of the programme.)

#### *7.1.3. Deadline for contracting and execution of contracts, programming deadline*

(1) All contracts must be concluded by no later than November 30, 2008. In no case can the contracting period for projects implemented under this programme exceed three years after the date of the global commitment (Art. 166 (2) FR).

(2) All contracts must be executed by no later than November 30, 2009 with the following exceptions: for projects

- *TR0602.08 Industrial Restructuring of Sanliurfa*
- *TR0602.10 Amasya SWM*
- *TR0602.11 Kütahya SWM*

• *TR0602.12 Bitlis SWM*

the execution deadline for contracts will be November 30, 2010.

Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be decommitted (Art. 77 (3) FR).

(3) Under DIS, a complete tender dossier must be submitted to the Delegation for approval by no later than 30 November, 2007. In case of non-compliance, the Beneficiary Country will inform the JMC, which may recommend reallocation of funds in accordance with Art. 5 of the MoU on the National Fund.

*7.1.4. Environmental Impact Assessment and Nature Conservation*

The procedures for environmental impact assessment as set down in the EIA-directive<sup>6</sup> are fully applicable for all investment projects under the pre-accession instrument. If the EIA-directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-mentioned directive. If a project would fall within the scope of annex 1 or annex 2 of the EIA-directive, the carrying out of the EIA-procedure must be documented<sup>7</sup>.

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-directive must be documented<sup>8</sup>.

All investments shall be carried out in compliance with the relevant community environmental legislation. The project fiches will contain specific clauses on compliance with the relevant EU-legislation in the field of the environment according to the type of activity carried out under each investment project.

**7.2. Financial Management**

*7.2.1. Principles and Responsibilities*

The National Fund in the Undersecretariat of Treasury, headed by the NAO, will supervise the financial management of the programme, and will be responsible for reporting to the European Commission. The NAO shall have the overall responsibility for financial management of the pre-accession instrument funds, and the full accountability for the pre-accession instrument funds of a programme until the closure of that programme.

The NAO shall ensure that the pre-accession instrument rules, regulations and procedures pertaining to reporting and financial management are respected, and that a reporting and project information system is functioning.

<sup>6</sup> DIR 85/337/EEC; OJ L 175/40; 5.7.1985, as amended

<sup>7</sup> In Annex EIA to the corresponding investment project fiche.

<sup>8</sup> in Annex Nature Conservation to the corresponding investment project fiche

The Commission will make payments to the NF in accordance with the Memorandum of Understanding signed between the Commission and Turkey on 14 February 2002, and amended on 3 September 2003.

Payments will be made following requests from the NAO onto a separate bank account, denominated in €, which will be opened and managed by the National Fund in the Central Bank of Turkey.

According to Articles 3 & 4 of the implementing rules of the Financial Regulation accrued interest is the property of the Beneficiary Country. The NAO must however ensure that the accrued interest is actually registered in its entirety as revenue in the national budget. Furthermore the NAO will ensure a regular reporting of the interest via Perseus.

#### 7.2.2. *Payments to the National Fund*

A first payment<sup>9</sup> of up to 20% of the funds to be managed locally<sup>10</sup> will be sent to the NF following signature of the Financing Agreement and the Implementing Agreements between the NF and the Central Finance and Contracts Unit (CFCU). Furthermore, the NAO must submit to the Commission the designation of the PAOs and a description of the system put in place, highlighting the flow of information between the NF and the CFCU and the manner in which the payment function between them will be carried out.

Two further payments<sup>11</sup> of up to 30% of the funds to be managed locally<sup>12</sup> will be made. The second payment will be triggered when 5 % of the total budget in force<sup>13</sup> has been disbursed by the CFCU. The third payment may be requested when 35% of the total budget in force<sup>14</sup> has been disbursed.

A final fourth payment will be made when 70 % of the total budget in force<sup>15</sup> has been disbursed and all contracts have been signed.

Exceptionally the NAO may request more than the percentage agreed where it can be demonstrated by a cash-flow projection that the cash-flow requirements in the subsequent period will exceed such percentage. In cases where the aggregate of the funds deposited in the NF and CFCU accounts exceeds 15% of the total budget in force for the programme the Commission may exceptionally authorise a payment, if the NAO

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<sup>9</sup> Representing pre-financing as defined in Art. 105 (1) of the Implementing Rules to the Financial Regulation

<sup>10</sup> excluding the amount foreseen for Community Programmes

<sup>11</sup> Representing interim payments or the renewal of pre-financing as defined in Art. 105 (1) of the Implementing Rules to the Financial Regulation

<sup>12</sup> excluding the amount for Community Programmes

<sup>13</sup> excluding the amount for Community Programmes

<sup>14</sup> excluding the amount for Community Programmes

<sup>15</sup> excluding the amount for Community Programmes

provides duly substantiated evidence that contractual obligations cannot be met with the funds available.

#### *7.2.3. Payments from the National Fund to the Implementing Agency*

The National Fund will make payments to the CFCU, in accordance with Implementing Agreements signed between the NF and the CFCU. Bank accounts for sub-programmes shall be opened in the name of the CFCU in charge of financial management of the sub-programme in line with Art. 13 of the MoU on the National Fund.

As long as implementation follows DIS, each individual Implementing Agreement must be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the CFCU there will be no payments from the NF to the CFCU. The CFCU must be headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation with the NAC. The PAO will be responsible for all operations carried out by the CFCU.

#### *7.2.4. Payments to the National Fund for Participation in Community Programmes and Agencies*

A single payment to the National Fund will be made, covering the full amount of the pre-accession instrument part of the financial contribution for participation in Community programmes and agencies. This payment will be made following signature of the Financing Agreement and upon request from the National Fund.

This payment is separate from the payments made for the rest of the programme. The pre-accession instrument contribution for each programme will, however, only be transferred when the Association Council Decision or Memorandum of Understanding establishing the terms and conditions for participation in that programme is in force.

If there is a delay in the entry into force of some of the Memoranda of Understanding, the payment to the National Fund may be divided into two or more instalments, so that 100% of the funds necessary for the programmes in force can be paid immediately. The National Fund is responsible for transferring the funds back to the Commission, following the call for funds of the Commission service responsible for the programmes concerned and within the deadlines requested.

#### *7.2.5. Payments in Case of Contractual Retention Clauses*

For those contracts with contractual retention clauses (e.g. funds retained for a warranty period), the Implementing Agency assumes full responsibility for managing the funds until final payment is due, as well as for ensuring that the said funds will only be used to make payments related to the retention clauses.

The IA further assumes full responsibility towards the contractors for fulfilling the obligations related to the retention clauses. Funds not paid out to the contractors after final payments have been settled shall be reimbursed to the Commission.

#### *7.2.6. Closure of Expenditure and Clearance of Accounts*

No later than 16 months after the end of the execution of contracts, the NF will submit a final declaration of expenditure and a final progress report covering both Turkey pre-

accession instrument support and co-financing and an attestation regarding the regularity, accuracy and veracity of the accounts transmitted. The final certified expenditure should at this point equal the original value of the contracts minus any deductions and savings agreed with contractors in the course of implementation. This should also equal payments made plus any sums outstanding on account of contractual retention.

If the payments received from the Commission exceed the final certified expenditure, the NF shall return the excess to the Commission at the time of submitting the final declaration. If there are any outstanding payments (with the exception of contractual retention funds), the NF should provide an explanation and a forecast when payment will be finalised. The NF shall report on progress on contractual retention funds and outstanding payments on a quarterly basis. If they are not paid to the contractor, they shall be returned to the Commission.

After evaluation of the final declaration, the Commission will state its view on any expenditure to be excluded from Community funding, where it finds that expenditure has not been executed in compliance with Community rules.

The results of the Commission's checks and its conclusions to exclude expenditure from financing will be notified in writing to the NF, which shall be given one month to transmit its reply in writing.

If no agreement is reached within one month of receipt of the NF's written reply, the Commission shall decide and establish the amounts to be excluded, having regard in particular to the degree of non-compliance found, the nature and gravity of the infringement as well as the financial loss suffered by the Community.

Following the decision about amounts to be excluded, all ineligible expenditure will be recovered without prejudice to the treatment of irregularities and subsequent financial corrections stipulated below.

The funds will be recovered either by direct reimbursement from the NF or by compensation in accordance with Community rules.

## 8. MONITORING AND EVALUATION

Project implementation will be monitored through the Joint Monitoring Committee (JMC). It includes the NAO, the NAC and the Commission services. The JMC will meet at least once a year to review all pre-accession instrument funded programmes in order to assess their progress towards meeting the objectives set out in the Financing Agreements and the Accession Partnership. The JMC may recommend a change of priorities and/or reallocation of pre-accession instrument funds. Furthermore, the JMC will review the progress of all pre-accession EU-funded assistance programmes once a year.

For the pre-accession instrument programme, the JMC will be assisted by Sectoral Monitoring Sub-Committees (SMSC), which will include the NAC, the PAO of the CFCU and the Commission Services. The SMSC will review in detail the progress of each programme, including its components and contracts, assembled by the JMC into suitable monitoring sectors. Each sector will be supervised by one SMSC on the basis of regular monitoring reports produced by the Implementing Agency, and interim



evaluations undertaken by independent evaluators. The SMSC will put forward recommendations on aspects of management and design, ensuring that these are effected. The SMSC will report to the JMC, to which it will submit overall detailed opinions on all pre-accession instrument financed programmes in its sector.

The Commission services shall ensure that this programme will be subject to interim (either centralised or decentralised) and/or ex post evaluations.

## 9. AUDIT, FINANCIAL CONTROL, ANTI-FRAUD MEASURES, PREVENTIVE AND CORRECTIVE ACTIONS

### 9.1. Supervision and Financial Control by the Commission and the European Court of Auditors

All Financing Agreements as well as all resulting contracts are subject to supervision and financial control by the Commission (including the European Anti-Fraud Office) and audits by the European Court of Auditors. As long as EDIS is not yet applicable to the Implementing Agencies in the Beneficiary Country, this includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Beneficiary Country.

In order to ensure the efficient protection of the financial interests of the Community, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (EC, Euratom) 2185/96<sup>16</sup>.

The controls and audits described above are applicable to all contractors and subcontractors who have received Community funds.

Without prejudice to the responsibilities of the Commission and the European Court of Auditors<sup>17</sup>, the accounts and operations of the National Fund and, where applicable, the CFCU may be checked at the Commission's discretion by the Commission itself or by an outside auditor contracted by the Commission.

### 9.2. Obligations of the Beneficiary Country

#### 9.2.1. *Audit and Financial Control*

In order to ensure sound financial management of the pre-accession instrument funds, the Beneficiary Country must have a system for management and control of assistance in accordance with generally accepted principles and standards in place. This system shall fulfil the requirements set out in Art. 164 of the Financial Regulation and in particular provide adequate assurance of the correctness, regularity and eligibility of claims on Community assistance.

<sup>16</sup> Council Regulation (EC, Euratom) 2185/96 of 11. November 1996, OJ L 292; 15.11.1996; p. 2

<sup>17</sup> as referred to in the General Conditions relating to the Financing Memorandum" attached to the Framework Agreement

The Beneficiary Country's management and control systems shall provide a sufficient audit trail, as defined in Art. 7 (2) of Commission Regulation 438/2001<sup>18</sup>.

The competent national financial control authority shall carry out appropriate financial controls of all actors involved in the implementation of the programme.

Each year an audit plan and a summary of the findings and main recommendations of the audits carried out and an outline of the follow-up given to past audit recommendations shall be sent to the Commission. Audit reports shall be at the disposal of the Commission.

#### 9.2.2. *Preventive Measures*

The Beneficiary Country shall take any appropriate measure to prevent and counter active and passive corruption<sup>19</sup> practises at any stage of the procurement procedure or grant award procedure, as well as during the implementation of corresponding contracts.

The authorities of the beneficiary country, including the personnel responsible for the implementation of the programme, shall also undertake to take whatever precautions are necessary to avoid any risk of conflict of interest, and shall inform the Commission immediately of any such conflict of interest or any situation likely to give rise to any such conflict.

#### 9.2.3. *Anti-Fraud Measures and Corrective Actions*

Beneficiary Countries shall, in the first instance, bear the responsibility to ensure investigation and satisfactory treatment of suspected or actual cases of fraud and irregularities following national or Community controls.

The national authorities shall ensure the functioning of a control and reporting mechanism equivalent to the one foreseen in Commission Regulation 1681/1994<sup>20</sup> as last modified by Commission Regulation 2035/2005<sup>21</sup>.

In particular, all suspected or actual cases of fraud<sup>22</sup> and irregularity<sup>23</sup> as well as all measures related thereto taken by the national authority must be reported to the

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<sup>18</sup> Commission Regulation (EC, Euratom) 438/2001 of 2 March 2001, OJ L 63; 3.3.2001, p.21

<sup>19</sup> Active corruption is defined as the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Communities' financial interests.

Passive corruption is defined as the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or a third party, or accepts a promise of such advantage, to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Communities' financial interests.

<sup>20</sup> Commission Regulation (EC) 1681/94 of 11. July 1994; 12.7.94; p. 43

<sup>21</sup> Commission Regulation (EC) 2035/2005 of 12 December 2005 ; 15.12.2005 ; p.8

Commission services without delay. Should there be no suspected or actual cases of fraud or irregularity to report; the Beneficiary Country shall inform the Commission of this fact within two months following the end of each quarter.

In case of irregularity or fraud, the Beneficiary Country shall make the necessary financial corrections required in connection with the individual irregularity. The corrections made by the Beneficiary Country shall consist in cancelling all or part of the Community contribution. The Community funds released in this way may be re-used by the NF for the purpose of the programme, in compliance with Art. 5 of the MoU on the National Fund.

### 9.3. Recovery of Funds in Case of Irregularity or Fraud

Any proven irregularity<sup>24</sup> or fraud<sup>25</sup> discovered at any time during the implementation of the programme or as the result of an audit will lead to the recovery of funds by the Commission.

If, after completing the necessary verifications, the Commission concludes that:

(a) The Beneficiary Country has not complied with the obligations to prevent, detect, and correct irregularities or

(b) The implementation of a project appears not to justify either part or the whole of the assistance allocated or

(c) There are serious failings in the management or control systems which could lead to irregularities,

The Commission may suspend further financing of the programme in question, and, stating its reasons, request that the Beneficiary Country submit comments and, where appropriate, carry out any corrections within a specified period of time.

If no agreement is reached by the end of the period set by the Commission and if the required corrections have not been made, the Commission may – taking into account any comments made by the Beneficiary Country – decide within three months to:

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<sup>22</sup> Fraud shall mean any intentional act or omission relating to: the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities; non disclosure of information in violation of a specific obligation with the same effect; the misapplication of such funds for purposes other than those for which they are originally granted.

<sup>23</sup> Irregularity shall mean any infringement of a provision of national or Community law, this Financing Agreement or ensuing contracts, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, by an unjustified item of expenditure. The term "Community law" in this context shall be defined as the entirety of Community rules applicable between the Parties of the Financing Memorandum (e.g. the Europe Agreements, Framework Agreements, the MoU on the Establishment of the National Fund etc.)

<sup>24</sup> see definition above

<sup>25</sup> see definition above

- (a) Reduce or cancel any payment for the programme in question, or
- (b) Make the financial corrections required by cancelling all or part of the assistance granted to the programme concerned.

The Commission shall, when deciding on the amount of a correction, take into account the principle of proportionality, the type of irregularity and the extent and financial implications of the shortcomings found in the management and control system of the Beneficiary Country.

In the absence of a decision to do either (a) or (b), further financing of the programme shall immediately resume.

The National Authorising Officer will ensure the reimbursement of any unused funds or any sum wrongly paid within sixty calendar days of the date of the notification. If the NAO does not repay the amount due to the Community, the Beneficiary Country shall refund this amount to the Commission.

Interest on account of late payment shall be charged on sums not repaid by applying the rules specified in the Financial Regulation.

#### 10. VISIBILITY AND PUBLICITY

The PAO in charge will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all activities financed from the programme. This will be done in close liaison with the Commission. Further details are set down in the Annex on Visibility and Publicity.

#### 11. SPECIAL CONDITIONS

In the event that agreed commitments are not met for reasons which are within the control of the Government of Turkey, the Commission may review the programme with a view, at the Commission's discretion, to cancelling all or part of it and/or to reallocate unused funds for other purposes consistent with the objectives of the pre-accession instrument programme.

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