

FINANCING AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF TURKEY

AND

THE EUROPEAN COMMISSION

**CONCERNING THE PROGRAMME ON FINANCING THE
PARTICIPATION OF TURKEY IN THE ENPI BLACK SEA
BASIN PROGRAMME UNDER THE IPA CROSS-BORDER
COOPERATION COMPONENT FOR 2009**

(Decentralised Management)

CONTENTS

Preamble

1. The programme
2. Implementation of the programme
3. National structures and authorities with responsibilities
4. Funding
5. Contracting deadline
6. Deadline for the execution of contracts
7. Disbursement deadline
8. Interpretation
9. Partial invalidity and unintentional gaps
10. Review and amendments
11. Termination
12. Settlement of differences
13. Notices
14. Number of originals
15. Annexes
16. Entry into force

Annex A Programme on financing the participation of Turkey in the ENPI Black Sea Basin programme under the IPA Cross-border Co-operation component for the year 2009 adopted by Commission decision C(2009)7550 of 9 October 2009

Annex B Framework Agreement between the Commission of the European Communities and the Government of the Republic of Turkey dated 11 July 2008

Annex C Further conditions for the delivery of European Union assistance

- (e) On 27 November 2008, the Commission adopted the ENPI Black Sea Basin programme by Decision C(2008) 7406.
- (f) On 9 October 2009, the Commission adopted a programme on financing the participation of Turkey in the ENPI Black Sea Basin programme (hereafter: "The programme"). This programme is to be implemented by means of decentralised management.
- (g) It is necessary for the implementation of this programme that the Parties conclude a Financing Agreement to lay down the conditions for the delivery of European Union assistance, the rules and procedures concerning disbursement related to such assistance and the terms on which the assistance will be managed.

FINANCING AGREEMENT

THE GOVERNMENT OF THE REPUBLIC OF TURKEY

and

THE EUROPEAN COMMISSION

hereafter jointly referred to as "the Parties" or individually as "the beneficiary country", in the case of the Government of the Republic of Turkey, or the Commission, in the case of the European Commission.

Whereas

- (a) On 1 August 2006, the Council of the European Union adopted Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (hereafter: the "IPA Framework Regulation"). With effect from 1 January 2007, this instrument constitutes the single legal basis for the provision of financial assistance to candidate countries and potential candidates in their efforts to enhance political, economic and institutional reforms with a view to their eventually becoming members of the European Union.
- (b) On 12 June 2007, the Commission has adopted Regulation (EC) No 718/2007 implementing the IPA Framework Regulation, detailing applicable management and control provisions (hereafter: the "IPA Implementing Regulation").
- (c) European Union assistance under the instrument for pre-accession assistance should continue to support the beneficiary countries in their efforts to strengthen democratic institutions and the rule of law, reform public administration, carry out economic reforms, respect human as well as minority rights, promote gender equality, support the development of a civil society and advance regional cooperation as well as reconciliation and reconstruction, and contribute to sustainable development and poverty reduction.

European Union assistance for candidate countries should additionally focus on the adoption and implementation of the full *acquis communautaire*, and in particular prepare them for the implementation of the European Union's agricultural and cohesion policy.

- (d) The Parties have concluded on 11 July 2008 a Framework Agreement setting out the general rules for cooperation and implementation of the European Union assistance under the instrument for Pre-Accession Assistance.

HAVE AGREED ON THE FOLLOWING:

1 THE PROGRAMME

The Commission will contribute, by way of grant, to the financing of the Programme on financing the participation of Turkey in the ENPI Black Sea Basin Programme under the IPA Cross-Border Co-operation component for the year 2009 (Programme number: IPA 2009/21347), which is set out in Annex A to this Agreement:

2 IMPLEMENTATION OF THE PROGRAMME

- (1) The programme shall be implemented by decentralised management, in the meaning of Article 53c of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, as last modified by Council Regulation (EC) No 1525/2007 of 17 December 2007 (hereafter: "the Financial Regulation").
- (2) The Programme shall be implemented in accordance with the provisions of the Framework Agreement on the rules for co-operation concerning EU Financial Assistance to Turkey and the implementation of the Assistance under the Instrument for Pre-Accession Assistance (IPA), concluded between the Parties on 11 July 2008 (hereafter: "the Framework Agreement"), which is set out in Annex B to this Agreement.

3 NATIONAL STRUCTURES AND AUTHORITIES

- (1) ~~The structures and authorities with functions and responsibilities for the implementation of this Agreement are described in Annex B to this Agreement.~~
- (2) Further responsibilities of the national authorizing officer and the national fund are set out in Annex C to this Agreement.
- (3) The beneficiary country shall establish an operating structure responsible for the management and the implementation of this programme. Such operating structure shall co-operate with the Managing Authorities of the ENPI Black Sea Basin Programme and it will be represented in the Joint Monitoring Committees of this programme as a full member.
- (4) The functions and responsibilities of the operating structure shall be, *mutatis mutadis*, those listed in Section 6, Annex A, of the Framework Agreement enclosed to this Agreement as Annex B.

4 FUNDING

The funding for the implementation of this Agreement shall be as follows:

- (a) The European Union contribution for the year 2009 for the participation in the ENPI Black Sea Basin programme is fixed at a maximum of €1.000.000, as detailed in the programme in Annex A. However, payments of the European Union contribution by

the Commission will not be made if the minimum requirements referred to in Article 41 of the IPA Implementing Regulation are not met.

- (b) Up to 10% of this European Union contribution can be used to co-finance the operational and administrative costs incurred by the beneficiary country in the implementation of this programme, as detailed in Annex A to this Agreement.

5 CONTRACTING DEADLINE

- (1) The individual contracts and agreements which implement this Agreement shall be concluded no later than two years from the date of conclusion of this Agreement.
- (2) In duly justified cases, this contracting deadline may be extended with the agreement of the Commission before its end date to a maximum of three years from the date of conclusion of this Agreement.
- (3) Any funds for which no contract has been concluded before the contracting deadline shall be cancelled.

6 DEADLINE FOR THE EXECUTION OF CONTRACTS

- (1) The contracts must be executed within a maximum of 2 years from the end date of contracting.
- (2) The Commission may agree, upon request by the beneficiary country, to an appropriate extension of the deadline for the execution of contracts. Such request must be addressed to the Commission before the end of the deadline for the execution of contracts, and be duly justified by the beneficiary country.

7 DISBURSEMENT DEADLINE

- (1) Disbursement of funds must be made no later than one year after the final date for the execution of contracts.
- (2) The deadline for disbursement of funds may be extended with the agreement of the Commission before its end date in duly justified cases.

8 INTERPRETATION

- (1) Subject to any express provision to the contrary in this Agreement, the terms used in this Agreement shall bear the same meaning as attributed to them in the IPA Framework Regulation and the IPA Implementing Regulation.
- (2) Subject to any express provision to the contrary in this Agreement, references to this Agreement are references to such Agreement as amended, supplemented or replaced from time to time.
- (3) Any references to Council or Commission Regulations are made to the version of those regulations as indicated. If required, modifications of these regulations shall be transposed into this Agreement by means of amendments.

- (4) Headings in this Agreement have no legal significance and do not affect its interpretation.

9 PARTIAL INVALIDITY AND UNINTENTIONAL GAPS

- (1) If a provision of this Agreement is or becomes invalid or if this Agreement contains unintentional gaps, this will not affect the validity of the other provisions of this Agreement. The Parties will replace any invalid provision by a valid provision which comes as close as possible to the purpose of and intent of the invalid provision.
- (2) The Parties will fill any unintentional gap by a provision which best suits the purpose and intent of this Agreement, in compliance with the IPA Framework Regulation and the IPA Implementing Regulation.

10 REVIEW AND AMENDMENT

- (1) The implementation of this Agreement will be subject to periodic reviews at times arranged between the Parties.
- (2) Any amendment agreed to by the Parties will be in writing and will form part of this Agreement. Such amendment shall come into effect on the date determined by the Parties.

11 TERMINATION

- (1) Without prejudice to paragraph 2, this Agreement shall terminate eight years after its signature. The termination of this Agreement shall not preclude the possibility for the Commission to make financial corrections in accordance with Articles 49 to 54 of the IPA Implementing Regulation.
- (2) This Agreement may be terminated by either Party by giving written notice to the other Party. Such termination shall take effect six calendar months from the date of the written notice.

12 SETTLEMENT OF DIFFERENCES

- (1) Differences arising out of the interpretation, operation and implementation of this Agreement, at any and all levels of participation, will be settled amicably through consultation between the Parties.
- (2) In default of amicable settlement, either Party may refer the matter to arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of this Agreement.
- (3) The language to be used in the arbitration proceedings shall be English. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration following a written request submitted by either Party. The Arbitrator's decision shall be binding on all Parties and there shall be no appeal.

13 NOTICES

- (1) Any communication in connection with this Agreement shall be made in writing and in the English language. Each communication must be signed and must be supplied as an original document or by fax.
- (2) Any communication in connection with this Agreement must be sent to the following addresses:

For the European Union:

*Delegation of the European Commission to Turkey
Ugur Mumcu cad. No. 88/4
Gazi Osman Pasa 06700
Ankara, Turkey
Fax: (+90.312) 446 67 37*

For the Beneficiary Country:

*H. E. Ambassador Volkan Bozkır
Secretary General
National IPA Coordinator (NIPAC)
Secretariat General for EU Affairs
Basbakanlik Avrupa Birliđi Genel Sekreterliđi
Mustafa Kemal Mah. 6.Cad. No: 4
06800 Ankara, Turkey
Tel: (+90.312) 218 14 68
Fax: (+90.312) 218 14 44*

14 NUMBER OF ORIGINALS

This Agreement is drawn up in duplicate in the English language.

15 ANNEXES

The Annexes A, B and C shall form an integral part of this Agreement.

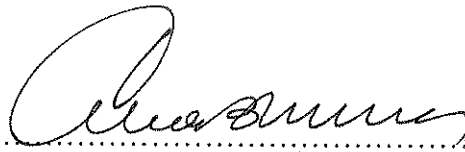
16 ENTRY INTO FORCE

This Agreement shall enter into force on the date on which the Contracting Parties inform each other in writing of its ratification in accordance with the existing internal legislation or procedure of each of the Parties.

Signed, for and on behalf of the
Government of the Republic of Turkey,

at Ankara on 13.12.2010

by



*H. E. Ambassador Volkan Bozkır
National IPA Coordinator (NIPAC)
Secretary General for EU Affairs*

Signed, for and on behalf of the
Commission,

at Brussels on 26-11-2010

by



*Alexandra Cas Granje,
Director DG Enlargement for
Croatia, The former Yugoslav
Republic of Macedonia, Turkey, Iceland*

ANNEX A

PROGRAMME ON FINANCING THE PARTICIPATION OF TURKEY IN THE ENPI BLACK SEA BASIN PROGRAMME UNDER THE IPA CROSS-BORDER CO- OPERATION COMPONENT FOR THE YEAR 2009

1. Identification

Beneficiary	Turkey
CRIS number	2009 / 21347
Year	2009
Cost	EUR 1 000 000 (one million euros)
Operating structure	Turkish International Cooperation and Development Agency (TIKA) Central Finance and Contracting Unit (CFCU) at the Undersecretariat of the Treasury
Implementing Authority	The Implementing Agency responsible for the programme is the Central Finance and Contracting Unit (CFCU) at the Undersecretariat of the Treasury
Final date for concluding the Financing Agreement:	At the latest by 31 December 2010
Final date for contracting	2 years following the date of conclusion of the Financing Agreement. No deadline for audit and evaluation projects covered by this Financing Agreement, as referred to in Article 166(2) of the Financial Regulation These dates apply also to the national co-financing.
Final date for execution	2 years following the end date for contracting. These dates apply also to the national co-financing.
Sector Code	15110
Budget lines concerned	22.02.04.01
Programming Task Manager	DG ELARG Unit B.3 (Turkey)
Implementation Task Manager	EC Delegation to Turkey

2. The Programme

2.1 Introduction

The purpose of this programme is to financially support – through the 2009 funds of the IPA Cross-border Co-operation component – the participation of Turkey in the ENPI Black Sea Basin programme 2007–2013.

Multilateral cross-border co-operation between coastal regions of countries along one of the three shared sea basins on the EU's external borders (Baltic Sea, Black Sea and the Mediterranean) is one of the priorities of the Cross-border Co-operation component of the European Neighbourhood and Partnership Instrument (ENPI).

In this framework, the co-operation involves the coastal regions of Member States and of partner countries covered by the European Neighbourhood Policy (ENP) plus Russia.

Moreover, as foreseen by the IPA legal base, the coastal regions of candidate/potential candidate countries may participate, where appropriate, in the ENPI multilateral sea basins programmes.

Considering its geographical location in the Black Sea basin and the Mediterranean basin, Turkey has been invited to participate in both programmes.

The relevant Turkish authorities have accepted the invitation and decided to take part in the Black Sea Basin programme with the financial support of the IPA Cross-border Co-operation component for the year 2009.

The ENPI Black Sea Basin programme ("Black Sea 2007-2013") was concluded by the 10 participating countries including Turkey and submitted to the Commission, which adopted the programme on 27 November 2008

On 1 December 2008 a Commission Decision was adopted on conferring the management powers for the programme on Turkey's participation in the ENPI Black Sea basin programme to the Turkish authorities.

The Commission has as well committed 2007 and 2008 IPA Component II funds for the programme on Turkey's participation in the Black Sea basin programme. The 2007 Financing Agreement between Turkey and the European Commission was signed on 31 December 2008 after the entry into force of the IPA Framework Agreement between European Commission and Turkey on 24 December 2008.

The areas of Turkey eligible for the ENPI Black Sea Basin programme are the NUTS level II equivalent regions along the Black Sea coast: TR10 (İstanbul), TR21 (Tekirdağ, Edirne, Kırklareli), TR42 (Kocaeli, Sakarya, Düzce, Bolu, Yalova), TR81 (Zonguldak, Karabük, Bartın), TR82 (Kastamonu, Çankırı, Sinop), TR83 (Samsun, Tokat, Çorum, Amasya) and TR90 (Trabzon, Ordu, Giresun, Rize, Artvin, Gümüşhane).

2.2 Objective of the programme

The objective of this programme is twofold:

- To support the participation of Turkey in joint sea basin co-operation activities with partners from EU Member States and third countries;
- To familiarise Turkey with the multilateral sea basin co-operation programmes under the ENPI, with a view to their implementation upon accession.

2.3 Priorities

The aim of the ENPI Black Sea Basin programme is to achieve a stronger and sustainable economic and social development of the regions of the Black Sea basin, based on stronger regional partnership and co-operation, concentrating primarily on the following areas:

- 1) Promoting economic and social development in the Black Sea basin. This objective should be pursued through cross-border support for partnerships for social and economic development, based on common resources and joint activities from local actors, including social partners. Actions may *inter alia* include: integrated local development initiatives especially in the area of rural economy and fisheries; integration and promotion of tourism development initiatives including through the establishment of networks among public and private actors in the tourism sector; increased administrative capacity for local administrations to promote economic and social development through the establishment of international partnerships.
- 2) Working together to address common challenges. This objective should be pursued through networking resources and competencies for environmental protection and valorisation. Actions may *inter alia* include: addressing common challenges in the environmental protection of the hydrographic system in the area (marine and rivers); promotion of research and innovation in the field of valorisation and environmental protection of protected natural areas; promotion of innovation in technologies and management of waste and wastewater management systems.
- 3) Promoting local, people-to-people type actions. This objective should be pursued through support for cultural and educational initiatives for the establishment of a common cultural environment in the basin. Actions may *inter alia* include: promoting the cultural networking and exchange in Black Sea communities; promoting networking and development between education institutions.

The priorities should be essentially implemented through single calls for proposals covering all of the eligible territory, including that of Turkey. The first call for proposals is published in 2009. The essential selection and award criteria to be used to select the proposals are laid down in the ENPI Black Sea basin programme. The detailed selection and award criteria for the award of grants will be laid down in the Call for Proposals application pack (Guidelines for applicants).

Up to 10% of IPA funds allocated to Turkey for its participation in the ENPI Black Sea Basin programme can be used to co-finance the eligible operational and administrative costs incurred in the implementation of the programme.

These may include, *inter alia*, the following costs:

- support for the Operating Structure;
- expenses for participation in different meetings related to the implementation of the programme;
- costs related to the participation of national staff in the Joint Technical Secretariat, with the exclusion of salaries of public officials, and to the establishment, as appropriate, of national antennae of the JTS or info points;

- administrative and operational costs, including the costs of preparation, monitoring and evaluation of the programme, support to projects preparation, appraisal and selection of operations, the organisation of meetings related to the programme, translation, information and publicity costs.

The main aim of the IPA contribution to this expenditure is to facilitate effective and efficient administration and implementation of this programme in Turkey.

The main beneficiaries of the technical assistance (TA) funds would be the Operating Structure or any other structures/bodies related to development and implementation of this programme, and the programme beneficiaries.

Considering that the Managing Authority of the ENPI Black Sea Basin programme (Romanian Ministry for Development, Public Works and Housing) enjoys a *de facto* monopoly situation (within the meaning of Article 168, paragraph 1, subparagraph c of the Implementing Rules to the Financial Regulation) for managing the TA funds under the above programme, the Turkish Implementing Authority may conclude direct grant agreements, without calls for proposals, with the Romanian Managing Authority for the purpose of technical assistance.

These direct grant agreements can be concluded for up to the TA amount (maximum 10% of the IPA funds allocated to Turkey for its participation in the ENPI Black Sea Basin programme) specified in the financing table in section 3.1.

The direct grant agreements can be signed as soon as the Financing Agreement concerning this programme has been concluded. Activities covered by the direct grant agreements (e.g. Joint Technical Secretariat, evaluation, publicity, etc.) can be procured further by the grantee in accordance with Article 120 of the Financial Regulation and Article 184 of the Implementing Rules to the Financial Regulation.

2.4 Overview of past and on-going experience in cross-border and transnational co-operation, including lessons learned

Turkey does not have any significant experience of participation in the programming mechanisms of multilateral cross-border or transnational programmes under EC instruments. The only experience gained so far in this field is in the context of the bilateral cross-border co-operation programme Turkey-Bulgaria 2004-06 (a Phare-CBC type programme, supported by funds from the EU pre-accession instrument for Turkey) and the current Turkey-Bulgaria 2007-2013 (an IPA programme).

A sectoral Interim Evaluation Report from October 2008 on Turkey's experiences of cross-border co-operation points to the following:

- effective participation in multilateral co-operation programmes requires a good understanding by national authorities of the co-operation mechanisms and the acknowledgment of the "common benefit" concept which must characterize all operations supported by the programme;
- Turkish authorities have to allocate enough human resources to take active part in the management structures of the programme (joint monitoring committee, joint steering/evaluation committee, joint technical secretariat) and to follow up the

implementation of the programme/projects in Turkey. Efficiency of programme preparation and the establishment of functional project offices and monitoring systems need to be improved. A small fraction of IPA funds allocated to this programme can be made available to co-finance the operational costs linked with the implementation of the programme;

- effective co-ordination between the European Commission Delegation to Turkey and the managing Authority of the ENPI Black Sea Basin programme (hosted by Romania) is essential to ensure a smooth and timely implementation of the programme. Representatives of the European Commission Delegation to Turkey should participate, in an advisory capacity, in the work of the Joint Monitoring Committee which is the body responsible, *inter alia*, for the selection of projects.

2.5 Benchmarks

	N (2010)	N+1 (cumulative)	N+2 (cumulative)
Number of calls for proposals launched	1	1	1
Contracting Rate (%)	0%	100%	100%
Number of direct grant agreements (TA funds)	1	1	1

"N" being the date of conclusion of the Financing Agreement

2.6 Roadmap for the decentralisation of the management of EC funds without ex ante controls by the Commission

A Commission Decision establishing conferral of management with ex-ante controls on the programme for Turkey's participation in the ENPI Black Sea basin programme was adopted on 1 December 2008, thereby accrediting the Turkish DIS (decentralised implementation system) institutions and procedures. The 2007 Financing Agreement requires Turkey to prepare a roadmap for full decentralisation of the management of EC funds without *ex ante* controls by the Commission. The conditions are monitored closely by the Commission services, which have the power to suspend the programme if established conditions are not met.

3. 2009 Budget

3.1 Indicative 2009 financial table

	IPA Community contribution		National Contribution		Total (IPA plus National Contribution)	
	EUR (a)	(%)*	EUR (b)	(%)*	EUR (c)=(a)+(b)	(%)**

Participation in the ENPI Black Sea Basin programme	900 000	90%	100 000	10%	1 000 000	90
TA funds	100 000	90%	11 111	10%	111 111	10
TOTAL	1 000 000	90%	111 111	10%	1 111 111	100

* Expressed in % of the Total (IPA plus National contributions) (column (c))

** Expressed in % of the grand total of column (c). It indicates the relative weight of the each priority with reference to the total funds (IPA + National)

3.2 Principle of co-financing applying to the projects funded under the programme

The Community contribution has been calculated in relation to the **eligible expenditure** which, in the case of this programme, is based on **public expenditure**.

4. Implementation arrangements

4.1 Introduction

This programme provides Turkey with IPA component II funds to finance the participation of its national partners in joint co-operation projects under the ENPI Black Sea Basin programme.

The main implementation steps will be as follows:

- a) The relevant Turkish authorities shall establish an Operating Structure/Implementing Authority (i.e. TIKA/CFCU) to deal with the management and implementation of this programme. The Operating Structure will co-operate with the Managing Authority of the ENPI Black Sea Basin programme; TIKA/CFCU will be represented as a full member in the Joint Monitoring Committee of the above programme.
- b) The Joint Monitoring Committee of the ENPI Black Sea Basin programme approves the Call for Proposals–Application pack (Guidelines for applicants) for the implementation of the programme.
- c) Before being published, the Call for Proposals notice and its Application pack shall be submitted to the European Commission Delegation to Turkey for *ex-ante* approval (see point 4.2 below).
- d) The participation of Turkish partners is only possible in projects involving at least one partner from an EU Member State and one partner from an ENP country or Russia. Applications must clearly distinguish between activities – and their costs – taking place in Member States, ENP countries or Russia with ENPI funds, and those taking place in Turkey with IPA funds.

- e) For joint projects which involve the participation of Turkish partners, they shall appoint an IPA Financial Lead Partner among themselves.
- f) The Joint Monitoring Committee of the ENPI Black Sea Basin programme is responsible for selecting joint projects according to ENPI rules.
- g) The evaluation report and the list of joint projects selected for financing shall be submitted to the European Commission Delegation to Turkey for *ex ante* approval (see point 4.2 below). This approval will concern only the participation of Turkish partners in the relevant joint projects.
- h) Following the *ex ante* approval by the European Commission Delegation, the Turkish Operating Structure will sign a grant contract for the corresponding IPA funds with the IPA Financial Lead Partner.
- i) The IPA Financial Lead Partner shall cooperate closely with the ENPI Lead Partner for a successful implementation of the joint project and with the aim of ensuring single operational reporting of the project, even if differentiating between ENPI and IPA expenditure.

4.2 Method of Implementation

This programme shall be implemented in accordance with Article 53c of the Financial Regulation¹ and the corresponding provisions of the Implementing Rules². The Beneficiary Country will continue to ensure that the conditions laid down in Article 56 of the Financial Regulation are respected at all times.

The *ex ante* control by the Commission shall apply to the tendering of contracts, launch of call for proposals and the award of contracts and grants until the Commission allows for decentralised management without *ex ante* controls as referred in Article 18 of the IPA Implementing Regulation.

4.3 General rules for Procurement and grant award procedures

Procurement shall follow the provisions of Part Two, Title IV of the Financial Regulation and Part Two, Title III, Chapter 3 of its Implementing Rules³, as well as the rules and procedures for service, supply and works contracts financed from the general budget of the European Communities for the purposes of cooperation with third countries as adopted by the Commission on 24 May 2007 (C(2007)2034).

Grant award procedures shall follow the provisions of Part One, Title VI of the Financial Regulation and Part One, Title VI of its Implementing Rules.

Where appropriate, the Contracting Authorities shall also use the standard templates and models facilitating the application of the above rules provided for in the "Practical Guide to contract procedures for EC external actions" ("Practical Guide") as published on the EuropeAid website⁴ at the date of the initiation of the procurement or grant award procedure.

¹ Regulation 1605/2002 (OJ L 248, 16.9.2002, p.1)

² Regulation 2342/2002 (OJ L 357, 31.12.2002, p.1)

³ See footnotes 1 and 2 *supra*

⁴ current address: http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm

4.4 Environmental Impact Assessment and Nature Conservation (where appropriate)

All investments shall be carried out in compliance with the relevant Community environmental legislation.

The procedures for environmental impact assessment as set down in the EIA-Directive⁵ fully apply to all investment projects under IPA. 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 is likely to affect sites of nature conservation importance, an appropriate nature conservation assessment shall be made, equivalent to that provided for in Article 6 of the Habitats Directive must be documented⁶.

5. Monitoring and Evaluation

5.1 Monitoring

In Turkey, the implementation of this programme will be monitored through the IPA monitoring committee in accordance with Article 58 of the IPA Implementing Regulation.

The IPA monitoring committee shall assess the effectiveness, quality and coherence of the implementation of the programme to ensure the achievements of the programme objectives and enhance the efficiency of the assistance provided.

5.2 Evaluation

This programme shall be subject to evaluations in accordance with Articles 57 and 82 of the IPA Implementing Regulation, with the aim of improving the quality, effectiveness and consistency of the assistance from Community funds and the strategy and implementation of the programme. The Commission may also carry out strategic evaluations.

The ENPI Black Sea Basin programme is subject to evaluation according to ENPI rules, under the responsibility of the Commission. When such an evaluation is conducted, every effort should be made to evaluate also the elements concerning the participation of Turkey in the programme.

6. Audit, Financial Control, antifraud measures; financial Adjustments, Preventive measures and financial corrections

6.1 Audit, Financial Control and Anti-fraud measures

The accounts and operations of all parties involved in the implementation of this programme, as well as all contracts and agreements implementing this programme, are subject to, on the one hand, the supervision and financial control by the Commission (including the European

⁵ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 5.7.1985, p. 40).

⁶ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L206, 22.7.1992).

Anti-Fraud Office), which may carry out checks at its discretion, either by itself or through an outside auditor and, on the other hand, audits by the European Court of Auditors. This includes measures such as *ex-ante* verification of tendering and contracting carried out by the Delegations in the Beneficiary Countries.

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) 2185/96⁷.

The controls and audits described above are applicable to all contractors, subcontractors and grant beneficiaries who receive Community funds.

6.2 Financial adjustments

In Turkey, the national authorising officer, who bears in the first instance the responsibility for investigating all irregularities, shall make the financial adjustments where irregularities or negligence are detected in connection with the implementation of this programme, by cancelling all or part of the Community assistance. The national authorising officer shall take into account the nature and gravity of the irregularities and the financial loss to the Community.

In case of an irregularity, including negligence and fraud, the national authorising officer shall recover the Community assistance paid to the beneficiary in accordance with national recovery procedures.

6.3 Audit trail

In Turkey, the national authorising officer shall ensure that all the relevant information is available to ensure at all times a sufficiently detailed audit trail. This information shall include documentary evidence of the authorisation of payment applications, of the accounting and payment of such applications, and of the treatment of advances, guarantees and debts.

6.4 Preventive Measures

Turkey shall ensure investigation and effective treatment of suspected cases of fraud and irregularities and shall ensure the functioning of a control and reporting mechanism equivalent to that provided for in Commission Regulation 1828/2006⁸. All suspected or actual cases of fraud and irregularity as well as all measures related thereto taken must be reported to the 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.

Irregularity shall mean any infringement of a provision of applicable rules and 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 European Union by charging an unjustified item of expenditure to the general budget.

⁷ Council Regulation (EC, Euratom) 2185/96 of 11. November 1996, OJ L 292; 15.11.1996; p. 2.

⁸ OJ L 371, 27.12.2006, p.1.

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 Union or budgets managed by, or on behalf of, the European Union; 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.

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

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.

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.

6.5 Financial corrections

In order to ensure that the funds are used in accordance with the applicable rules, in Turkey, the Commission shall apply clearance-of-accounts procedures or financial correction mechanisms in accordance with Article 53c (2) of the Financial Regulation and as detailed in the Framework Agreement concluded between the Commission and Turkey or, where the latter does not exist, in the Financing Agreement concluded with Turkey for the implementation of this programme.

A financial correction may arise following:

- (i) identification of a specific irregularity, including fraud; or
- (ii) identification of a weakness or deficiency in the management and control systems of the beneficiary country.

If the Commission finds that expenditure under this programme has been incurred in a way that has infringed applicable rules, it shall decide what amounts are to be excluded from Community financing.

The calculation and establishment of any such corrections, as well as the related recoveries, shall be made by the Commission following the criteria and procedures provided for in the IPA Implementing Regulation.

7. Non Substantial Reallocation of Funds

The Commission authorising officer by delegation (AOD), or the authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management, may undertake non substantial reallocations of funds without an amending financing decision being necessary. In this context, cumulative reallocations not exceeding 20% of the total amount allocated for the programme, subject to a limit of EUR 4 million, shall not be considered substantial, provided that they do not affect the nature and objectives of the programme.

The IPA Committee shall be informed of the above reallocation of funds.

8. Limited Adjustments in the implementation of the programme

Limited adjustments in the implementation of this programme affecting elements listed under Article 90 of the Implementing Rules to the Financial Regulation, which are of an indicative nature⁹, may be undertaken by the authorising officer by delegation (AOD), or by the Commission authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management without an amending financing decision being necessary.

⁹ These essential elements of an indicative nature are, for grants, the indicative amount of the call for proposals and, for procurement, the indicative number and type of contracts envisaged and the indicative time frame for launching the procurement procedures.



DELTUR/REG/(2008)/AJ 57 73

SECRETARIAT GENERAL FOR EUROPEAN UNION AFFAIRS

Ankara, 25.7.2008

Ref : B.06.1-ABG-0.09.00.00/1698
Subject : Signature of the IPA Framework Agreement

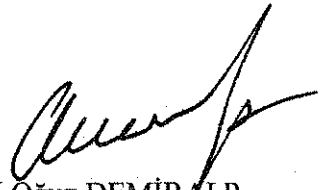
Mr. Marc Pierini
Ambassador
Head of EC Delegation to Ankara

Mr. Ambassador,

I am pleased to inform you that, one of the originals of the IPA Framework Agreement for Turkey signed by myself on 11.7.2008 is attached to this letter .

Meanwhile, I would like to bring to your attention that heading of Article 26 in the table of contents is different than the heading of the said article in the main text (p. 20). We acknowledge that the heading in the main text is the valid one.

Yours sincerely,


M. Oğuz DEMİRALP
Ambassador
Secretary General

Enc: FWA (54 pages)

3 June 2008

FRAMEWORK AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF TURKEY

AND

THE COMMISSION OF THE EUROPEAN COMMUNITIES

ON

**THE RULES FOR CO-OPERATION CONCERNING EC-FINANCIAL
ASSISTANCE TO THE REPUBLIC OF TURKEY IN THE
FRAMEWORK OF THE IMPLEMENTATION OF THE ASSISTANCE
UNDER THE INSTRUMENT FOR PRE-ACCESSION ASSISTANCE
(IPA)**

5x

TABLE OF CONTENTS

Section I: General provisions	6
Article 1: Interpretation.....	6
Article 2: Partial invalidity and unintentional gaps.....	6
Article 3: Purpose.....	7
Article 4: General rules on financial assistance	7
Article 5: Implementation methods.....	8
Section II: Management structures and authorities	9
Article 6: Establishment and designation of structures and authorities for decentralised management	9
Article 7: Establishment and designation of structures and authorities for centralised and joint management.....	10
Article 8: Establishment and designation of structures and authorities for shared management.....	10
Section III: Accreditation and conferral of management powers under decentralised management.....	11
Article 9: Common requirements.....	11
Article 10: Procedure for accreditation of the national authorising officer by the competent accrediting officer.....	11
Article 11: Procedure for accreditation of the operating structures by the national authorising officer	12
Article 12: Procedure for conferral of management powers by the Commission.....	12
Article 13: Withdrawal or suspension of the accreditation of the national authorising officer and the national fund.....	13
Article 14: Withdrawal or suspension of the accreditation of the operating structures.....	13
Article 15: Withdrawal or suspension of the conferral of management powers.....	14
Article 16: Decentralisation without ex ante control by the Commission.....	14
Article 17: Statement of assurance by the national authorising officer.....	15
Article 18: Establishment of reports and opinions by the audit authority and follow up by the national authorising officer and the Commission.....	15
Section IV: General rules on Community financing	16
Article 19: Eligibility of expenditure	16
Article 20: Property of interest	16
Article 21: Audit trail.....	17
Article 22: Aid intensities and rate of Community contribution.....	17

Section V: General rules for implementation	17
Article 23: Rules on procurement	17
Article 24: Information and publicity requirements	17
Article 25: Granting of facilities for the implementation of programmes and execution of contracts	19
Article 26: Rules on taxes, customs duties and other fiscal charges.....	20
Article 27: Supervision, control and audit by the Commission and the European Court of Auditors	22
Article 28: Prevention of irregularity and fraud, measures against corruption.....	23
Article 29: Recovery of funds in case of irregularity or fraud.....	24
Article 30: Financial corrections	25
Article 31: Financial adjustments.....	25
Article 32: Criteria for financial corrections.....	25
Article 33: Procedure for financial corrections.....	26
Article 34: Repayment.....	26
Article 35: Re-use of Community contribution.....	26
Article 36: Monitoring in the case of decentralised management, IPA monitoring committee.....	26
Article 37: Monitoring in the case of centralised and joint management	27
Article 38: Annual and final reports on implementation.....	27
Article 39: Closure of programmes under decentralised management	28
Article 40: Closure of programmes under centralised and joint management	28
Section VI: Final provisions	29
Article 41: Consultation	29
Article 42: Settlement of differences, arbitration	29
Article 43: Disputes with third parties	29
Article 44: Notices	30
Article 45: Annexes	30
Article 46: Entry into force	30
Article 47: Amendment	30
Article 48: Termination	30
Article 49: Language	31

3 June 2008

Annexes:

- ANNEX A: Functions and common responsibilities of the structures, authorities and bodies in accordance with Article 8 of the Framework Agreement between the Commission and the Government of the Republic of Turkey
- ANNEX B: Model Statement of Assurance of the national authorising officer in accordance with Article 17 of the Framework Agreement between the Commission and the Government of the Republic of Turkey
- ANNEX C: Model Annual Audit Activity Report of the audit authority of the Republic of Turkey in accordance with Article 29(2)(b) of the IPA Implementing Regulation
- ANNEX D: Model Annual Audit Opinion of the audit authority of the Republic of Turkey in accordance with Article 29(2)(b) of the IPA Implementing Regulation
- ANNEX E: Model Audit Opinion of the audit authority of the Republic of Turkey on the final statement of expenditure for the closure of a programme or parts of a programme in accordance with Article 29(2)(b) of the IPA Implementing Regulation

3 June 2008

The Commission of the European Communities, hereinafter referred to as "**the Commission**", acting for and on behalf of the European Community, hereinafter referred to as "**the Community**"

on the one part,

and

the Government of the Republic of Turkey, acting on behalf of the Republic of Turkey, hereinafter referred to as "**the Beneficiary**"

and together, jointly referred to as "**the Contracting Parties**"

Whereas

- (1) On 1 August 2006, the Council of the European Union adopted Regulation (EC) No 1085/2006 of 17 July 2006⁽¹⁾ establishing an instrument for pre-accession assistance (hereinafter referred to as "IPA Framework Regulation"). With effect from the 1 January 2007, this new instrument constitutes the single legal basis for the provision of financial assistance to candidate countries and potential candidate countries in their efforts to enhance political, economic and institutional reforms with a view to become members of the European Union;
- (2) On 12 June 2007, the Commission has adopted the regulation implementing the IPA Framework Regulation, detailing applicable management and control provisions;
- (3) The new instrument for pre-accession assistance (IPA) replaces the five previously existing pre-accession instruments: Regulation (EEC) No 3906/1989 on economic aid to certain countries of Central and Eastern Europe, Regulation (EC) No 1267/1999 on the establishment of an instrument for structural policies for pre-accession, Regulation (EC) No 1268/1999 on the support for pre-accession measures for agriculture and rural development, Regulation (EC) No 2666/2000 on assistance for Albania, Bosnia and Herzegovina, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia, repealing Regulation (EC) No 1628/96 and amending Regulations (EEC) No 3906/89 and (EEC) No 1360/90 and Decisions 97/256/EC and 1999/311/EC, and Regulation (EC) No 2500/2001 on the financial assistance to Turkey;
- (4) The Beneficiary is eligible under IPA as provided for in the IPA Framework Regulation and in Commission Regulation (EC) No 718/2007 of 12 June 2007⁽²⁾ implementing the IPA Framework Regulation (hereinafter referred to as "IPA Implementing Regulation");

¹ OJ L 210, 31 July 2006, p. 82

² OJ L 170, 29 June 2007, p.1

3 June 2008

- (5) The Beneficiary figures in Annex I of the IPA Framework Regulation, and should therefore have access to the 5 components established under IPA, i.e. the Transition Assistance and Institution Building Component, the Cross-Border Co-operation Component, the Regional Development Component, the Human Resources Development Component and the Rural Development Component;
- (6) It is therefore necessary to set out the rules for co-operation concerning EC financial assistance with the Beneficiary under IPA;

HAVE AGREED AS FOLLOWS:

SECTION I GENERAL PROVISIONS

Article 1 Interpretation

- (1) Subject to any express provision to the contrary in this Framework Agreement, the terms used in this Agreement shall bear the same meaning as attributed to them in the IPA Framework Regulation and the IPA Implementing Regulation.
- (2) Subject to any express provision to the contrary in this Framework Agreement, references to this Agreement are references to such Agreement as amended, supplemented or replaced from time to time.
- (3) Any references to Council or Commission Regulations are made to the version of those regulations as indicated. If required, modifications of these regulations shall be transposed into this Framework Agreement by means of amendments.
- (4) Headings in this Agreement have no legal significance and do not affect its interpretation.
- (5) The Framework Agreement between the Government of the Republic of Turkey and the Commission of 14 May 2004 continues to be applicable for measures decided and agreed upon under previous pre-accession instruments, until they are completed in accordance with the terms of the relevant implementation agreements.

Article 2 Partial invalidity and unintentional gaps

If a provision of this Agreement is or becomes invalid or if this Agreement contains unintentional gaps, this will not affect the validity of the other provisions of this Agreement. The Contracting Parties will replace any invalid provision by a valid provision which comes as close as possible to the purpose of and intent of the invalid provision. The Contracting Parties will fill any unintentional gap by a provision which best suits the purpose and intent of this Agreement in compliance with the IPA Framework Regulation and the IPA Implementing Regulation.

Article 3 Purpose and Scope

- (1) In order to promote co-operation between the Contracting Parties and to assist the Beneficiary in its progressive alignment with the standards and policies of the European Union, including, where appropriate the *acquis communautaire*, with a view to membership, the Contracting Parties agree to implement activities in the various fields as specified in the IPA Framework Regulation and IPA Implementing Regulation and as applicable to the Beneficiary.
- (2) The activities shall be financed and implemented within the legal, administrative and technical framework laid down in this Agreement and as further detailed in Sectoral Agreements and/or Financing Agreements, if any.
- (3) The Beneficiary takes all necessary steps in order to ensure the proper execution of all activities and to facilitate the implementation of the related programmes.

Article 4 General rules on financial assistance

- (1) The following principles shall apply to financial assistance by the Community under IPA:
 - a) Assistance shall respect the principles of coherence, complementarity, co-ordination, partnership and concentration;
 - b) Assistance shall be coherent with EU policies and shall support alignment to the *acquis communautaire*;
 - c) Assistance shall comply with the budgetary principles laid down in Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002³) on the Financial Regulation applicable to the general budget of the European Communities (hereinafter referred to as "Financial Regulation") and its Implementing Rules⁴;
 - d) Assistance shall be consistent with the needs identified in the enlargement process and absorption capacities of the Beneficiary. It shall also take account of lessons learned;
 - e) The ownership of the programming and implementation of assistance by the Beneficiary shall be strongly encouraged and adequate visibility of EU intervention shall be ensured;
 - f) Operations shall be properly prepared, with clear and verifiable objectives, which are to be achieved within a given period; the results obtained should be assessed through clearly measurable and adequate indicators;
 - g) Any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation shall be prevented during the various stages of the implementation of assistance;

³ OJ L 248, 16 September 2002, p.1, as amended by Regulation No 1995/2006 of 13 December 2006 (OJ L 390, 30 December 2006, p.1)

⁴ Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 357, 31.12.2002, p. 1) as last amended by Commission Regulation No 478/2007 of 23 April 2007 (OJ L 111, 28.4.2007)

- h) The objectives of pre-accession assistance shall be pursued in the framework of sustainable development and the Community promotion of the goal of protecting and improving the environment.
- (2) Assistance for the Beneficiary shall be based on the priorities identified in the existing documents, i.e. the Accession Partnership, the national programme for the adoption of the *acquis communautaire*, the reports and strategy paper contained in the annual enlargement package of the Commission and the negotiation framework.
 - (3) All operations receiving assistance under IPA shall in principle require co-financing by the Beneficiary and the Community, unless otherwise agreed upon in a Sectoral Agreement or Financing Agreement.
 - (4) Where the execution of activities depends on financial commitments from the Beneficiary's own resources or from other sources of funds, the funding of the Community shall become available at such time as the financial commitments of the Beneficiary and/or the other sources of funds themselves become available.
 - (5) The provision of Community financing under IPA shall be subject to the fulfilment by the Beneficiary of its obligations under this Framework Agreement and under Sectoral Agreements and Financing Agreements, if any.

Article 5 Implementation methods

- (1) For the implementation of assistance under IPA in the Republic of Turkey, decentralised management, whereby the Commission confers the management of certain actions on the Beneficiary, while retaining overall final responsibility for general budget execution in accordance with Article 53c of the Financial Regulation and the relevant provisions of the EC Treaties, shall apply as a rule. Decentralised management shall cover at least tendering, contracting and payments by the national administration of the Beneficiary. Operations shall be implemented in accordance with the provisions laid down in Article 53c of the Financial Regulation and the ones referred to in this article.
- (2) However, the Contracting Parties may agree to make use of
 - a) centralised management as defined in Article 53a of the Financial Regulation under the Transition Assistance and Institution Building Component, in particular for regional and horizontal programmes, and under the Cross-Border Co-operation Component. It may also be used for technical assistance under any of the IPA components. Operations shall be implemented in accordance with the provisions laid down in Articles 53 point (a), 53a and 54 to 57 of the Financial Regulation.

The Commission shall provide the Beneficiary annually with the necessary information on programmes and projects implemented in centralised management including de-concentrated management.
 - b) joint management as defined in Article 53d of the Financial Regulation for the Transition Assistance and Institution Building Component, in particular for regional and horizontal programmes, and for programmes involving international organisations. Operations shall be implemented in accordance with the provisions laid down in Articles 53 point (c) and 53d of the Financial Regulation.

- c) shared management as defined in Article 53b of the Financial Regulation under the Cross-Border Co-operation Component, for cross-border programmes involving Member States of the European Union. Operations shall be implemented in accordance with the provisions laid down in Articles 53 point (b), 53b and Title II of Part two of the Financial Regulation. The following particular provision shall be taken into account in the implementation of cross-border programmes with Member States.

Where one or more Member States of the European Union and the Beneficiary participating in a cross-border programme are not yet ready for implementation of the whole programme under shared management, the part of the programme concerning the Member State(s) shall be implemented in accordance with Title II (Cross-Border Co-operation Component), Chapter III, Section 2 of the IPA Implementing Regulation (Articles 101 to 138) and the part of the programme concerning the Beneficiary shall be implemented in accordance with Title II, Chapter III, Section 3 of the IPA Implementing Regulation. (Articles 139 to 146 IPA Implementing Regulation, with the exception of Article 142. The provisions concerning the joint monitoring committee of Article 110 shall apply).

- (3) If required by the related Financing Decision, the Commission and the Beneficiary shall conclude a Financing Agreement in accordance with Article 8 of the IPA Implementing Regulation on multi-annual or annual programmes. Financing Agreements may be concluded between the Commission and several beneficiary countries under IPA including the Beneficiary for assistance for multi-country programmes and horizontal initiatives.
- (4) This Framework Agreement shall apply to all Financing Agreements concluded between the Contracting Parties for the financial assistance under IPA. Where they exist, Sectoral Agreements related to a given component shall apply to all Financing Agreements concluded under that component. Where there is no Financing Agreement, the rules included in this Framework Agreement apply together with Sectoral Agreements, if any. Provisions of this Framework Agreement shall prevail on Financing Agreements concluded under IPA.

SECTION II MANAGEMENT STRUCTURES AND AUTHORITIES

Article 6 Establishment and designation of structures and authorities for decentralised management

- (1) The following structures and authorities must be designated by the Beneficiary in the event of decentralised management:
- a) The competent accrediting officer (CAO);
 - b) The national IPA co-ordinator (NIPAC);
 - c) The strategic coordinator for the Regional Development Component and the Human Resources Development Component;
 - d) The national authorising officer (NAO);
 - e) The national fund (NF);

- f) Operating structures per component or programme to deal with the management and implementation of assistance under the IPA Regulation;
 - g) The audit authority.
- (2) Specific bodies may be established within the overall framework defined by the bodies and authorities described above within or outside the operating structures initially designated. The Beneficiary shall ensure that the final responsibility for the functions of operating structures shall remain with the operating structure initially designated. Such a restructuring shall be formalised in written agreements and shall be subject to accreditation by the national authorising officer and the conferral of management by the Commission.
- (3) The Beneficiary shall ensure that appropriate segregation of duties applies to the bodies and authorities mentioned under paragraph 1 and 2 above in accordance with Article 56 of the Financial Regulation. Duties are segregated when different tasks related to a transaction are allocated to different staff, thereby helping to ensure that each separate task has been properly undertaken.

Article 7 Establishment and designation of structures and authorities for centralised or joint management

- (1) In the event of centralised or joint management the national IPA co-ordinator shall act as the representative of the Beneficiary vis-à-vis the Commission. He shall ensure that a close link is maintained between the Commission and the Beneficiary with regard both to the general accession process and to EU pre-accession assistance under IPA.
- (2) The national IPA co-ordinator shall also be responsible for co-ordinating the Beneficiary's participation in the relevant cross-border programmes, both with Member States and with other Beneficiary countries, as well as in the trans-national, interregional or sea basins programmes under other Community instruments. He may delegate the tasks relating to this latter responsibility to a cross-border co-operation co-ordinator.
- (3) In the case of the Cross-border Co-operation Component, operating structures shall be designated and put in place by the Beneficiary, in accordance with Article 139 of the IPA Implementing Regulation.

Article 8 Functions and common responsibilities of the structures, authorities and bodies

- (1) The bodies and authorities mentioned in Article 6 above shall be allocated the functions and common responsibilities as set out in ANNEX A to this Framework Agreement.
- (2) Component-related specific allocations of functions and responsibilities may be set out in Sectoral Agreements or Financing Agreements. They must not be in contradiction to the basic approach chosen for the allocation of functions and common responsibilities as shown in ANNEX A.
- (3) Where under decentralised management specific persons have been given responsibility for an activity in relation to the management, implementation and

control of programmes, the Beneficiary shall enable such persons to exercise the duties associated with that responsibility including in cases where, there is no hierarchical link between them and the bodies participating in that activity. The Beneficiary shall, in particular, provide those persons with the authority to establish, through formal working arrangements between them and the bodies concerned:

- a) an appropriate system for the exchange of information, including the power to require information and a right of access to documents and staff on the spot, if necessary;
- b) the standards to be met;
- c) the procedures to be followed.

SECTION III ACCREDITATION AND CONFERRAL OF MANAGEMENT POWERS UNDER DECENTRALISED MANAGEMENT

Article 9 Common requirements

Management relating to a component, a programme or a measure can only be conferred on the Republic of Turkey, if and when the following requirements are fulfilled:

- a) The Beneficiary meets the conditions set to Article 56 of the Financial Regulation, in particular as regards the management and control systems. The management and control systems set up in the Republic of Turkey shall provide for effective and efficient control in at least the areas set out in the Annex to the IPA Implementing Regulation and as listed under No 1 c) of ANNEX A to this Framework Agreement. The Contracting Parties may define further provisions in Sectoral Agreements or Financing Agreements.
- b) The competent accrediting officer has given accreditation to the national authorising officer both
 - as the head of the national fund bearing overall responsibility for the financial management of EU funds in the Republic of Turkey and being responsible for the legality and regularity of the underlying transactions;
 - with regard to national authorising officer's capacity to fulfil the responsibilities for the effective functioning of management and control systems under IPA.

The accreditation of the national authorising officer shall also cover the national fund as described in Annex A, 5.

- c) The national authorising officer has given accreditation to the relevant operating structures.

Article 10 Procedure for accreditation of the national authorising officer and the national fund by the competent accrediting officer

- (1) Accreditation of the national authorising officer in accordance with Article 11 of the IPA Implementing Regulation is subject to his fulfilment of the applicable requirements set out in Article 11 of the said regulation and as further defined in Annex A, 4. This accreditation shall be supported by an audit opinion drawn up by an external auditor functionally independent from all actors in the management and control system. The audit opinion shall be based on examinations conducted according to internationally accepted auditing standards.

52

- (2) The competent accrediting officer shall notify the Commission of the accreditation of the national authorising officer, not later than the notification of the accreditation of the first operating structure. The competent accrediting officer shall provide all relevant supporting information required by the Commission.
- (3) The competent accrediting officer shall immediately inform the Commission of any changes concerning the national authorising officer or the national fund. Where a change affects the national authorising officer or the national fund in relation to the applicable requirements as set out in Article 11 of the IPA Implementing Regulation, the competent accrediting officer shall send to the Commission an assessment of the consequences of such a change on the validity of the accreditation. Where such a change is significant, the competent accrediting officer shall also notify the Commission of his decision concerning the accreditation.

Article 11 Procedure for accreditation of operating structures by the national authorising officer

- (1) Accreditation of an operating structure is subject to its fulfilment of the requirements set out in Article 11 of the IPA Implementing Regulation. This assurance shall be supported by an audit opinion drawn up by an external auditor functionally independent from all actors in the management and control system. The audit opinion shall be based on examinations conducted according to internationally accepted auditing standards.
- (2) The national authorising officer shall notify the Commission of the accreditation of the operating structures and shall provide all relevant supporting information required by the Commission, including a description of the management and control systems.

Article 12 Procedure for conferral of management powers by the Commission

- (1) The Commission shall confer management powers on the Beneficiary, only after the bodies and authorities referred to in Article 6 above have been designated and put in place and the conditions laid down in this article are fulfilled.
- (2) Before the conferral of management powers, the Commission shall review the accreditations of the national authorising officer and the operating structures as laid down in Articles 10 and 11 above and examine the procedures and structures of any of the bodies or authorities concerned within the Republic of Turkey. This may include on-the-spot verifications by the services of the Commissions or subcontracted to an audit firm.
- (3) The Commission may, in its decision to confer management powers, set further conditions, with a view to ensuring that the requirements referred to in Article 11 of the IPA Implementing Regulation are met. These further conditions must be fulfilled within a fixed period determined by the Commission for the conferral of management powers to remain effective.
- (4) The Commission Decision on the conferral of management powers shall lay down the list of the *ex ante* controls, if any, to be performed by the Commission on the tendering of contracts, launch of calls for proposals and the award of contracts and grants. This list may vary with the component or the programme. The *ex ante* controls shall be applied, depending on the component or programme, until the Commission allows for decentralised management without *ex ante* controls as referred to in Article 16 below.

03e

Article 13 Withdrawal or suspension of the accreditation of the national authorising officer and the national fund

- (1) After the conferral of management powers by the Commission, the competent accrediting officer shall be responsible for monitoring the continuing fulfilment of all the requirements for this accreditation to be maintained and shall inform the Commission of any significant change related thereto.
- (2) If any of the applicable requirements set out in Article 11 of the IPA Implementing Regulation, are not, or are no longer, fulfilled, the competent accrediting officer shall either suspend or withdraw the accreditation of the national authorising officer, and shall immediately inform the Commission of his decision and of the reasons for his decision. The competent accrediting officer shall assure himself that those requirements are again fulfilled before restoring the accreditation. This assurance shall be supported by an audit opinion as specified in Article 10(1) above.
- (3) Where the accreditation of the national authorising officer is withdrawn or suspended by the competent accrediting officer, the following provisions shall apply:
 - The Commission shall cease to make transfers of funds to the Beneficiary during the period when the accreditation is not in force;
 - During the period when the accreditation is not in force, all the euro accounts or the euro accounts for the components concerned shall be blocked and no payment made by the National Fund from those euros accounts which are blocked shall be considered eligible for Community funding;
 - without prejudice to any other financial corrections, the Commission may make financial corrections as laid down in Article 30 below against the Beneficiary in respect of its past non-compliance with the requirements for the conferral of management powers.

Article 14 Withdrawal or suspension of the accreditation of the operating structures

- (1) After the conferral of management powers by the Commission, the national authorising officer shall be responsible for monitoring the continuing fulfilment of all the requirements for this accreditation to be maintained and shall inform the Commission and the competent accrediting officer of any significant change related thereto.
- (2) If any of the requirements set out in Article 11 of the IPA Implementing Regulation are not, or are no longer, fulfilled, the national authorising officer shall either suspend or withdraw the accreditation of the operating structure concerned, and shall immediately inform the Commission and the competent accrediting officer of his decision and of the reasons for his decision.

The national authorising officer shall assure himself that those requirements are again fulfilled before restoring the accreditation concerned. This assurance shall be supported by an audit opinion as referred to in Article 11(1) above.
- (3) Where the accreditation of an operating structure is withdrawn or suspended by the national authorising officer, the following provisions shall apply:

52

3 June 2008

- The Commission shall make no transfers to the Beneficiary of funds relating to programmes or operations implemented by the operating structure concerned while its accreditation is suspended or withdrawn;
- Without prejudice to any other financial corrections, the Commission may make financial corrections as laid down in Article 30 below against the Beneficiary in respect of its past non-compliance with the requirements and conditions for the conferral of management powers;
- No new legal commitments made by the operating structure concerned shall be considered eligible during the period when the accreditation is not in force;
- The national authorising officer shall be responsible for taking any appropriate safeguard measures regarding payments made or contracts signed by the operating structure concerned.

Article 15 Withdrawal or suspension of conferral of management powers

- (1) The Commission shall monitor compliance with the requirements set out in Article 11 of the IPA Implementing Regulation.
- (2) Irrespective of the decision by the competent accrediting officer to maintain, suspend or withdraw the accreditation of the national authorising officer, or of the decision by the national authorising officer to maintain, suspend or withdraw the accreditation of the operating structure, the Commission may withdraw or suspend the conferral of management powers at any time, in particular in the event that any of the requirements mentioned in Article 11 of the IPA Implementing Regulation are not, or no longer, fulfilled.
- (3) Where the conferral of management powers is withdrawn or suspended by the Commission, the following provisions shall apply:
 - The Commission shall cease to make transfers of funds to the Beneficiary;
 - Without prejudice to any other financial corrections, the Commission may make financial corrections as laid down in Article 30 below against the Beneficiary in respect of its past non-compliance with the requirements for the conferral of management powers.

The Commission may lay down other consequences of such a suspension or withdrawal in a specific Commission Decision

- (4) The Commission Decision may lay down provisions concerning the suspension or withdrawal of the conferral of management powers in relation to specific bodies or authorities.

Article 16 Decentralisation without ex-ante control by the Commission

- (1) Decentralisation without ex-ante control by the Commission shall be the objective for the implementation of all IPA components where assistance is implemented on a decentralised basis in accordance with Article 5 above. The timing for attainment of this objective may vary depending on the IPA Component concerned.

82c

3 June 2008

- (2) Before dispensing with the *ex-ante* controls laid down in the Commission Decision on conferral of management, the Commission shall satisfy itself of the effective functioning of the management and control system concerned in accordance with the relevant Community and national rules. In particular, the Commission shall monitor the implementation, by the Beneficiary, of the roadmap included in the Financing Agreement, which may refer to a phased waiver of different types of *ex-ante* controls. The Commission shall take due account of the results achieved by the Beneficiary in this context, in particular in the provision of assistance and in the negotiation process.

Article 17 Statement of assurance by the national authorising officer

- (1) The national authorising officer shall make an annual management declaration covering
- his overall responsibility, in his function as head of the national fund, for the financial management of EU funds in the Republic of Turkey and for the legality and regularity of the underlying transactions;
 - his responsibility for the effective functioning of management and control systems under IPA.

This management declaration shall take the form of a statement of assurance to be presented to the Commission by 28 February each year with a copy to the competent accrediting officer.

- (2) The Statement of Assurance shall be based on the national authorising officer's actual supervision of the management and control system throughout the financial year.
- (3) The Statement of Assurance shall be drawn up according to the model attached in **ANNEX B** to this Framework Agreement.
- (4) If the confirmations regarding the effective functioning of the management and control systems and the legality and regularity of underlying transactions required through the Statement of Assurance are not available, the national authorising officer shall inform the Commission, copy to the competent accrediting officer, of the reasons and potential consequences as well as of the actions being taken to remedy the situation and to protect the interests of the Community.

Article 18 Establishment of reports and opinions by the audit authority and follow up by the national authorising officer and the Commission

- (1) Subject to the detailed functions and responsibilities of the audit authority as set out **ANNEX A** to this Framework Agreement, the audit authority shall in particular establish the following reports and opinions:
- a) An annual audit activity report according to the model in **ANNEX C** to this Framework Agreement;
 - b) An annual audit opinion on the management and control system according to the model in **ANNEX D** to this Framework Agreement;
 - c) An audit opinion on the final statement of expenditure for the closure of a programme or parts of a programme according to the model in **ANNEX E** to this Framework Agreement.

3 June 2008

- (2) Following receipt of the annual audit activity report and the annual audit opinion referred to in paragraph 1, the national authorising officer shall:
 - a) decide whether any improvements to the management and control systems are required, record the decisions in that respect and ensure the timely implementation of those improvements;
 - b) make any necessary adjustments to the payment applications to the Commission.
- (3) The Commission may decide either to take follow-up action itself in response to the reports and opinions, for example by initiating a financial correction procedure, or to require the Beneficiary to take action, while informing the national authorising officer and the competent accrediting officer of its decision.

SECTION IV GENERAL RULES FOR COMMUNITY FINANCIAL ASSISTANCE

Article 19 Eligibility of expenditure

- (1) In the event of decentralised management, notwithstanding accreditations by the competent accrediting officer and the national authorising officer, contracts and addenda signed, expenditure incurred and payments made by the national authorities shall not be eligible for funding under IPA prior to the conferral of management by the Commission on the concerned structures and authorities. The end date for the eligibility of expenditure shall be laid down in Financing Agreements, where necessary.
- (2) By way of derogation from paragraph 1,
 - a) technical assistance to support the setting up of management and control systems may be eligible prior to the initial conferral of management, for expenditure incurred after 1 January 2007;
 - b) expenditure following the launch of calls for proposals or calls for tenders may also be eligible if the call is launched prior to the initial conferral of management, subject to this initial conferral of management being in place within the time limits defined in a reserve clause to be inserted in the operations or calls concerned, and subject to prior approval of the documents concerned by the Commission. The calls for proposal or calls for tender concerned may be cancelled or modified depending on the decision on conferral of management.
- (3) Expenditure financed under IPA shall not be the subject of any other financing under the Community budget.
- (4) In addition to paragraph 1 to 3 above, more detailed rules on eligibility of expenditure may be set out in Financing Agreements or Sectoral Agreements.

Article 20 Property of interest

Any interest earned on any of the component-specific euro accounts remains the property of the Beneficiary. Interest generated by the financing by the Community of a programme shall be posted exclusively to that programme, being regarded as a resource for the Beneficiary in the form of a national public contribution, and shall be declared to the Commission, at the time of the final closure of the programme.

SR

Article 21 Audit trail

The national authorising officer shall ensure that all the relevant information is available to ensure at all times a sufficiently detailed audit trail. This information shall include documentary evidence of the authorisation of payment applications, of the accounting and payment of such applications, and of the treatment of advances, guarantees and debts.

Article 22 Aid intensities and rate of Community contribution

- (1) The Community contribution shall be calculated in relation to the eligible expenditure, as defined in Part II of the IPA Implementing Regulation for each IPA component.
- (2) Financing decisions adopting the annual or multi-annual programmes for each IPA component shall set the maximum indicative amount of the Community contribution and the subsequent maximum rate for each priority axis.

SECTION V GENERAL RULES FOR IMPLEMENTATION

Article 23 Rules on procurement

- (1) Assistance under all IPA components shall be managed in accordance with the rules for External Aid contained in the Financial Regulation. This shall not apply to assistance implemented under the transitional arrangements of Article 99 IPA Implementing Regulation regarding the Cross-Border Co-operation Component to that part of the programme that is implemented on Member States' territory, unless otherwise decided by the participating Member State.
- (2) Results of tender procedures shall be published according to the rules referred to in paragraph 1 above and as further specified in Article 24(3) below.
- (3) The rules of participation and origin as laid down in Article 19 of the IPA Framework Regulation shall apply to all contract award procedures under IPA. The Beneficiary shall designate an authority in charge of issuing certificates of origin or similar documents upon request for locally manufactured goods in compliance with the relevant Community legislation on rules of origin for customs purposes. The designated authority shall apply effective controls to ensure that these rules are duly respected.
- (4) All service, supplies and work contracts shall be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question, unless otherwise provided for in Sectoral or Financing Agreements.

Article 24 Publicity and visibility

- (1) In the case of centralised and joint management, information on programmes and operations shall be provided by the Commission with the assistance of the national IPA co-ordinator as appropriate. In the case of decentralised management and in all cases for programmes or part of programmes under the cross-border co-operation component not implemented through shared management, the Beneficiary, in

BC

particular the national IPA co-ordinator, shall provide information on and publicise programmes and operations. In the case of shared management, the Member States and the Beneficiary shall provide information on and publicise programmes and operations. The information shall be addressed to the citizens and beneficiaries, with the aim of highlighting the role of the Community and ensuring transparency.

- (2) In the case of decentralised management, the operating structures shall be responsible for organising the publication of the list of the final beneficiaries, the names of the operations and the amount of Community funding allocated to the operations by means of the award of grants in the following way:
 - a) The publication shall be made according to a standard presentation, in a dedicated and easily accessible place of the Beneficiary's internet site. If such internet publication is impossible, the information shall be published by any other appropriate means, including the national official journal.
 - b) Publication shall take place during the first half of the year following the closure of the budget year in respect of which the funds were attributed to the Beneficiary.
 - c) The Beneficiary shall communicate to the Commission the address of the place of publication. If the information is published otherwise, the Beneficiary shall give the Commission full details of the means used.
 - d) The operating structures shall ensure that the final beneficiary is informed that acceptance of funding is also an acceptance of their inclusion in this list of beneficiaries published. Any personal data included in this list shall nevertheless be processed in accordance with the requirements of Regulation (EC) No 45/2001 of the European Parliament and the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽⁵⁾, and with due observance of the requirements of security.
- (3) In the case of decentralised management, the relevant bodies shall prepare a contract award notice, once the contract has been signed, and send it to the Commission for publication. The contract award notice may also be published by the beneficiary in the appropriate national publications.
- (4) The Commission and the relevant national, regional or local authorities of the Beneficiary shall agree on a coherent set of activities to make available, and publicise, in the Republic of Turkey information about assistance under IPA. The procedures for implementing such activities shall be specified in the Sectoral or Financing Agreements.
- (5) Implementation of the activities referred to in paragraph 4 shall be the responsibility of the final beneficiaries, and might be funded from the amount allocated to the relevant programmes or operations.

⁵ OJ L 8, 12 January 2001, p. 1

082

Article 25 Granting of facilities for the implementation of programmes and execution of contracts

- (1) In order to ensure the effective implementation of programmes under IPA, the Beneficiary shall take all necessary measures, without prejudice to public security and public health, to ensure:
- a) that, in the case of service, supplies or works tender procedures, natural or legal persons eligible to participate in tender procedures pursuant to Article 23 above shall be entitled to temporary installation and residence where the importance of the contract so warrants. This right shall be acquired only after the invitation to tender has been launched and shall be enjoyed by the technical staff needed to carry out studies and other preparatory measures to the drawing up of tenders. This right shall expire one month after the decision of contract award;
 - b) that personnel taking part in Community financed activities, including Resident Twinning Advisors in IPA twinning projects, and members of their immediate family are accorded no less favourable benefits, privileges and exemptions than those usually accorded to other international staff with comparable rank and status employed in the Republic of Turkey under any other bilateral or multilateral agreement or arrangements for assistance and technical co-operation, whichever is applicable to the Republic of Turkey;
 - c) that personnel taking part in Community financed activities and members of their immediate family are allowed to enter the Republic of Turkey, to establish themselves in the Republic of Turkey, to work there and to leave the Republic of Turkey according to existing national legislation of the Beneficiary, as the nature of the underlying contract so justifies;
 - d) the granting of all permits necessary for the importation of goods required for the execution of the underlying contract, subject to existing laws, rules and regulations of the Beneficiary; natural and legal persons importing professional equipment shall, if they so request, benefit from the system of temporary importation as defined by the national legislation of the Beneficiary in respect of the said equipment;
 - e) that imports carried out under IPA will be exempted from taxes, customs and import duties and levies and/or taxes of equivalent effect;
 - f) the granting of all permits necessary for the re-export of the above goods, once the underlying contract has been fully executed;
 - g) the granting of authorisations for the import or acquisition of the foreign currency necessary for the implementation of the underlying contract and the application of national exchange control regulations in a non-discriminatory manner to contractors, regardless of their nationality or place of establishment;
 - h) the granting of all permits necessary to repatriate funds received in respect of the activity financed under IPA, in accordance with the foreign exchange control regulations in force in the Republic of Turkey;

3 June 2008

- i) transactions necessary for carrying out contracts under IPA will be exempted from procedures requiring the transfer of the price of goods and/or services to their contractors abroad through banks or financial institutions operating in the Republic of Turkey.
- (2) The Beneficiary shall ensure full co-operation of all relevant authorities. It will also ensure access to state-owned companies and other governmental institutions, which are involved or are necessary in the implementation of a programme or in the execution of the contract.
- (3) After the entry into force of this Framework Agreement the Beneficiary will adopt the secondary legislation to enforce the requirements of the procedures laid down in this article while keeping these procedures as simple and as time efficient as possible in order to avoid delays of implementation.

Article 26 Rules on taxes, customs and import duties and levies and/or taxes of equivalent effect

- (1) Save where otherwise provided for in a Sectoral Agreement or a Financing Agreement, taxes, customs and import duties and levies and/or taxes of equivalent effect are not eligible under IPA. This exemption covers also the co-financing provided by the Republic of Turkey.
- (2) The following detailed provisions shall apply:
 - a) All imports by EC contractors shall be allowed to enter the Republic of Turkey without being subject to customs or import duties, charges, Value Added Tax (VAT) and the Special Consumption Tax or to any other similar tax, duties or charges. Such exemption shall only be applied to the imports in connection with the goods supplied and/or services rendered and/or works executed by the EC contractor under the EC contract. The Republic of Turkey shall ensure that the imports concerned will be released from the point of entry for delivery to the EC contractors as required by the provisions of the contract and for immediate use as required for the normal implementation of the contract, without regard to any delays or disputes over the settlement of the above-mentioned duties, taxes or charges.
 - b) EC contractors shall be exempted from VAT for any service rendered and/or goods supplied and/or works executed under the EC contract. Goods supplied or services rendered or works executed by a contractor to the EC contractor shall also be exempted from VAT. Such exemption shall only be applied to the goods supplied or services rendered or works executed which are connected with the goods supplied or services rendered or works executed by the EC contractor under the EC contract.

Any EC contractor or contractor supplying goods and/or rendering services and/or executing works for an EC contractor who is entitled to the exemption, as provided in this Agreement, shall be entitled to offset or deduct any VAT paid in connection with the goods supplied and/or services rendered and/or works executed which are exempted from VAT, as provided in this Agreement, against any VAT collected by them for any of their other transactions. Should the EC

3 June 2008

contractor or contractor not be able to make use of this possibility, they shall be able to obtain a VAT refund directly from the tax administration upon submission of a written request to the tax administration accompanied by the necessary documentation required under Turkish law for the refund of VAT.

- c) Natural persons not nationals and not residents of Turkey carrying out services and/or works and/or grant and/or twinning contracts financed by the Community and the eventual co-financing contribution provided by the Beneficiary shall not be subject to income tax in Turkey for the income generated by this type of contract.

Legal persons will be subject to the same above provision provided that they do not have their permanent establishment or fixed base in Turkey.

Profit and/or income arising from EC contracts shall be taxable in Turkey in accordance with its tax system, if the natural and/or legal persons making such profit and/or income have their permanent establishment or fixed base in Turkey according to the provisions of the applicable double taxation agreements as ratified by the Beneficiary.

- d) Expenditures of the EC contractors shall be relieved from the Special Consumption Tax. This relief shall only be applied to the expenditure in connection with the goods supplied and/or services rendered and/or works executed by that EC contractor under the EC contract.
- e) Those benefiting from projects and/or contracts and/or activities carried out under IPA shall be exempted from "Inheritance and Transfer Tax" resulting from goods and/or rights and/or constructed facilities and/or funds transferred to them without consideration in any way under IPA.
- f) Personal and household effects imported for personal use by natural persons (and members of their immediate families), other than those recruited locally, carrying out tasks defined in service and/or works and/or grant contracts and/or twinning contracts or covenants, shall be exempted from customs duties, import duties, taxes and levies and/or taxes of equivalent effect, the said personal and household effects being re-exported or disposed of in the state, in accordance with the regulations in force in the Republic of Turkey after termination of the contract.
- g) EC contracts shall not be subject in the Republic of Turkey to stamp or registration duties, or to any other charge having equivalent effect. This exemption shall also apply to transactions and related payment orders under the EC contract with the exception of sub-contracting
- h) For the purposes of this agreement, the term "*EC contractor*" shall be construed as natural and legal persons, rendering services and/or supplying goods and/or executing works and/or executing a grant under an EC contract. The term "*EC contractor*" shall also cover partners in a consortium or joint venture, contractors and pre-accession advisors, also known as resident twinning advisors.

The term "*EC contract*" means any legally binding document through which an activity is financed under IPA, including possible co-financing, and which is signed by the European Community or the Beneficiary or a grant beneficiary.

3 June 2008

- i) Apart from the taxes, customs and import duties and levies and/or taxes of equivalent effect mentioned above, the following shall also be exempted:
 - Special Communication tax;
 - motor vehicle tax.
- (3) a) Whenever necessary, the Beneficiary shall adopt the secondary legislation to enforce the tax provisions in this agreement shortly upon its entering into force.
- b) The legislation provided for in the previous paragraph (a) shall contain rules regulating VAT-exemption certificates for EC contractors as well as the length of the procedures for their issuing, which shall not exceed 30 calendar days. It shall contain also procedures for tax refund, return and offsetting, and the requirement of a maximum of 10 calendar days for completion without any additional considerable costs. The legislation shall contain also exhaustive lists of documents which have to be submitted and which have to be directly relevant to the exemption procedure. In case of refusal, the legislation shall contain provisions for clear and duly acceptable justification. Tax exemptions to be provided under this agreement shall be on an ex-ante basis.
- (4) The rules and procedures mentioned under this article shall also apply to any similar tax, duty or levy and/or taxes of equivalent effect, which may be instituted after the date of signature of this agreement in addition to, or in replacement of existing ones.

Article 27 Supervision, control and audit by the Commission and the European Court of Auditors

- (1) All Financing Agreements as well as all resulting programmes and subsequent contracts shall be subject to supervision and financial control by the Commission including the European Anti-Fraud Office (OLAF) and audits by the European Court of Auditors. This includes the right of the Delegation of the Commission in the Republic of Turkey to carry out measures such as ex-ante verification - as long as ex-ante control has not been waived in accordance with Article 16 above - as well as ex-post controls of tendering, contracting and contract implementations carried out by the related operating structures. The duly authorised agents or representatives of the Commission and of OLAF shall have the right to carry out any technical and financial verification that the Commission or OLAF consider necessary to follow the implementation of a programme including visits of sites and premises at which Community financed activities are implemented. The Commission shall give the national authorities concerned advance notice of such missions.
- (2) The Beneficiary shall supply all requested information and documents including any computerised data and take all suitable measures to facilitate the work of the persons instructed to carry out audits or inspections.
- (3) The Beneficiary shall maintain records and accounts adequate to identify the services, supplies, works and grants financed under the related Financing Agreement in accordance with sound accounting procedures. The Beneficiary shall also ensure that the agents or representatives of the Commission including OLAF have the right to inspect all relevant documentation and accounts pertaining to items financed under the related Financing Agreement and assist the European Court of Auditors to carry out audits relating to the use of Community funds.

- (4) In order to ensure the efficient protection of the financial interests of the Community, the Commission including OLAF may also conduct documentary and on-the-spot checks and inspections in accordance with the procedural provisions of Council Regulation (EC, Euratom) No 2185/1996 of 11 November 1996 ⁽⁶⁾. These checks and inspections shall be prepared and conducted in close collaboration with the competent authorities designated by the Beneficiary, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. The Beneficiary shall identify a service which will collaborate with OLAF in conducting investigations in accordance with Council Regulation (EC, Euratom) No 2185/1996. This service shall also facilitate the exchange of information between OLAF and national authorities. If the Beneficiary wishes, the on-the-spot checks and inspections may be carried out jointly with them. Where the participants in Community financed activities resist an on-the-spot check or inspection, the Beneficiary, acting in accordance with national rules, shall give Commission/OLAF inspectors such assistance, including due co-operation with them in their investigations, as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.

The Commission/OLAF inspectors may be accompanied by duly authorised agents or representatives of the beneficiary.

The Commission/OLAF shall report as soon as possible to the Beneficiary any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event, the Commission/OLAF shall be required to inform the above-mentioned authority of the result of such checks and inspections.

- (5) The controls and audits described above are applicable to all contractors and sub-contractors who have received Community funds including all related information to be found in the documents of the national fund of the Beneficiary concerning the national contribution.
- (6) Without prejudice to the responsibilities of the Commission and the European Court of Auditors, the accounts and operations of the National Fund and, where applicable, operating structures and other management structures, authorities and bodies, may be checked at the discretion of the Commission by the Commission itself or by an external auditor assigned by the Commission.

Article 28 Prevention of irregularity and fraud, measures against corruption

- (1) The Beneficiary shall ensure investigation and effective treatment of suspected cases of fraud and irregularities and shall ensure the functioning of a control and reporting mechanism equivalent to that foreseen in the Commission Regulation (EC) No 1828/2006 of 8 December 2006 ⁽⁷⁾. In the case of suspected fraud or irregularity, the Commission shall be informed without delay.
- (2) Furthermore, the Beneficiary shall take any appropriate measure to prevent and counter any active or passive corruption practices at any stage of the procurement procedure or grant award procedure or during the implementation of corresponding contracts.

⁶ OJ L 292, 15 November 1996, p. 2

⁷ OJ L 371, 27 December 2006, p. 4

3 June 2008

- (3) The Beneficiary, including the personnel responsible for the implementation tasks of the Community financed activities, undertakes to take whatever precautions are necessary to avoid any risk of conflict of interests and shall inform the Commission immediately of any such conflict of interest or any situation likely to give rise to any such conflict.
- (4) The following definitions shall apply under the scope of this agreement:
- a) *Irregularity* shall mean any infringement of a provision of applicable rules and contracts resulting from an act or an omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the European Union by charging an unjustified item of expenditure to the general budget.
 - b) *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.
 - c) *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 financial interests of the European Communities.
 - d) *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 financial interests of the European Communities.
- (5) The definitions under this article shall not be construed as introduction of new crime types to the Turkish penal code or changes therein.

Article 29 Recovery of funds in case of irregularity or fraud

- (1) Any proven case of irregularity or fraud discovered at any time during the implementation of assistance under IPA or as the result of an audit will lead to the recovery of the funds by the Commission from the Beneficiary.
- (2) The national authorising officer shall recover the Community contribution paid to the Beneficiary from those who committed the irregularity, fraud or corruption or benefited from it, in accordance with national recovery procedures. The fact that the national authorising officer does not succeed in recovering all or part of the funds shall not prevent the Commission from recovering the funds from the Beneficiary.

Article 30 Financial corrections

- (1) In the case of decentralised management, in order to ensure that the funds are used in accordance with the applicable rules, the Commission shall apply clearance-of-accounts procedures or financial correction mechanisms in accordance with Article 53b(4) and 53c(2) of the Financial Regulation and as detailed in Sectoral Agreements or Financing Agreements.
- (2) A financial correction may arise following either:
 - identification of a specific irregularity, including fraud;
 - identification of a weakness or deficiency in the management and control systems of the Beneficiary;
- (3) If the Commission finds that expenditure under the programmes covered by IPA has been incurred in a way that has infringed applicable rules, it shall decide what amounts are to be excluded from Community financing.
- (4) The calculation and establishment of any such corrections, as well as the related recoveries, shall be made by the Commission, following the criteria and procedures provided for in Articles 32, 33 and 34 below. Provisions on financial corrections which have been set down in Sectoral Agreements or Financing Agreements shall apply in addition to this Framework Agreement.

Article 31 Financial adjustments

In the case of decentralised management the national authorising officer, who bears in the first instance the responsibility for investigating irregularities, shall make the financial adjustments where irregularities or negligence are detected in operations or operational programmes, by cancelling all or part of the Community contribution to the operations or the operational programmes concerned. The national authorising officer shall take into account the nature and gravity of the irregularities and the financial loss to the Community contribution.

Article 32 Criteria for financial corrections

- (1) The Commission may make financial corrections, by cancelling all or part of the Community contribution to a programme, in the situations referred to in Article 30(2) above.
- (2) Where individual cases of irregularity are identified, the Commission shall take into account the systemic nature of the irregularity to determine whether flat-rate corrections, punctual corrections or corrections based on an extrapolation of the findings should be applied. For the Rural Development Component, criteria for financial corrections are set out in Financing Agreements or Sectoral Agreements.
- (3) When deciding the amount of a correction, the Commission shall take into account the nature and gravity of the irregularity and/or the extent and financial implications of the weaknesses or the deficiencies found in the management and control system in the programme concerned.

Article 33 Procedure for financial corrections

- (1) Before taking a decision on a financial correction, the Commission shall inform the national authorising officer of its provisional conclusions and request his comments within two months.

Where the Commission proposes a financial correction on the basis of extrapolation or at a flat rate, the Beneficiary shall be given the opportunity to establish the actual extent of the irregularity, through an examination of the documentation concerned. In agreement with the Commission, the Beneficiary may limit the scope of this examination to an appropriate proportion or sample of the documentation concerned. Except in duly justified cases, the time allowed for this examination shall not exceed a period of two months after the two-month period referred to in the first subparagraph.

- (2) The Commission shall take account of any evidence supplied by the Beneficiary within the time limits mentioned in paragraph 1.
- (3) The Commission shall endeavour to take a decision on the financial correction within six months after opening the procedure as set out in paragraph 1.

Article 34 Repayment

- (1) Any repayment to the general budget of the European Union shall be effected before the due date indicated in the recovery order drawn up in accordance with Article 72 of the Financial Regulation. The due date shall be the last day of the second month following the issuing of the order.
- (2) Any delay in repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be one-and-a-half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.

Article 35 Re-use of Community contribution

- (1) The resources from the Community contribution cancelled following financial corrections pursuant to Article 30 shall be paid to the Community Budget, including interest thereon.
- (2) The contribution cancelled or recovered in accordance with Article 31 above may not be re-used for the operation or operations that were the subject of the recovery or the adjustment, nor, where the recovery or adjustment is made for a systemic irregularity, for existing operations within the whole or part of the priority axis in which the systemic irregularity occurred.

Article 36 Monitoring in the case of decentralised management, monitoring committees

- (1) In the case of decentralised management, the Beneficiary shall, within six months after the entry into force of the first financing agreement, set up an IPA monitoring committee, in agreement with the Commission, to ensure coherence and coordination in the implementation of the IPA components.

SR

- (2) The IPA monitoring committee shall be assisted by sectoral monitoring committees set up under the IPA components. They shall be attached to programmes or components. They may include representatives of civil society, where appropriate. More detailed rules may be provided for in Financing Agreements or Sectoral Agreements.
- (3) The IPA monitoring committee shall satisfy itself as to the overall effectiveness, quality and coherence of the implementation of all programmes and operations towards meeting the objectives set out in the multi-annual indicative planning documents and the financing agreements.
 - (a) The IPA monitoring committee may make proposals to the Commission, the national IPA co-ordinator and the national authorising officer for any actions to ensure the coherence and co-ordination between the programmes and operations implemented under the different components, as well as for any cross-component corrective measures needed to ensure the achievement of the global objectives of the assistance provided, and to enhance its overall efficiency. It may also make proposals to the relevant sectoral monitoring committee(s) for decisions on any corrective measures to ensure the achievements of programme objectives and enhance the efficiency of assistance provided under the programmes or IPA component(s) concerned;
 - (b) The IPA monitoring committee shall adopt its internal rules of procedure in compliance with a monitoring committee mandate established by the Commission, and within the institutional, legal and financial framework of the Republic of Turkey;
 - (c) Unless otherwise provided in the monitoring committee mandate set out by the Commission, the following provisions shall apply:
 - aa) The IPA monitoring committee shall include among its members representatives of the Commission, the national IPA co-ordinator, the national authorising officer, representatives of the operating structures, and the strategic co-ordinator.
 - bb) A representative of the Commission and the national IPA co-ordinator shall co-chair the IPA monitoring committee meetings;
 - cc) The IPA monitoring committee shall meet at least once a year. Intermediate meetings may also be convened on a thematic basis.

Article 37 Monitoring in the case of centralised and joint management

In the case of centralised and joint management, the Commission, duly informing the Beneficiary, may undertake any actions it deems necessary to monitor the programmes concerned. In the case of joint management, these actions may be carried out jointly with the international organisation(s) concerned.

Article 38 Annual and final reports on implementation

- (1) The operating structures shall draw up a sectoral annual report and a sectoral final report on the implementation of the programmes for which they are responsible, in

092

3 June 2008

compliance with the procedures defined for each IPA component in Part II of the IPA Implementing Regulation.

The sectoral annual reports on implementation shall cover the financial year. The sectoral final reports on implementation shall cover the whole period of implementation and may include the last sectoral annual report.

- (2) The reports referred to in paragraph 1 shall be sent to the national IPA co-ordinator, the national authorising officer and to the Commission, after examination by the sectoral monitoring committees.
- (3) On the basis of the reports referred to in paragraph 1, the national IPA co-ordinator shall send to the Commission and the national authorising officer, after examination by the IPA monitoring committee, annual and final reports on the implementation of assistance under the IPA Regulation.
- (4) The annual report on implementation referred to in paragraph 3, which shall be sent by 31 August each year and for the first time in 2008, shall synthesise the different sectoral annual reports issued under the different components and shall include information about:
 - a) progress made in implementing Community assistance, in relation to the priorities set up in the multi-annual indicative planning document and the different programmes;
 - b) financial implementation of Community assistance.
- (5) The final report on the implementation as referred to in paragraph 3 shall cover the whole period of implementation and may include the latest annual report mentioned in paragraph 4.

Article 39 Closure of programmes under decentralised management

- (1) After an application for final payment has been received by the Commission from the Beneficiary, a programme is considered closed as soon as one of the following occurs:
 - payment of the final balance due by the Commission;
 - issuance of a recovery order by the Commission;
 - de-commitment of appropriations by the Commission.
- (2) The closure of a programme does not prejudice the right of the Commission to undertake a financial correction at a later stage.
- (3) The closure of a programme does not affect the obligations of the Beneficiary to continue to retain related documents.
- (4) In addition to paragraph 1 to 3 above, more detailed rules on the closure of programmes may be set out in Financing Agreements or Sectoral Agreements.

Article 40 Closure of programmes under centralised and joint management

- (1) A programme is closed when all the contracts and grants funded by this programme have been closed.

- (2) After a final payment application has been received, a contract or grant is considered closed as soon as one of the following occurs:
 - payment of the final amount due by the Commission;
 - issuance of a recovery order by the Commission following receipt of the final payment application;
 - de-commitment of appropriations by the Commission.
- (3) The closure of a contract or grant does not prejudice the right of the Commission to undertake a financial correction at a later stage.
- (4) In addition to paragraph 1 to 3 above, more detailed rules on the closure of programmes may be set out in Financing Agreements or Sectoral Agreements.

SECTION VI FINAL PROVISIONS

Article 41 Consultation

- (1) Any question relating to the execution or interpretation of this Framework Agreement shall be the subject of consultation between the Contracting Parties leading, where necessary, to an amendment of this Framework Agreement.
- (2) Where there is a failure to carry out an obligation set out in this Framework Agreement which has not been the subject of remedial measures taken in due time, the Commission may suspend the financing of activities under IPA after consultation with the Beneficiary.
- (3) The Beneficiary may renounce in whole or in part the implementation of activities under IPA. The Contracting Parties shall set out the details of the said renunciation in an exchange of letters.

Article 42 Settlement of differences, arbitration

- (1) Differences arising out of the interpretation, operation and implementation of this Framework Agreement, at any and all levels of participation, will be settled amicably through consultation as provided for under Article 41.
- (2) In default of amicable settlement, either Contracting Party may refer the matter to arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of this Framework Agreement.
- (3) The language to be used in the arbitral proceedings shall be English. The appointing authority shall be the Secretary-General of the Permanent Court of Arbitration following a written request submitted by either Contracting Party. The Arbitrator's decision shall be binding on all Parties and there shall be no appeal.

Article 43 Disputes with third parties

- (1) Without prejudice to the jurisdiction of the court designated in a contract as the competent court for disputes arising out of that contract between the parties to it, the European Community shall enjoy in the territory of the Republic of Turkey immunity from suit and legal process with respect to any dispute between the European Community and/or the Beneficiary and a third party, or between third parties, which directly or indirectly relates to the provision of Community Assistance to the Beneficiary under this Framework Agreement, except in so far as in any particular case the European Community has expressly waived its immunity.

3 June 2008

- (2) The Beneficiary shall in any legal or administrative proceedings before a court, tribunal or administrative instance in the Republic of Turkey defend this immunity and take a position which takes duly account of the interests of the European Community. Where necessary, the Beneficiary and the European Commission shall proceed with consultations on the position to take.

Article 44 Notices

- (1) Any communication in connection with this Framework Agreement shall be made in writing and in the English language. Each communication must be signed and must be supplied as an original document or by fax.
- (2) Any communication in connection with this Framework Agreement must be sent to the following addresses:

For the Commission:

Directorate-General Enlargement
1049 Brussels
BELGIUM
Fax: +32 2 295.95.40

For the Beneficiary:

Secretariat General for EU Affairs
Eskişehir Yolu 9. Km.
06800 ANKARA/TURKEY
Fax : +90 (312) 286 04 08

Article 45 Annexes

The Annexes shall be deemed an integral part of this Framework Agreement.

Article 46 Entry into force

This Framework Agreement shall enter into force on the date on which the Contracting Parties inform each other in writing of its approval in accordance with the existing internal legislation or procedure of each of the Parties.

Article 47 Amendment

Any amendment agreed to by the Contracting Parties will be in writing and will form part of this Agreement. Such amendment shall come into effect on the date determined by the Contracting Parties.

Article 48 Termination

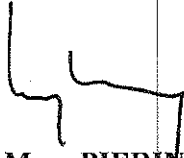
- (1) This Framework Agreement shall continue to be in force for an indefinite period unless terminated by written notification by one of the Contracting Parties. Termination shall take effect 3 months after the date of written notification.
- (2) On termination of this Framework Agreement, any assistance still in the course of execution shall be carried out to its completion in accordance with this Framework Agreement and any Sectoral Agreement and Financing Agreement.

3 June 2008

Article 49 Language

This Framework Agreement is drawn up in duplicate in English and Turkish. The English version shall prevail in case of divergence between the two versions or in case of differences of interpretation.

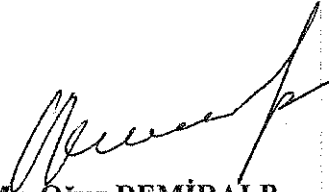
Signed, for and on behalf of the
Commission by



Mr Marc PIERINI
Head of Delegation
EC Delegation
Ankara,

Date: 10.07.2008

Signed, for and on behalf of the
Government of the Republic of Turkey
by



Mr. Oğuz DEMİRALP
Ambassador
Secretary General for EU Affairs
Ankara,

Date: 11.07.2008

ANNEX A

Allocation of functions and common responsibilities to the structures, authorities and bodies in accordance with Article 8 of the Framework Agreement between the Commission and the Republic of Turkey

Preliminary remark:

This list shows the main functions and common responsibilities of the structures, authorities and bodies concerned. It is not to be considered exhaustive. It supplements the core part of this Framework Agreement.

1) The Competent Accrediting Officer (CAO):

- a) The CAO shall be appointed by the Beneficiary. He shall be a high-ranking official in the government or the state administration of the Republic of Turkey.
- b) The CAO shall be responsible for issuing, monitoring and suspending or withdrawing the accreditation of the national authorising officer (NAO) both
 - as the head of the national fund bearing overall responsibility for the financial management of EU funds in the Republic of Turkey and being responsible for the legality and regularity of the underlying transactions;
 - with regard to the NAO's capacity to fulfil the responsibilities for the effective functioning of management and control systems under IPA.

The accreditation of the NAO shall also cover the national fund (NF).

The CAO shall notify the Commission of the accreditation of the NAO and shall inform the Commission of any changes regarding the accreditation of the NAO. This includes the provision of all relevant supporting information required by the Commission.

- c) Prior to accrediting the NAO, the CAO shall satisfy himself that the applicable requirements set out in Article 11 of the IPA Implementing Rules are fulfilled. This includes the verification of the compliance of the management and control system set up by the Beneficiary for effective controls in at least the areas set out in the Annex to the IPA Implementing Regulation (accreditation criteria). This annex provides for the following overall requirements:
 - Control environment (establishment and management of the organisation and the staff) comprising ethics and integrity policies, irregularity management and reporting, staff planning, recruitment, training and appraisal including sensitive post management, sensitive functions and conflicts of interest, establishment of legal bases for bodies and individuals, formal establishment of accountability, responsibility, delegated responsibility and any necessary related authority for all tasks and positions throughout the organisation);
 - Planning and risk management comprising risk identification, assessment and management, objective setting and allocation of resources against objectives, planning of the implementation process;

- Control activities (implementation of interventions) comprising verification procedures, procedures for supervision by accountable management of tasks delegated to subordinates, including annual statements of assurance from subordinate actors, rules for each type of procurement and calls for proposals, procedures including checklists for each step of procurement and calls for proposals, rules and procedures on publicity, payment procedures, procedures for monitoring the delivery of co-financing, budgetary procedures to ensure the availability of funds, procedures for continuity of operations, accounting procedures, reconciliation procedures, reporting of exceptions, amongst others exceptions to normal procedures approved at appropriate level, unapproved exceptions and control failures whenever identified, security procedures, archiving procedures, segregation of duties and reporting of internal control weaknesses;
- Monitoring activities (supervision of interventions), comprising internal audit with handling of audit reports and recommendations, evaluations;
- Communication (ensuring all actors receive information necessary to fulfil their role) comprising the regular coordination meetings between different bodies to exchange information on all aspects of planning and implementation and the regular reporting at all appropriate levels on efficiency and effectiveness of internal control.

2) The National IPA Coordinator (NIPAC):

- a) The NIPAC shall be appointed by the Beneficiary. He shall be a high-ranking official in the government or the state administration of the Beneficiary.
- b) He shall ensure the overall coordination of assistance under IPA.
- c) The NIPAC shall ensure partnership between the Commission and the Beneficiary and close link between the general accession process and the use of pre-accession assistance under IPA. He shall bear the overall responsibility for
 - the coherence and coordination of the programmes provided under IPA;
 - the annual programming for the Transition Assistance and Institution Building Component at national level;
 - the co-ordination of the participation of the Beneficiary in the relevant cross-border programmes both with Member States and with other Beneficiary countries, as well as the transnational, interregional or sea basins programmes under other Community instruments. The NIPAC may delegate the tasks relating to this co-ordination to a cross-border co-operation co-ordinator.
- d) The NIPAC shall draw up and, after examination by the IPA monitoring committee, submit to the Commission the IPA annual and final reports on implementation as defined in Article 38 of this Framework Agreement and in Article 61(3) of the IPA Implementing Regulation. He shall send a copy of these reports to the NAO.

3) The Strategic Co-ordinator:

- a) A strategic co-ordinator shall be appointed by the Beneficiary to ensure the co-ordination of the Regional Development Component and Human Resources Development Component under the responsibility of the national IPA co-ordinator. The strategic co-ordinator shall be an entity within the state administration of the Beneficiary with no direct involvement in the implementation of components concerned.
- b) The strategic co-ordinator shall in particular:
- co-ordinate assistance granted under the Regional Development Component and the Human Resources Development Component;
 - draft the strategic coherence framework as defined in Article 154 of the IPA Implementing Regulation;
 - ensure co-ordination between sectoral strategies and programmes.

4) The National Authorising Officer (NAO):

The NAO shall be appointed by the Beneficiary. He shall be a high-ranking official in the government or the state administration of the Beneficiary.

The NAO shall fulfil the following functions and assume the following responsibilities:

- a) As the head of the national fund, bearing overall responsibility for the financial management of EU funds in the Republic of Turkey and being responsible for the legality and regularity of the underlying transactions. The NAO shall in particular fulfil the following tasks as regards these responsibilities:
- providing assurance about the regularity and legality of underlying transactions;
 - drawing up and submitting to the Commission certified statements of expenditure and payment applications; he shall bear overall responsibility for the accuracy of the payment application and for the transfer of funds to the operating structures and/or final beneficiaries;
 - verifying the existence and correctness of the co-financing elements;
 - ensuring the identification and immediate communication of any irregularity;
 - making the financial adjustments required in connection with irregularities detected, in accordance with Article 50 of the IPA Implementing Regulation;
 - being the contact point for financial information sent between the Commission and the Beneficiary.
- b) being responsible for the effective functioning of management and control systems under IPA. The NAO shall in particular fulfil the following tasks as regards these responsibilities:
- being responsible for issuing, monitoring and suspending or withdrawing the accreditation of the operating structures;

- ensuring the existence and effective functioning of systems of management of assistance under IPA;
- ensuring that the system of internal control concerning the management of funds is effective and efficient;
- reporting on the management and control system;
- ensuring that a proper reporting and information system is functioning;
- following-up the findings of audit reports from the audit authority, in accordance with Article 18 of this Framework Agreement and Article 30(1) of the IPA Implementing Regulation;
- immediately notifying the Commission, with a copy of the notification to the CAO, any significant change concerning the management and control systems.

As corollary to the responsibilities under a) and b) above, the NAO shall establish an Annual Statement of Assurance as defined in Article 17 of this Framework Agreement and following ANNEX B to this Agreement, which shall include:

- a) a confirmation of the effective functioning of the management and control systems;
- b) a confirmation regarding the legality and regularity of the underlying transactions;
- c) information concerning any changes in systems and controls, and elements of supporting accounting information.

If the confirmations regarding the effective functioning of the management and control systems and the legality and regularity of underlying transactions (a) and b) above) are not available, the NAO shall inform the Commission, copy to the CAO, of the reasons and potential consequences as well as of the actions being taken to remedy the situation and to protect the interests of the Community.

5) The National Fund (NF):

- a) The NF shall be a body located in a State level Ministry of the Beneficiary and shall have central budgetary competence and act as central treasury entity.
- b) The NF shall be in charge of tasks of financial management of assistance under IPA, under the responsibility of the NAO.
- c) The NF shall in particular be in charge of organising the bank accounts, requesting funds from the Commission, authorising the transfer of funds from the Commission to the operating structures or to the final beneficiaries and the financial reporting to the Commission.

6) The Operating Structures:

- a) An operating structure shall be established for each IPA component or programme to deal with the management and implementation of assistance under IPA. The operating structure shall be a body or a collection of bodies within the administration of the Beneficiary.
- b) The operating structure shall be responsible for managing and implementing the IPA programme or programmes concerned in accordance with the principle of sound financial management. For those purposes, the operating structure shall carry out a number of functions that include:

502

3 June 2008

- drafting the annual or multi-annual programmes;
 - monitoring programme implementation and guiding the work of the sectoral monitoring committee as defined in Article 36(2) of this Framework Agreement and in Article 59 of the IPA Implementing Regulation, notably by providing the documents necessary for monitoring the quality of implementation of the programmes;
 - drawing up the sectoral annual and final implementation reports defined in Article 38(1) and (2) of this Framework Agreement and in Article 61(1) of the IPA Implementing Regulation and, after their examination by the sectoral monitoring committee, submitting them to the Commission the NIPAC and the NAO;
 - ensuring that operations are selected for funding and approved in accordance with the criteria and mechanisms applicable to the programmes, and that they comply with the relevant Community and national rules;
 - setting up procedures to ensure the retention of all documents regarding expenditure and audits required to ensure an adequate audit trail;
 - arranging for tendering procedures, grant award procedures, the ensuing contracting, and making payments to, and recovery from, the final Beneficiary;
 - ensuring that all bodies involved in the implementation of operations maintain a separate accounting system or a separate accounting codification;
 - ensuring that the NF and the NAO receive all necessary information on the procedures and verifications carried out in relation to expenditure;
 - setting up, maintaining and updating the reporting and information system;
 - carrying out verifications to ensure that the expenditure declared has actually been incurred in accordance with the applicable rules; the products or services have been delivered in accordance with the approval decision, and the payment requests by the final Beneficiary are correct: These verifications shall cover administrative, financial, technical and physical aspects of operations, as appropriate;
 - ensuring internal audit of its different constituting bodies;
 - ensuring irregularity reporting;
 - ensuring compliance with the information and publicity requirements.
- c) The heads of the bodies constituting the operating structure shall be clearly designated and shall be responsible for the tasks assigned to their respective bodies, in accordance with Article 8(3) of this Framework Agreement and with Article 11(3) of the IPA Implementing Regulation.
- 7) **The Audit Authority:**
- a) The audit authority shall be designated by the Beneficiary and shall be functionally independent from all actors in the management and control system and comply with internationally accepted audit standards.

082

- b) The audit authority shall be responsible for the verification of the effective and sound functioning of the management and control systems.
- c) The audit authority, under the responsibility of its head, shall in particular fulfil the following functions and assume the following responsibilities:

- During the course of each year, establishing and fulfilling an **annual audit work plan** which encompasses audits aimed at verifying:
 - the effective functioning of the management and control systems;
 - the reliability of accounting information provided to the Commission.

The audit work shall include audits of an appropriate sample of operations or transactions, and an examination of procedures.

The annual audit work plan shall be submitted to the NAO and the Commission before the start of the year in question.

- submitting reports and opinions as follows:
 - an **annual audit activity report** following the model in **ANNEX C** to this Framework Agreement and setting out the resources used by the audit authority, and a summary of any weaknesses found in the management and control system or in transaction findings from the audits carried out in accordance with the annual audit work plan during the previous 12 month period, ending on 30 September of the year concerned. The annual audit activity report shall be addressed to the Commission, the NAO and the CAO by 31 December each year. The first such report shall cover the period 1 January 2007 - 30 November 2007.
 - an **annual audit opinion** following the model set out in **ANNEX D** to this Framework Agreement as to whether the management and control systems function effectively and conform to the requirements of this Framework Agreement and the IPA Implementing Regulation and/or any other agreements between the Commission and the Beneficiary. This opinion shall be addressed to the Commission, the NAO and the CAO. It shall cover the same period and have the same deadline as the annual audit activity report.
 - an **opinion on any final statement of expenditure** submitted to the Commission by the NAO, for the closure of any programme or of any part thereof. Where appropriate, the final statement of expenditure may include payment applications in the form of accounts submitted annually. This opinion shall address the validity of the final payment application, the accuracy of the financial information, and, where appropriate, be supported by a final audit activity report. It shall follow the model provided in **ANNEX E** to this Framework Agreement. It shall be sent to the Commission and to the CAO at the same time as the relevant final statement of expenditure submitted by the NAO, or at least within three months of the submission of that final statement of expenditure.
- Further specific requirements for the annual audit work plan and/or the reports and opinions mentioned under the previous bullet point may be set out in the Sectoral Agreements or Financing Agreements.

SK

3 June 2008

- With regard to the methodology for the audit work, reports and audit opinions, the audit authority must comply with international standards on auditing in particular as regards the areas of risk assessment, audit materiality and sampling. That methodology may be complemented by any further guidance and definitions from the Commission, notably in relation to an appropriate general approach to sampling, confidence levels and materiality.

ANNEX B

to the Framework Agreement between the Commission and the Government of the Republic of Turkey

Statement of Assurance¹

of the National Authorising Officer of the Republic of Turkey²

I, (*name, first name, official title or function*), National Authorising Officer of the Republic of Turkey herewith present to the Commission the [statement of expenditure] [accounts and statement of expenditure]³ of the Instrument for Pre-accession (IPA) for the Republic of Turkey for the financial year 01/01/20xx to 31/12/20xx.

I declare that I have put in place, and supervised the operation of, a management and internal control system relating to the IPA component [1 to 5] (Annual Management Declaration).

I confirm, based on my own judgment and on the information at my disposal, including, *inter alia*, the results of the work of the internal audit, that:

- The expenditure declared [and the accounts submitted]³ to the Commission during the financial year 01/01/20xx to 31/12/20xx give³[s], to the best of my knowledge, a true, complete and accurate view of the expenditure and receipts related to the IPA component [1 to 5] for the financial year mentioned above;
- The management and control system has functioned effectively to provide reasonable assurance on the legality and regularity of the underlying transactions including, *inter alia*, the adherence to the principles of sound financial management;
- The management and control system in operation for component [1 to 5] was not [significantly]⁴ changed as compared to the description provided at the moment of submitting the application for conferral of management (taking into account of changes notified to the Commission in previous years);
- All relevant contractual agreements which could have a material effect on the expenditure declared [and the accounts submitted]³ during the reference period in the event of non-compliance have been complied with. There have been no incidences of non-compliance with Community rules that could have a material effect on the expenditure declared [and the accounts submitted]³ in the event of non-compliance.

I confirm that, where necessary, I have taken appropriate actions in respect of the reports and opinions from the audit authority issued to date in accordance with Article 29 of the IPA Implementing Rules.

¹ per component

² pursuant to Article 27 of the IPA Implementing Regulation

³ option to be selected for component 5

⁴ where appropriate

[This assurance is, however, subject to the following reservations <*also describe remedial actions*>:

- ...
- ...].

Furthermore, I confirm that I am not aware of any undisclosed matter which could be damaging to the financial interest of the Community.

(Place and date of issue

Signature

Name and official title or function of the National Authorising Officer)

ANNEX C

to the Framework Agreement between the Commission and the Government of the Republic of Turkey

Annual Audit Activity Report¹

of the Audit Authority of the Republic of Turkey²

addressed to

- the European Commission, Directorate-General ...
- the Competent Accrediting Officer (CAO) of the Republic of Turkey and
- [copy to]³ the National Authorising Officer (NAO) of the Republic of Turkey

1. INTRODUCTION

- Identify the component/programme of IPA covered by the report
- Indicate the bodies that have been involved in preparing the report, including the Audit Authority itself
- Describe the steps taken for the preparation of the report
- Indicate the scope of the audits (including the expenditure declared to the Commission for the year concerned in respect of the relevant operations)
- Indicate the period which is covered by this annual audit activity report (*previous 12 months ending on 30/09/20xx*)

2. SUMMARY OF FINDINGS

- Describe the nature and extent of findings arisen from both systems and substantive testing. (Categorise these findings by reference to their level of importance - "major", "intermediate" and "minor". The list of these findings is shown in the annex to this report). Indicate those errors, which are considered systemic in nature and assess the probability of a possible subsequent qualification linked to the errors. Describe and quantify any irregularities encountered.

3. CHANGES IN MANAGEMENT AND CONTROL SYSTEMS

- Indicate any significant changes in the management and control systems as compared to the description provided for at the moment of submitting the application for conferral of management (decentralised management) and since the last annual audit activity report.
- Confirm whether or not the changes referred to have been communicated by the NAO in accordance with Annex A 4) b) of the Framework Agreement.

¹ per component

² pursuant to Article 29(2)(b) of the IPA Implementing Regulation

³ option to be selected

4. CHANGES TO THE ANNUAL AUDIT WORK PLAN

- Indicate any changes that have been made to the annual audit work plan or are proposed, giving explanations and reasons.
- Given the changes listed above, describe the audit approach adopted in response. Outline the implications of the changes and deviations, including an indication of the basis for selection of any additional audits in the context of the revised annual audit work plan.

5. SYSTEMS AUDITS

- Indicate the bodies that have carried out systems testing for the purpose of this report, including the Audit Authority itself.
- Attach a summary list of the audits carried out; indicate the materiality and confidence levels applied (%), where appropriate, and the date on which the audit report was forwarded to the Commission.
- Describe the basis for selection of the audits in the context of the annual audit work plan.
- Describe the principal findings and the conclusions drawn from the audit work for the management and control systems, including the adequacy of the audit trail and compliance with Community requirements and policies.
- Indicate any financial impact of findings.
- Provide information on the follow-up of the audit findings and in particular any corrective and preventive measures applied or recommended.

6. AUDITS OF SAMPLE OF OPERATIONS

- Indicate the bodies that have carried out substantive testing for the purpose of this report, including the Audit Authority itself.
- Attach a summary list indicating the number of audits carried out, the materiality and confidence levels applied (%), where appropriate, and the amount of expenditure checked, broken down by components, programme priority axis and/or measure if relevant, distinguishing between risk-based and statistical sampling, where appropriate. Provide the percentage of expenditure checked in relation to total eligible expenditure declared to the Commission (both for the period in question and cumulatively).
- Describe the basis for selection of the operations inspected.
- Describe the principal results of the substantive testing, indicating in particular, the overall rate of financial errors in proportion to the total expenditure audited resulting from the sample.
- Provide information on the follow-up of errors the application of any financial adjustments and/or any remedial action plan.
- Indicate any resulting financial corrections.

7. CO-ORDINATION BETWEEN AUDIT BODIES AND SUPERVISORY WORK OF THE AUDIT AUTHORITY

- Describe the procedure for co-ordination between different national audit bodies and the audit authority itself (if applicable).
- Describe the procedure for supervision applied by the audit authority to other audit bodies (if applicable).

8. FOLLOW-UP OF PREVIOUS YEARS' AUDIT ACTIVITY

- Provide information, where appropriate, on the follow-up to audit recommendations and results of audits of operations from earlier years.

9. RESOURCES USED BY THE AUDIT AUTHORITY

- Describe the resources used in order to establish this Annual Audit Activity Report

ANNEX: Annual audit work plan for the reference year (*previous 12 months ending on 30/09/20xx*)

[List of findings according to point 2 above]

[List of changes according to point 4 above]

[Summary list according to point 5 above following the model enclosed]

[Summary list according to point 6 above following the model enclosed]

0x

Summary list according to point 5 above] FOR SYSTEMS AUDITS

Date of performance of the systems audit	Programme / system audited	Auditing entity	Expenditure declared in reference year	Total cumulative expenditure declared	Basis of selection of the programme

Summary list according to point 6 above] FOR DECLARED EXPENDITURE AND SAMPLE AUDITS

Fund	Reference (CCI no)	Programme	Expenditure declared in ref year	Expenditure in ref year audited for the random sample	Amount and percentage (error rate) of irregular expenditure in random sample (3)	Other expenditure audited (4)	Amount of irregular expenditure in other expenditure sample	Total expenditure declared cumulatively	Total expenditure audited cumulatively as a percentage of total expenditure declared cumulatively	Materiality level (%)	Confidence level (%)
				1.	Amount %	1.					

1. Amount of expenditure audited.
2. Percentage of expenditure audited in relation to expenditure declared to the Commission in the reference year.
3. Where the random sample covers more than one Fund or programme, the information is provided for the whole sample.
4. Expenditure from complementary sample and expenditure for random sample not in reference year.

ANNEX D

to the Framework Agreement between the Commission and the
Government of the Republic of Turkey,¹

Annual Audit Opinion

of the Audit Authority of the Republic of Turkey² on the management and control
systems

addressed to

- the European Commission, Directorate-General
- the Competent Accrediting Officer (CAO) of the Republic of Turkey and
- [copy to]³ the National Authorising Officer (NAO) of the Republic of Turkey

Introduction:

I, (*name, first name, official title or function*), Head of the Audit Authority of the Republic of Turkey, (*name of Audit Authority designated*), have examined the functioning of the management and control systems for the operations under component [1 to 5] of the Instrument for pre-accession (IPA) during the previous 12-month period ended on (*date*), as presented in the description sent to the Commission on (*date*) at the moment of submitting the application for conferral of management (taking into account of changes notified to the Commission in previous years on (*date*) together with the changes identified in the annual audit activity report accompanying this opinion).

The objective of this examination is to issue an opinion on the conformity of the management and control systems with the Framework Agreement and/or any other agreements between the Commission and the Government of the Republic of Turkey in the framework of IPA and as to whether these management and control systems - designed to contribute to the production of reliable [statements of expenditure] [accounts and statements of expenditure]⁴ presented to the Commission and therefore to help to ensure, inter alia, the legality and regularity of the transactions underlying those statements - were operated effectively.

Respective responsibilities of the NAO and the auditors:

The NAO is responsible, inter alia, for the preparation and fair presentation of the Statement of Assurance in accordance with Article 25 of the IPA Implementing Regulation (IPA IR). This responsibility includes the expression of a representation as regards the truth, completeness and accuracy of the expenditure declared [and the accounts submitted]³ to the Commission, as well as whether the effective functioning of the management and control systems under IPA provides reasonable assurance as to the legality and regularity of transactions underlying the Statement.

¹ per component

² pursuant to Article 29(2)(b) of the IPA Implementing Regulation

³ option to be selected

⁴ option to be selected depending on the component

JKK

The NAO should base his/her assessment upon all information at his/her disposal. This includes the work of the internal audit service.

My responsibility in this report – in accordance with Article 29(2)(b) 2nd indent of the IPA IR - is to **express an opinion** on the effective functioning of the management and control systems established for the operations under the IPA component [1 to 5] during the previous 12-month period ended on (*date*) in all material respects.

Our audits are organised with this objective in mind (together with the objective of also providing opinions on expenditure declared [and annual accounts of Component 5]⁵ and final statements of claim). We organise an overall audit work plan to fulfil all our responsibilities under Article 29 IPA IR. We did not plan and perform our audits with a view to be able to express an overall opinion on the reliability of the NAO's Statement of Assurance as such. However, we do state our conclusions whether the results of the audit work that we have carried out give rise to any significant doubts in respect of the Statement of Assurance. In particular we have assessed whether our audit findings are consistent with the presence or absence of reservations by the NAO to the Statement of Assurance. We conducted our audits in accordance with international auditing standards. Those standards require, inter alia, that we comply with ethical requirements, and that we plan and perform the audits to obtain reasonable assurance on which to base our opinion.

I believe that the work carried out provides a sound basis for our opinion.

Scope of the examination:

The audit assignments were carried out in accordance with the annual audit work plan in respect of this component during the 12-month period in question and reported in the annual audit activity report covering the period until ... (*date*).

Our system-based audit included an examination, on a test basis, of the design and operation of the management and control systems put in place by the beneficiary to effectively manage those risks which threaten the production of reliable [statements of expenditure] [accounts and statements of expenditure]³ presented to the Commission.

Indicate any limitations on the scope of the examination:

- Explain any limitations

Auditors' Opinion:

[Option 1 - Unqualified opinion

Based on the examination referred to above, it is my opinion that for the period 1 October 20xx until 30 September 20xx+1) the management and control systems established for the component [1 to 5] to contribute to the production of reliable [statements of expenditure] [accounts and statements of expenditure]³ presented to the Commission and, therefore, to help to ensure, inter alia, the legality and regularity of the transactions underlying those statements, functioned effectively and, concerning its design and operation, complied in all material respects with all applicable requirements of the IPA Framework Agreement and/or any other agreements between the Commission and the Government of the Republic of Turkey in the framework of IPA. Without expressing an opinion on the overall reliability of the Statement of Assurance I conclude that the Statement of Assurance issued by the NAO did not contain

⁵ option to be selected for component 5

52

any representations that would be materially inconsistent with our audit findings and which would therefore provide any reason to doubt that the Statement of Assurance has been correctly drawn up in accordance with the applicable legislation.

The audits were conducted between DD/MM/20YY and DD/MM/20YY. A report on my findings is delivered at the same date as the date of this opinion.

(Place and date of issue

Signature

Name and official title or function of the Head of the Audit Authority designated)

[Option 2 - Qualified opinion⁶

Based on the examination referred to above, it is my opinion that for the period 1 October 20xx until 30 September 20xx+1) the management and control systems established for the component [1 to 5] to contribute to the production of reliable [statements of expenditure] [accounts and statements of expenditure]³ presented to the Commission and, therefore, to help to ensure, inter alia, the legality and regularity of the transactions underlying those statements, functioned effectively and, concerning its design and operation, complied in all material respects with all applicable requirements of the IPA Framework Agreement and/or any other agreements between the Commission and Government of the Republic of Turkey in the framework of IPA except in the following respects:

- State and explain the qualifications (whether due to disagreement with the NAO or scope limitation); in particular, indicate the bodies concerned
- Indicate whether the qualifications are of a recurring / systemic nature or one-off

As a consequence, [the Republic of Turkey] [the ... authority] [any other actor(s)] has failed to comply with the requirements of the IPA Framework Agreement and/or any other agreements between the Commission and the Government of the Republic of Turkey in the framework of IPA.

I estimate the **impact** of the qualification(s) to be ... EUR [%] of the total expenditure declared, corresponding to ... EUR [%] of the public contribution. The Community contribution affected is thus..... Without expressing an opinion on the overall reliability of the Statement of Assurance as a whole, I conclude that the Statement of Assurance issued by the NAO contained representation(s) that is / are materially inconsistent with our audit findings and which therefore provide(s) some reason to doubt that the Statement of Assurance has been correctly drawn up in accordance with the applicable legislation in this respect. This/These reservation(s) and inconsistency(ies) is / are: <describe reservation>

The audits were conducted between DD/MM/20YY and DD/MM/20YY. A report on my findings is delivered at the same date as the date of this opinion.

(Place and date of issue

⁶ applicable due to either disagreement with the NAO or scope limitation.

52

Signature
Name and official title or function of the Head of the Audit Authority designated)

[Option 3 - Adverse opinion

Based on the examination referred to above, it is my opinion that for the period 1 October 20xx until 30 September 20xx+1) the management and control systems established for the IPA component [1 to 5] to contribute to the production of reliable [statements of expenditure] [accounts and statements of expenditure]³ presented to the Commission and, therefore, to help to ensure, inter alia, the legality and regularity of the transactions underlying those statements, did **not** function effectively and, concerning its design and operation, **failed** to comply, in significant respects, with applicable requirements of the IPA Framework Agreement and/or any other agreements between the Commission and the Government of the Republic of Turkey in the framework of IPA.

This adverse opinion is based on the following observation(s):

- Describe the circumstances giving rise to the reservations – together with its significant compliance implications with Community rules - and name in particular the bodies affected, if applicable.

Because of the effects of the matters described in the preceding paragraph [the Republic of Turkey] [the ... authority] [any other actor(s)] has **failed** to comply with the requirements of the IPA Framework Agreement and/or any other agreements between the Commission and the Republic of Turkey in the framework of IPA.

The audits were conducted between DD/MM/20YY and DD/MM/20YY. A report on my findings is delivered at the same date as the date of this opinion.

(Place and date of issue

Signature
Name and official title or function of the Head of the Audit Authority designated)

[Option 4 - Disclaimer of opinion

Because of the significance of the matter discussed in the preceding paragraph, **I do not express an opinion** on the effectiveness of the management and control systems under the IPA component [1 to 5] for the period 1 October 20xx until 30 September 20xx+1 and its conformity with the IPA Framework Agreement and/or any other agreements between the Commission and the Government of the Republic of Turkey in the framework of IPA. Without expressing an opinion on the overall reliability of the Statement of Assurance as a whole, I conclude that the Statement of Assurance issued by the NAO contained representation(s) that is / are materially inconsistent with our audit findings and which therefore provide(s) some reason to doubt that the Statement of Assurance has been correctly drawn up in accordance with the applicable legislation in this respect. This/These reservation(s) and inconsistency(ies) is / are: <describe reservation>

OR

(Place and date of issue

*Signature
Name and official title or function of the Head of the Audit Authority designated)]*

SC

ANNEX E

to the Framework Agreement between the Commission and the Government of the Republic of Turkey¹

Audit Opinion

of the Audit Authority of the Republic of Turkey²

on the final statement of expenditure of the [programme with reference: ...]

[on the accounts and statement of expenditure of component 5]³

[part ... of the programme with reference: ...]

[as supported by the final Audit Activity Report]⁴

addressed to

- the European Commission, Directorate-General
- the Competent Accrediting Officer (CAO) of the Republic of Turkey

1. Introduction

I, (*name, first name, official title or function*), Head of the Audit Authority of the Republic of Turkey, (*name of Audit Authority designated*), have examined the results of the audit work carried out on the programme (*indicate programme - title, component, period, reference (CCI) number*) by or under the responsibility of the Audit Authority in accordance with the audit work plan [and have carried out additional work as I judged necessary].

2. Respective responsibilities of the National Authorising Officer (NAO) and the auditors

In accordance with Article 25 of the IPA Implementing Regulation (IPA IR) the preparation and fair presentation of the expenditure statements submitted to the Commission, as well as ensuring the legality and regularity of the transactions underlying those statements, rest with the NAO.

[This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of annual accounts that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances]³.

My responsibility in this report – in accordance with Article 29(2)(b) 3rd indent of the IPA IR - is to express an opinion [on the reliability of the final statement of expenditure] [on the reliability of statement of expenditure and annual accounts]³ [and the validity of the final payment application] submitted by the NAO. I conducted the audits in accordance with international auditing standards.

Those standards require that I plan and perform the audits in order to obtain reasonable assurance about whether the statement of expenditure [and the annual accounts]³ [and the

¹ per component

² pursuant to Article 29(2)(b) of the IPA Implementing Regulation

³ option to be selected for component 5

⁴ where appropriate, in any case not applicable to component 5

payment application for the final balance of the Community contribution to the programme] is [are] free of material misstatement [and the effectiveness of internal control procedures]³.

We organise an overall audit work plan to fulfil all our responsibilities under Article 29 of the IPA IR. The audits included [examination, on a test basis, of evidence supporting the amounts and disclosures in the final statement of expenditure and the payment application for the final balance of the Community contribution to the programme] [examination, on a test basis, of evidence supporting the information in the annual accounts, an examination of procedures and of an appropriate sample of transactions to obtain audit evidence about the amounts and disclosures in the statement of expenditure and the annual accounts]³. [The audits covered compliance of payments with Community rules only as regards the capability of the accredited administrative structures to ensure that such compliance has been checked before payment is made]⁵.

I believe that my audits provide a reasonable basis for my opinion.

3. Scope of the examination

I have conducted my examination in accordance with Article 29(2)(b) IPA IR.

<The scope of our examination was not designed to form an opinion on the legality and regularity of the transactions underlying the final statement of expenditure submitted to the Commission.>⁶ <There were no limitations on the scope of the examination.>⁵

The scope was further limited by the following factors:

- (a) ...
- (b) ...
- (c) ..., etc.

(Indicate any limitation on the scope of the examination, for example any systemic problems, weaknesses in the management and control system, lack of supporting documentation, cases under legal proceedings, etc., and estimate the amounts of expenditure and the Community contribution affected. If the Audit Authority does not consider that the limitations have an impact on the final expenditure declared, this should be stated.)

4. Errors and irregularities

[The error rates and cases of irregularity found in the audit work are not such as to preclude an unqualified opinion given the satisfactory way they have been dealt with by the NAO and the trend in the level of their occurrence over time.]

Or

[The rate of errors and irregularities found in the audit work and the way, they have been dealt with by the NAO, are such as to preclude an unqualified opinion. A list of these cases is provided in the final audit activity report together with an indication of their possible systemic character and the scale of the problem.]

5. Auditors' opinion on the final statement of expenditure

[Option 1 - Unqualified opinion]

⁵ optional for component 5

⁶ option to be selected

(If there have been no limitations on the scope of the examination, and the error rates and cases of irregularity and the way they have been dealt with by the NAO do not preclude an unqualified opinion)

[Based on the examination referred to above covering the audit work carried out in accordance with Article 29(2)(b) IPA IR [and the additional work I have performed], it is my opinion that the accounts submitted to the Commission for the operations under the IPA component [1 to 5] for the period from (date) to (date) (in particular, the statement of expenditure) are **presented fairly, in all material respects** <including those pertaining to the legality and regularity of the underlying transactions>⁷ [and the internal control procedures have operated satisfactorily]³.]

Or

[Based on the examination referred to above covering the audit work carried out in accordance with Article 29(2)(b) IPA IR [and the additional work I have performed], it is my opinion that the final statement of expenditure **presents fairly, in all material respects** - <including those pertaining to the legality and regularity of the underlying transactions>⁷ - the expenditure paid under the operational programme with reference: ... of the IPA component [1 to 5] for the period from (date) to (date), and that the application for payment of the final balance of the Community contribution to this programme is valid.]

My audits were conducted between DD/MM/20YY and DD/MM/20YY.

(Place and date of issue

Signature

Name and official title or function of the Head of the Audit Authority designated)]

[Option 2 - Qualified opinion

(If there have been limitations on the scope of the examination and/or the error rates and cases of irregularity and the way they have been dealt with by the NAO calls for a qualified opinion but do not justify an unfavourable opinion for all the expenditure concerned)

[Based on the examination referred to above covering the audit work carried out in accordance with Article 29(2)(b) IPA IR [and the additional work I have performed], it is my opinion that the accounts submitted to the Commission for the operations under the IPA component [1 to 5] for the period from (date) to (date) are presented fairly in all material respects - <including those pertaining to the legality and regularity of the underlying transactions>⁷ [and the internal control procedures have operated satisfactorily]³ - **except** in the following respects:

- (a) ...
- (b) ...
- (c) ..., etc.

(state the qualifications, in particular the bodies concerned, and explain, e.g. whether they are of a recurring / systemic nature or one-off)

⁷ to be included optionally for components where applicable (see foot-note 6 above).

I estimate the impact of the qualification(s) to be [EUR] [%]... of the total expenditure declared, [corresponding to [EUR] [%] of the public contribution]. The Community contribution affected is thus].

Or

[Based on the examination referred to above covering the audit work carried out in accordance with Article 29(2)(b) IPA IR [and the additional work I have performed], it is my opinion that the final statement of expenditure presents fairly, in all material respects - <including those pertaining to the legality and regularity of the underlying transactions>⁷ the expenditure paid under the operational programme with reference:... of the IPA component [1 to 5] for the period from (date) to (date), and that the application for payment of the final balance of the Community contribution to this programme is valid **except** with regard to the matters referred to at point 3 above and/or to the observations at point 4 regarding the error rates and cases of irregularity and the way they have been dealt with by the NAO.

I estimate the impact of the qualification(s) to be [EUR] [%]... of the total expenditure declared, [corresponding to [EUR] [%] of the public contribution]. The Community contribution affected is thus].

My audits were conducted between DD/MM/20YY and DD/MM/20YY.

(Place and date of issue

Signature

Name and official title or function of the Head of the Audit Authority designated))

[Option 3 - Adverse opinion

(If the nature and extent of the errors and of the cases of irregularities and the way they have been dealt with by the NAO are so pervasive that a qualification is deemed inadequate to disclose the misleading nature of the final statement of expenditure as a whole)

[Based on the examination referred to above covering the audit work carried out in accordance with Article 29(2)(b) IPA IR [and the additional work I have performed], and in particular in view of the nature and extent of the errors and of cases of irregularities and the fact that they have not been dealt with satisfactorily by the NAO as disclosed under point 4, it is my opinion that that the accounts submitted to the Commission for the operations under the IPA component [1 to 5] for the period from (date) to (date) are **not** presented fairly, in all material respects [and the internal control procedures have not operated satisfactorily]³.]

OR

[Based on the examination referred to above covering the audit work carried out in accordance with Article 29(2)(b) IPA IR [and the additional work I have performed], it is my opinion that the final statement of expenditure does **not** present fairly, in all material respects - <including those pertaining to the legality and regularity of the underlying transactions>⁷ the expenditure paid under the operational programme with reference:... of the IPA component [1 to 5] for the period from (date) to (date), and that the application for payment of the final balance of the Community contribution to this programme is **not** valid.]

My audits were conducted between DD/MM/20YY and DD/MM/20YY.

(Place and date of issue

Signature

Name and official title or function of the Head of the Audit Authority designated))]

[Option 4 - Disclaimer of opinion

(If there have been major limitations on the scope of the examination such that no conclusion can be reached on the reliability of the final statement of expenditure without considerable further work)

[Based on the examination referred to above covering the audit work carried out in accordance with Article 29(2)(b) IPA IR [and the additional work I have performed], and in particular in view of the matters referred to at point 3, I am **unable to express an opinion.**

(Place and date of issue

Signature

Name and official title or function of the Head of the Audit Authority designated))]

- [copy to: National Authorising Officer (NAO) of the Republic of Turkey] ⁶

ANNEX C FURTHER CONDITIONS FOR THE DELIVERY OF EUROPEAN UNION ASSISTANCE

1 DEPUTISING

- (1) The beneficiary country shall ensure that a system of deputising is in place to ensure the continuity of the functions assigned to the national authorising officer.
- (2) Without prejudice of the aforementioned, the national authorising officer shall remain finally responsible for all the responsibilities vested in him in this Agreement and other agreements.

2 FURTHER RESPONSIBILITIES OF THE NAO

In addition to the functions and responsibilities laid down in Annex B to this Agreement, the national authorizing officer shall:

- (a) conclude the relevant agreements with each of the implementing agencies, which must be endorsed by the Commission;
- (b) ensure the flow of national and other co-financing resources;
- (c) ensure that the financing reporting system Perseus¹⁰ is regularly updated and reporting procedures properly respected by the national fund and the implementing agencies;
- (d) participate in the IPA monitoring committee;
- (e) participate in the Transition Assistance and Institution Building Monitoring Committee (the TAIB committee).

3 PAYMENTS

- (1) Payments by the Commission of the European Union contribution shall be made within the limits of the funds available.
- (2) They shall take the form of: pre-financing, interim payments and payments of the final balance.
- (3) By 28 February each year, the national authorising officer shall send to the Commission a forecast of its likely payments applications for the financial year concerned and for the subsequent financial years.

¹⁰ Perseus is the current financial reporting system of the European Commission.

- (4) The exchange of information concerning financial transactions between the Commission and the national authorising officer shall, where appropriate, be made by electronic means, using procedures agreed upon between them.
- (5) The combined total of pre-financing and interim payments shall not exceed 95% of the European Union contribution.
- (6) When the ceiling referred to in paragraph 5 above is reached, the national authorising officer shall only submit a new certified statement of expenditure and information about the amounts received when he/she requests the payment of the final balance.
- (7) Amounts set out in the programmes submitted by the national authorising officer, in certified statements of expenditure, in payment applications and in expenditure mentioned in the implementation reports, shall be denominated in euro. The national authorising officer shall convert the amounts of expenditure incurred in national currency into euro using the monthly accounting rate of the euro established by the Commission for the month during which the expenditure was registered in the accounts of the operating structure concerned.
- (8) Payments by the Commission to the national fund shall be made to the euro account. One euro account shall be opened for each of the IPA programmes concerned, and shall be used exclusively for transactions relating to that programme.
- (9) The national authorising officer shall ensure that the final beneficiaries receive the total amount of the public contribution in due time and in full. No specific charge or other charge with equivalent effect shall be levied which would reduce these amounts for the final beneficiaries.
- (10) The expenditure may be covered by European Union financing only if it has been incurred and paid by the final beneficiary. Expenditure paid by final beneficiaries shall be substantiated by receipted invoices or accounting documents of equivalent probative value or other relevant documents, where, according to the programme, assistance is not a function of expenditure. Expenditure must have been certified by the national authorising officer.

4 ACCEPTABILITY OF PAYMENT APPLICATIONS

- (1) Without prejudice of establishing additional requirement if the circumstances so require, the Commission shall not approve a payment application until the following minimum requirements have been fulfilled:
 - (a) In the case of pre-financing by the Commission:
 - the national authorising officer has notified to the Commission the opening of the euro account concerned;
 - the accreditation delivered by the competent accrediting officer and the national authorising officer are in force and the conferral of management by the Commission remains valid;
 - the relevant financing agreement has entered into force.

- (b) In the case of each interim payment made by the Commission:
- the national authorising officer has sent to the Commission a payment application and a statement of expenditure relating to the payment in question;
 - the ceilings for European Union assistance under each priority axis, as laid down in the Commission financing decision, have been respected;
 - the operating structure have sent the Commission the sectoral annual implementation reports, as referred to in Article 61(1) of Regulation (EC) 718/2007, including the most recent one;
 - the audit authority has sent the Commission, in accordance with the first and second indent of Article 29(2)(b) of Regulation (EC) 718/2007 the most recent annual audit activity report and opinion on the conformity of the management and control systems in place with the requirements of Regulation (EC) 718/2007 and those of any agreement between the Commission and the beneficiary country;
 - the accreditations delivered by the competent accrediting officer and the national authorising officer are in force, and the conferral of management by the Commission remains valid.

If one or more of the conditions mentioned in this paragraph are not met, the beneficiary country and the national authorising officer shall, when so requested by the Commission and within the time limit fixed by the Commission, take the necessary steps to remedy the situation.

- (c) In the case of payment by the Commission of the final balance, in accordance with the deadline set down in Article 166 of Regulation (EC, Euratom) 1605/2002, as last modified by Regulation (EC, Euratom) No 1995/2006 of 13 December 2006:
- the national authorising officer has sent the Commission a final payment application and a final statement of expenditure;
 - the operating structure have sent to the Commission the sectoral final reports for the programme concerned, as required by Article 61(1) of Regulation (EC) No 718/2007;
 - the audit authority has sent the Commission, in accordance with the third indent of Article 29(2)(b) of Regulation (EC) No 718/2007, an opinion on any final statement of expenditure, supported by a final activity report;
 - the accreditation delivered by the competent accrediting officer and the national authorising officer are in force and the conferral of management by the Commission remains valid.

Failure to meet any of the conditions mentioned in this paragraph shall immediately result in the de-commitment of the final balance.

- (2) All or part of the payments may be suspended by the Commission where:

- (a) there is a serious deficiency in the management and control system of the programme which affects the reliability of the procedure for certification of payments and for which corrective measures have not been taken; or
 - (b) expenditure in a certified statement of expenditure is linked to a serious irregularity which has not been corrected;
 - (c) clarifications are needed regarding the information contained in the declaration of expenditure.
- (3) The beneficiary country shall be given the opportunity to present its observations within a period of two months before the Commission decides on a suspension in accordance with paragraph 2.
- (4) The Commission shall end suspension of all or part of the payments where the beneficiary country has taken the necessary measures to remedy the deficiency. If those measures have not been taken by the beneficiary country, the Commission may decide to cancel all or part of the European Union contribution to the programme.

5 PRE-FINANCING

- (1) Pre-financing shall in principle represent 50% of the European Union contribution to the programme concerned and it may be paid in yearly instalments. That rate may be raised if the national authorising officer demonstrates that the resulting amount will not cover the pre-financing of the contracts and grants signed at national level. Payments for the participation in European Union programmes and agencies may amount to 100% of the European Union contribution relating to this participation.
- (2) The amount to be pre-financed shall be calculated as the sum of the estimate of the amount to be contracted by year, and the actual amount for which contractual obligations have been entered into in the previous years. With the exception of that concerning participation in European Union programmes and agencies, pre-financing shall only be paid once the first tender or call for proposals is launched.
- (3) The total amount paid as pre-financing shall be reimbursed to the Commission if no payment application for the programme concerned is sent within 15 months of the date on which the Commission pays the first pre-financing amount. The European Union contribution to the programme concerned shall not be affected by such reimbursement.
- (4) The total pre-financing amount shall be cleared at the latest when the programme is closed. Throughout the lifetime of the programme, the national authorising officer shall use the pre-financing payment only to pay the European Union contribution to expenditure in compliance with Regulation (EC) 718/2007.

6 INTERIM PAYMENTS

- (1) If it appears that the rules applicable have not been complied with or that European Union funds have been improperly used, the Commission may reduce interim payments to the beneficiary country, or temporarily suspend them, in accordance with the provisions of Article 46 of Regulation (EC) 718/2007. It shall inform the beneficiary country accordingly.

- (2) The suspension or reduction of interim payments shall comply with the principle of proportionality and shall be without prejudice to the decisions of conformity and clearance-of-account decisions and financial corrections.

7 REALLOCATION OF FUNDS

- (1) The national authorizing officer may request a reallocation of funds within the same programme following a recommendation from the IPA monitoring Committee.
- (2) The reallocation requested shall be submitted to the Commission for approval, and shall be subject to a new Commission decision.
- (3) If the reallocation does not comprise substantial changes to the nature of the original programme and, as regards the financial element, it does not exceed 20% of the total amount allocated to the programme in question, subject to the limit of €4 million, the committee which gave an opinion on the original programme shall be informed.

8 STAFF, LOCATION AND OPERATIONAL COSTS OF RELEVANT BODIES AND AUTHORITIES

- (1) The beneficiary country shall ensure that at its own cost the availability of the necessary human resources for the timely and correct execution of the tasks entrusted to the bodies and authorities designated under Article 21 of the IPA Implementing Regulation.
- (2) The beneficiary country shall provide at its own costs the necessary premises, office furniture and other facilities for the aforementioned bodies and authorities.
- (3) Up to 10% of the European Union contribution can be used to co-finance the operational and administrative costs incurred by the beneficiary country in the implementation of this programme, as detailed in Annex A to the Financing Agreement.

9 BANK ACCOUNTS

- (1) The National Fund shall for each programme open up a separate euro bank account in the Central Bank or in a Government guaranteed bank account. The account shall, in principle, be interest-generating.
- (2) Any interest earned on any of the component-specific euro accounts remains the property of the beneficiary country. Interest generated by the financing by the European Union of a programme shall be posted exclusively to that programme, being regarded as a resource for the beneficiary country in the form of a national public contribution, and shall be declared to the Commission whenever a payment application is submitted to the Commission.
- (3) The bank account shall be operated on the basis of a double signature system, requiring the signatures of the national authorizing officer and a senior accounting officer.

- (4) The national fund shall communicate to the Commission all relevant information on the accounts at the national fund as well as on all other accounts in the implementing agencies and others to which IPA funds have been transferred. Relevant information encompasses the name and address of the bank, the account number, the names of the account holders, the interest rates and any other information that the Commission deems appropriate.

10 ACCOUNTING AND AUDITS

- (1) The national fund shall operate an accounting system covering all contractual and other financial operations pertaining to all IPA financed programmes.
- (2) The accounts and operations of all relevant operating structures/implementing agencies and authorities may be checked at regular intervals by an outside auditor contracted by the Commission without prejudice to the responsibilities of the Commission and the European Court of Auditors as referred to in the Framework Agreement.
- (3) All documents related to a given programme shall be retained by the beneficiary country for at least three years after the closure of the programme. This period shall be interrupted either in case of legal proceedings or at the duly motivated request of the Commission.
- (4) By way of derogation from paragraph 3 above, written records of the entire procurement, grant award and contracting procedure shall be retained by the operating structure for a period of at least seven years from the payment of the balance of the contract.

11 REPORTING

- (1) The operating structure shall send the Commission, the national IPA co-ordinator and the national authorising officer an annual report and a final report on the implementation of this programme.

The annual report shall be submitted by 30 June each year and for the first time in the second year following the adoption of this programme.

The final report shall be submitted at the latest 6 months after the closure of this programme.

- (2) The reports referred to in paragraph 1 shall include the following information:
 - (a) the progress made in participating in the ENPI Black Sea Basin programme and priorities in relation to their specific, verifiable targets, with a quantification, wherever and whenever they lend themselves to quantification;
 - (b) detailed information about the financial implementation of the programme;
 - (c) the steps taken by the operating structure to ensure the quality and effectiveness of implementation, in particular:

- monitoring and evaluation measures, including data collection arrangements,
- a summary of any significant problems encountered in implementing the programme and any measures taken;
- the use made of technical assistance;

(d) the measures taken to provide information on and publicise the programme.

Where appropriate, the information referred to in points (a) to (d) of this paragraph may be provided in summary form.

Information referred to in point (c) need not be included if there has been no significant modification since the previous report

12 ROADMAP FOR DECENTRALISATION WITHOUT EX-POST CONTROLS

- (1) The Beneficiary country shall establish a roadmap with indicative benchmarks and time limits to achieve decentralisation without *ex ante* controls by the Commission.
- (2) The Commission shall monitor the implementation of the roadmap mentioned in paragraph 1, and shall take due account of the results achieved by the beneficiary country in this context, in particular in the provision of assistance and in the negotiation process. The roadmap to achieve decentralization without *ex ante* controls may refer to a phased waiver of different types of ex-ante control.
- (3) The Beneficiary country shall keep the Commission updated on a six-monthly basis with the progress made in the implementation of this roadmap.

13 TREATMENT OF RECEIPTS

- (1) Receipts for the purposes of IPA include revenue earned by an operation, during the period of its co-financing, from sales, rentals, service enrolment/fees or other equivalent receipts with the exception of:
 - (a) receipts generated through the economic lifetime of the co-financed investments in the case of investments in firms;
 - (b) receipts generated within the framework of a financial engineering measure, including venture capital and loan funds, guarantee funds, leasing;
 - (c) where applicable, contributions from the private sector to the co-financing of operations, which shall be shown alongside public contribution in the financing tables of the programme.
- (2) Receipts as defined in paragraph 1 above represent income which shall be deducted from the amount of eligible expenditure for the operation concerned. No later than the closure of the programme, such receipts shall be deducted from the relevant operation's eligibility expenditure in their entirety or pro-rata, depending on whether they were generated entirely or only in part by the co-financed operation.

14 ELIGIBILITY OF EXPENDITURE

- (1) Expenditure under the programme in Annex A shall be eligible for European Union contribution if it has actually been incurred after the signature of this Financing Agreement.
- (2) The following expenditure shall not be eligible for European Union contribution under the programme in Annex A:
 - (a) taxes (including VAT), customs and import duties and levies and/or taxes of equivalent effect in accordance with the IPA Framework Agreement with Turkey in Art. 26, attached as Annex B to this Financing Agreement;
 - (b) purchase, rent or leasing of land and existing buildings;
 - (c) fines, financial penalties and expenses of litigation;
 - (d) operating costs;
 - (e) second hand equipment;
 - (f) bank charges, costs of guarantees and similar charges;
 - (g) conversion costs, charges and exchange losses associated with any of the component specific euro accounts, as well as other purely financial expenses;
 - (h) contributions in kind;
 - (i) interest on debt;
- (3) By way of derogation from paragraph 2 above, the following expenditure shall be eligible:
 - (a) value added taxes, if the following conditions are fulfilled:
 - (i) they are not recoverable by any means,
 - (ii) it is established that they are borne by the final beneficiary, and
 - (iii) they are clearly identified in the project proposal.
 - (b) charges for transnational financial transactions;
 - (c) where the implementation of an operation requires a separate account or accounts to be opened, the bank charges for opening and administering the accounts;
 - (d) legal consultancy fees, notarial fees, costs of technical or financial experts, and accountancy or audit costs, if they are directly linked to the co-financed operation and are necessary for its preparation or implementation;
 - (e) the cost of guarantees provided by a bank or other financial institutions, to the extent that the guarantees are required by national or European Union legislation;

- (f) overheads, provided they are based on real costs attributable to the implementation of the operation concerned. Flat-rates based on average costs may not exceed 25% of those direct costs of an operation that can affect the level of overheads. The calculation shall be properly documented and periodically reviewed;
 - (g) the purchase of land for an amount up to 10% of the eligible expenditure of the operation concerned.
- (4) In addition to the technical assistance for the programme referred to Article 94 of the IPA Implementing Regulation, the following expenditure paid by public authorities in the preparation or implementation of an operation shall be eligible:
- (a) the costs of professional services provided by a public authority other than the final beneficiary in the preparation or implementation of an operation;
 - (b) the costs of the provision of services relating to the preparation and implementation of an operation provided by a public authority that is itself the final beneficiary and which is executing an operation for its own account without recourse to other outside service providers if they are additional costs and relate either to expenditure actually and directly paid for the co-financed operation.

The public authority concerned shall either invoice the costs referred to in point (a) of this paragraph to the final beneficiary or certify those costs on the basis of documents of equivalent probative value which permit the identification of real costs paid by that authority for that operation.

The costs referred to in point (b) of this paragraph must be certified by means of documents which permit the identification of real costs paid by the public authority concerned for that operation.

- (5) Without prejudice to the provisions of paragraphs 1 to 4, further rules on eligibility of expenditure may be laid down in the ENPI Black Sea Basin programme

15 RETENTION OF DOCUMENTS

- (1) All documents related to a given programme shall be retained by the Beneficiary for at least three years after the closure of the programme. This period shall be interrupted either in the case of legal proceedings or at the duly motivated request of the Commission.
- (2) By way of derogation from paragraph 1, written records of the entire procurement, grant award and contracting procedure shall be retained by the operating structure for a period of at least seven years from the payment of the balance of the contract.

16 DESIGNATION AND RESPONSIBILITIES OF THE PROGRAMME AUTHORIZING OFFICER

- (1) The national authorizing officer shall, after consulting the national IPA co-ordinator, designate a programme authorizing officer to head the implementing agencies. It shall be an official within the state administration of the Beneficiary who shall be responsible for the activities mentioned in Section 6(b) of Annex A to the Framework

Agreement, in accordance with Article 8(3) of the Framework Agreement and with Article 11(3) of the IPA Implementing Regulation.

- (2) The Programme authorizing officer shall designate officials within the national administration as senior programme officers. Under the overall responsibility of the programme authorizing officer concerned, senior programme officers shall carry out the following tasks:
 - (a) be responsible for the technical aspect of the operations within the line ministries;
 - (b) assist the programme authorizing officers in the good and timely preparation and implementation of operations at technical level;
 - (c) be in charge of the co-ordination within each priority axis set down in the Beneficiary's project proposal.

17 DETAILED RULES ON THE ACCREDITATION OF THE OPERATING STRUCTURES

- (1) Where European Union funds have been managed by existing national bodies in the Beneficiary under Regulation (EEC) No 3906/89 or Regulation (EC) No 2500/2001 prior to the date of entry into force of the IPA Implementing Regulation, those bodies (hereinafter referred to as the "existing national bodies") shall manage funds under the transition assistance and institution building component and the cross-border co-operation component, until the Commission adopts a Decision on conferral of management powers.
- (2) In no case the existing national bodies can manage funds under the transition assistance and institution building component or under the cross-border co-operation component without a conferral of management powers by the Commission in accordance with the IPA implementing rule for more than one year from the entry into force of the IPA Implementing Regulation.
- (3) The Commission shall decide whether to confer management powers on the existing national bodies in particular having regard to the list of deviations submitted in accordance with paragraph 4 and the decision taken by the national authorizing officer in accordance with paragraph 5.
- (4) The national authorizing officer shall carry out an assessment of the operating structure, which include the existing national bodies, with regard to the requirements referred to in Article 11 of the IPA Implementing Regulation. In particular, he/she shall establish a list of any requirements under the IPA Implementing Regulation, as set out in Article 11 therein, which the operating structure does not comply with, based on an opinion of an external auditor functionally independent from all actors in the management and control system. The list of deviations shall be sent to the Commission at the latest four months after the entry into force of the IPA Implementing Regulation.

- (5) Where the non-compliance referred to in paragraph 4 is deemed to be compatible with the efficient and effective functioning of the operating structures, the national authorizing officer may decide to accredit the bodies concerned.

At the latest five months after the entry into force of the IPA Implementing Regulation, he/she shall send to the Commission a decision relating to the accreditation of the bodies concerned. This decision shall include a roadmap, with time bound objectives, laying down the steps to be taken to remedy the non-compliance as set out in the list referred to in paragraph 4. The roadmap shall be agreed by the Commission.

- (6) Where the non-compliance referred to in paragraph 6 is not deemed to be compatible with the efficient and effective functioning of an operating structure, the national authorizing officer shall proceed to establish an accreditation for the operating structure concerned, in accordance with the provisions of Article 13 of the IPA Implementing Regulation.

18 DETAILED RULES ON THE CONFERRAL OF MANAGEMENT POWERS BY THE COMMISSION

- (1) In the event that the Commission decides to confer management powers on the "existing national bodies" mentioned in Section 17(1) above, the Commission may lay down further conditions on the national authorities. In the event of further conditions, the Commission shall set a time limit for compliance by the national authorities for the conferral of management powers to remain effective. The Commission Decision shall also lay down the list of *ex-ante* controls mentioned in Article 12(4) of Annex B.
- (2) Irrespective of the national authorizing officer's decision, the Commission may decide to maintain, suspend or withdraw the conferral of management powers on any of the bodies concerned at any time.
- (3) At all stages, the national authorizing officer shall ensure that all the information required by the Commission is provided by the Beneficiary.

19 FURTHER PROVISIONS APPLICABLE TO THE IMPLEMENTATION OF PROGRAMMES FOR THE PARTICIPATION IN THE ENPI BLACK SEA BASIN PROGRAMME UNDER THE CROSS-BORDER COOPERATION COMPONENT

- (1) The operating structure shall cooperate with the Managing Authority of the ENPI Black Sea Basin programme. The operating structure is represented in the Joint Monitoring Committee of the ENPI Black Sea Basin programme as a full member.
- (2) The operating structure shall include one implementing agency which shall be established within the national administration or under its direct control.
- (3) The national authorising officer shall, after consulting the national IPA co-ordinator, designate a programme authorising officer to head the implementing agency.
- (4) The programme authorising officer shall be an official of the State administration of the beneficiary country. He/she shall be responsible for the activities carried out by the implementing agency.

- (5) The implementing agency shall be responsible for the tendering and contracting, payments accounting and financial reporting aspects of the procurement of services, supplies, works and grants.