

COMMISSION DECISION
C/2005/4397 of 16/11/2005

**Establishing a national pre-accession financial assistance programme for the Republic of
Turkey in 2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2500/2001 of 17 December 2001 concerning pre-accession financial assistance for Turkey¹ and in particular Article 8(1) thereof,

Whereas:

- (1) Regulation No 2500/2001 lays down the rules and conditions for the granting of pre-accession financial assistance to Turkey.
- (2) This assistance is provided to support the priorities defined in the Accession Partnership for Turkey².
- (3) The measures provided for by this Decision are in accordance with the opinion of the Committee as mentioned in Article 10 of Regulation No 2500/2001,

HAS ADOPTED THIS DECISION:

Article 1

The national pre-accession financial assistance programme for the Republic of Turkey in 2005, described in the Annex to this decision is hereby adopted. It shall be implemented by means of a Financing Agreement to be concluded between the Commission and the Government of the Partner Country in conformity with the Framework Agreement concluded between the same parties.

¹ OJ L342, 27.12.2001, p.1. Regulation as last amended by Regulation (EC) No 850/2005 (OJ L141, 4.6.2005, p.1)

² Decision 2003/398/EC (OJ L 145, 12.6.2003, p.40)

Article 2

The maximum amount of Community assistance shall be **EUR 277.7 million** to be financed through item 22 02 04 01 of the 2005 General Budget of the European Communities (Pre-accession assistance for Turkey).

Done at Brussels,

For the Commission

ANNEX

Pre-accession Financial Assistance National Programme for Turkey in 2005

1. IDENTIFICATION

| | |
|------------------------------------|--|
| Beneficiary | Republic of Turkey |
| Programme | Pre-accession financial assistance national programme |
| CRIS-Number | 2005/017-562 |
| Year | 2005 |
| Cost | €277.7 million |
| Implementing Authority | Contracting authority: Central Finance and Contracts Unit (Objectives 1-4); European Commission (TR0501.02; TR0502.10; TR0504.03) NAC: Secretariat General for EU Affairs |
| Expiry Date: BL 22.02.04.01 | Contracting: Contracting: November 30, 2007 ¹ Execution of contracts: November 30, 2008 ² TR0502.08: November 30, 2012 TR 0503.11 and TR 0503.12: November 30, 2009 |
| Sector code | AA |
| Budget Lines | 22 02 04 01 (€277.7 million) |
| Programming Task Manager | Mr. John O'Rourke (European Commission, Brussels) |
| Implementation Task Manager | Mr. Holger Schroeder, (EC Delegation, Ankara) |

¹ In no case can the contracting period for projects implemented under this programme exceed three years after the date of the global commitment (Art. 166 (2) FR).

² Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be decommitted (Art. 77 (3) FR)

2. SUMMARY

This Financing Proposal covers the 2005 pre-accession financial assistance national programme for Turkey. The approach to programming was outlined in the Planning Document presented to the Phare Management Committee on February 18, 2005.

3. STRATEGY

Background

The European Council, on December 17, 2004, accepted the recommendation of the Commission and decided to invite Turkey to begin accession negotiations on October 3, 2005, providing the Protocol adapting the Ankara Agreement to the current membership of the EU is signed before that date. EU-Turkish relations, including financial cooperation, are thus entering a new phase.

The 2005 National Programme aims to assist Turkey's preparations for EU membership, on the basis of the priorities identified in the Accession Partnership for Turkey, approved by the Council (April 2003). Pre-accession financial assistance programming has also taken account of the priorities identified in the Government of Turkey's National Programme for the Adoption of the Acquis (August 2003) and the issues arising in Association Committee sub-committee discussions under the aegis of the EC-Turkey Association Agreement. Finally, the programme takes account of the findings of the Commission's 2004 Regular Report on Turkey's progress towards accession; it is structured in line with the three-pillar pre-accession strategy outlined in the Commission's Recommendation on Turkey's progress towards accession (October 2004) and the conclusions of the European Council (December 2004).

Project selection and design

The Turkish National Aid Co-ordinator played a lead role in identifying programme priorities and potential projects. Counterparts throughout the Turkish administration were invited by the National Aid Co-ordinator to prepare projects consistent with the programming priorities. The Commission maintained regular contacts with the World Bank, EIB and bilateral aid agencies to ensure adequate co-ordination of external assistance. Thematic Evaluations of Phare assistance in various sectors as well as of Turkish programmes have proved useful guides for programming. Short missions to Turkey, undertaken by Member State experts, have helped the design of projects for the Turkish national programme, particularly in the justice and home affairs field.

The main criteria used for the final selection of projects for support under the 2005 National Programme were the extent to which proposed projects reflected the programming priorities, the need for a sectorally balanced programme and the maturity of projects at the time that the programme was finalised in April 2005. Pre-accession financial assistance is programmed with a multi-annual perspective, so account was taken of past and ongoing support in each sector. In several areas of the acquis projects programmed under the 2002-2004 programmes need to be further advanced before further activities can be programmed, and these areas are consequently not represented in the 2005 programme. In conformity with the pre-accession financial assistance guidelines, a proper balance has been struck between institution building, investment in the acquis and investment in economic and social cohesion. The 2005 programme is the first to include major infrastructure investments and in this way prepares ground for future investments of this kind to be co-financed under the IPA instrument. Nevertheless, partly as a result of the high cost, relative to the programme size, of Turkey's participation in the Community education programmes, and partly

due to the large technical assistance effort needed to prepare investment strategies and a project pipeline for future years, institution building continues to account for significantly more than 30% of the overall programme. Account has been taken of absorption capacity and the strength of implementation arrangements, especially in the area of investment in the *acquis*, and projects involving grant schemes.

Main Components

The main elements of the 2005 programme, reflecting the Commission's pre-accession strategy for Turkey are:

- **Addressing the Copenhagen political criteria**, including some closely-related subjects in the sector of Justice, Liberty and Security. As set out in the 2004 Regular Report, the Turkish government has pursued with determination legislative reforms in the areas covered by the Copenhagen political criteria, and it has taken important steps to ensure their effective implementation. These efforts have permitted the Commission to conclude that Turkey sufficiently fulfils the political criteria to recommend the opening of accession negotiations. Nevertheless, a clear framework for guaranteeing political, civil, economic, social and cultural rights is not fully established, and more efforts are needed to enhance the coherence of legal provisions and practice. The 2005 programme will support Turkish efforts to improve its citizen's access to justice; to continue training of the legal profession on human rights; to develop better procedures for the identification of evidence of torture; and to strengthen the oversight of the police and gendarmerie. Support will be provided to fight the phenomenon of violence against women.
- **Economic and Social Cohesion.** Turkey needs to address a number of economic and social challenges. It has the widest regional disparities of any candidate country. Turkey has significantly improved the functioning of its market economy, although macroeconomic imbalances remain. Foreign Direct Investment, while it has increased sharply in 2004 remains low for an economy the size of Turkey's. Inflation has been significantly reduced. The Economic and Social Cohesion component of the programme: (a) targets the poorest regions in Turkey, focussing on support for the establishment of Regional Development Agencies in the priority NUTS II regions, strategic planning, and project preparation in order to ensure improved absorption capacity in future years; (b) supports the development of INTERREG approaches in the regions adjacent to Greece and Bulgaria; and (c) addresses difficulties encountered by the private sector (SMEs), particularly in obtaining access to finance and working within economic clusters.
- **Approximation to the *acquis communautaire*.** Turkey's alignment has progressed in most areas but remains at an early stage for many chapters. It is most advanced in chapters related to the EC-Turkey Customs Union but in this respect Turkey is not fully meeting its obligations. Alignment is also more advanced in areas where other international obligations exist which are similar to the *acquis*. Projects will be supported in a number of areas (Internal Market; Energy, Transport, Telecommunications, Social policy), with an emphasis on two sectors that will require sustained efforts over many years to meet EU norms, namely agriculture (in particular veterinary and phytosanitary controls) and environment (where extensive infrastructure investments are needed). The improvement of Turkey's statistical system, which will be needed to achieve progress in nearly all negotiating chapters, is another issue for which large-scale support is proposed. In some cases, alignment with the *acquis* entails the establishment of new structures, for example in the field of regional development.

- **Promotion of the EU-Turkey Civil Society Dialogue and Support for the European Integration Process.** In line with the “3rd pillar” of its pre-accession strategy, the Commission proposes to foster a broad political, social and cultural dialogue between Turkey and the EU. While the full development of this strategy will only be included in the programmes for 2006 and beyond, after the Commission’s Communication on this subject has been considered by Council and Parliament, some elements that contribute to this dialogue are already presented in the 2005 programme. As in preceding years, the programme will co-finance Turkey’s participation in a number of Community Programmes. In addition, an extensive scholarship programme for Turkish students wishing to undertake post-graduate studies in fields relevant to EU integration and grant schemes for Non-Governmental Organisations promoting EU norms in various sectors will be supported. The programme also includes capacity building for the National Aid Co-ordinator secretariat, primarily in strategic planning and project preparation, to improve the capacity to design pre-accession assistance programmes and to avoid absorption difficulties in future years, when assistance budgets will have increased.

A number of cross cutting themes are addressed in the 2005 programme:

- Several projects address **the status of women in Turkish society**, whether from the perspective of human rights (combating violence against women) or by promoting their integration into economic life (support for women entrepreneurs). Gender issues will also be mainstreamed into projects that: support municipalities affected by high rates of inward migration; provide training on human rights or on the detection of torture and ill-treatment of prisoners; support the establishment of a complaint procedure to supervise the functioning of the police and the gendarmerie; promote the development of civil society; or provide scholarships for post-doctoral studies on EU-integration related subjects.
- **Strategic planning and project preparation**, in order to ensure adequate absorption in future programmes, is addressed not only through a dedicated project of Support to EU Integration, but also through Technical Assistance for Programming, Management and Implementation of Regional Development Programmes, and Support to the Solution of Economic and Social Integration Problems in Urban Areas that are Major In-Migrant Destinations.

4. OBJECTIVES, DESCRIPTION AND CONDITIONALITIES

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

TR 05 01 01 Better Access to Justice in Turkey

The overall objective of this project is to strengthen the rule of law in Turkey by improving access to the justice system. It addresses a number of short term Accession Partnership priorities including that of guaranteeing “in law and in practice the full enjoyment of human rights and fundamental freedoms” and further developing “the legal aid system to ensure that all citizens enjoy access to justice”. Two EU expert advisory missions on the functioning of the judicial system took place in September-October 2003 and in July 2004 respectively and have drawn attention to this issue. Access to justice may be conditioned by human factors (eg., security forces discouraging detainees from requesting a lawyer or reluctance on the part of detainees to request a lawyer out of fear that this could be seen as an admission of guilt), but it is also conditioned by institutional and technical

factors, some of which are addressed by the project. The activities to be undertaken include: 1. a review of the Legal Aid system in Turkey and to provide recommendations for its development; 2. increasing awareness of Turkish lawyers on Alternative Dispute Resolution procedures; 3. introduction of recording systems in courtrooms 4. Improvement of the IT infrastructure for access to justice (processing of judicial records and judicial statistics). The project will be implemented through service and supply contracts.

TR 05 01 02 Strengthening Civil Society in the Pre-Accession Process -- NGO Grant facility

The objective of this project is to contribute to the consolidation and broadening of political reforms through strengthening the civil society in Turkey in the accession process. It responds to the Accession Partnership priority of encouraging the development of Civil Society in the fields of human rights, democracy, gender, social inclusion, consumer protection and environment. One component of the project will provide support for around 100 grants in the following five areas: Promotion and Protection of Women Rights; social inclusion of people with disabilities; protection of children's rights with specific reference to the prevention of child labour; protection of consumer rights; and protection of the environment. This component will be implemented under the Decentralised Implementation System, with EUSG providing support in the implementation under the first four areas above, and the Regional Environmental Centre (REC) for the environment component.

A second component will be implemented under centralised management (direct) by the Ankara Delegation of the European Commission, and will provide support for about 80 grants for consolidating and promoting human rights and democracy; combating violence against women; and the European Horizons and Mosaic Programmes. The latter programmes will contribute to increase the knowledge of the public in Turkey about the pre-accession process and enhance general public interest in different aspects of European culture and arts as an expression of the multi-cultural identity of the EU, thereby contributing to objective 4 of this proposal (Promotion of the EU-Turkey Civil Society Dialogue).

A third component, also implemented under centralised management (direct) by the Ankara Delegation of the European Commission, will provide support for the effective promotion of the entire NGO Grant Facility and the implementation of post-grant award training programmes for NGOs.

The project also includes two grants awarded without a call for proposal. The first grant contract will be signed with the Regional Environment Centre (REC) for assistance under the environment sub-component of the first component. The second direct grant award will be signed with the Civil Society Development Centre Association for the implementation of the third component. (For the justification of both direct awards please see section 7.6)

TR 05 01 03 Training Programme on the Istanbul Protocol

The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("the Istanbul Protocol") is the first set of international guidelines for the assessment of persons who allege torture and ill treatment, for investigating cases of alleged torture, and for reporting such findings to the judiciary and any other investigative body. The purpose of this project is to improve the knowledge level of the physicians who are not experts on forensic medicine as well as prosecutors and judges dealing with torture cases within the justice system on the contents of the Istanbul Protocol. The project responds to an Accession Partnership priority to "implement measures to fight against torture and ill-treatment by law-enforcement

officials” and to “adopt further measures to ensure that prosecutors conduct timely and effective investigations of alleged cases and that courts impose adequate punishments on those convicted of abuses.” It is foreseen that the project will prepare some 250 trainers, who will in turn train some 4000 physicians who are not expert on forensic medicine and 1000 prosecutors and 500 judges. Limited equipment supplies (e.g., cameras for examination rooms) are foreseen.

There are very few institutions competent to provide training on the Istanbul Protocol. It is foreseen to conclude a direct-award contract with a consortium composed of the Turkish Physicians Association (TTB) and two EU institutions (see section 7.6). A second contract (for equipment) will be tendered.

TR 05 01 04 Cascaded Training of Turkish Lawyers on the European Convention for the Protection of Human Rights and Fundamental Freedoms

The overall objective of this project -- to promote a better functioning of the Turkish judiciary system with respect for human rights and fundamental freedoms – addresses an Accession Partnership priority to ensure “that the obligation for all judicial authorities to take into account the case-law of the European Court of Human Rights is respected”. Complementing a preceding project addressed to judges and prosecutors, this project (to be implemented by the Council of Europe in cooperation with the Association of Turkish Bars) will provide training to lawyers. The purpose is to enhance the effective application of the European Convention on Human Rights (ECHR) by lawyers throughout proceedings before the courts, by increasing their knowledge related to human rights concepts and the jurisprudence of the European Court of Human Rights (ECtHR). It is foreseen that some 100 trainers (themselves lawyers) will be prepared, and ultimately some 10,000 Turkish lawyers will be trained by them. An annotated version of the new Turkish Penal Procedure Code with the judgements of the ECtHR will be produced. A grant, without a call for proposals will be awarded to the CoE, for the implementation of the project (for the justification see section 7.6).

TR 05 01 05 An Independent Police Complaints Commission and a Complaints System for the Turkish National Police and Gendarmerie

This project aims to enhance the accountability of, and public confidence in the Turkish National Police, Gendarmerie and other law enforcement bodies. It responds to a number of Accession Partnership priorities, to ensure the accountability of law enforcement bodies, to implement measures to fight against torture and ill-treatment by law enforcement officials, and to extend the training of law enforcement officials in order to prevent human rights violations. The project will prepare a legislative framework, following a consultation of the stakeholders and the public, for the establishment of a new complaints system for the Turkish National Police and Gendarmerie. The project will be implemented through a twinning. A 2nd phase (to be funded from the 2007 programme) is foreseen. This will focus specifically on the implementation and enforcement of the legislation, and will be conditional to the adoption of the legislation by the Turkish National Parliament.

TR 05 01 06 Promoting Gender Equality

The objective of the project is to promote gender equality and protection of women’s human rights in Turkey. It addresses a medium term priority of the Accession Partnership related to the transposition and implementation of EU legislation on equal treatment for women and men, and the strengthening of the related administrative and enforcement structures. The project has two components: *Institutional Capacity Building* (strengthen the ability of the General Directorate for

the Status of Women to mainstream gender issues into all public policies with the participation of central and local authorities and NGOs and to contribute to the establishment of a Gender Equality Body) and *Combating Domestic Violence Against Women* (strengthen the capacity of all stakeholders to protect women from domestic violence through: research on this issue; development of better and more holistic governmental policies on the basis of this research; establishment of a database for following the changes in patterns of domestic violence; and development of service models and various awareness and in-service training programme modules by taking into account the best practices in selected EU countries). The first component of the project (Institutional Capacity Building) will be implemented through twinning and the second component (Combating Domestic Violence against Women) through a direct grant contract with UNFPA (UN Population Fund). For the justification of the direct award please refer to section 7.6. Furthermore, it is planned to tender a service contract for carrying out the research part of the second component.

TR 05 01 07 Support to the establishment of Courts of Appeal in Turkey

This project will co-finance the construction of Court Houses for the Intermediate Courts of Appeal, in Ankara, Diyarbakir and Erzurum. It responds to an Accession Partnership priority to prepare the Intermediate Courts of Appeal. EU co-financing for this project is provided on the understanding that the design and operation of the court houses will incorporate the relevant recommendations of the EU Advisory Visits, including the position of the prosecutors' offices in the court houses (recommendation 18); the provision of facilities to allow lawyers to receive instructions from their clients in confidence (recommendation 29); and the position of the prosecutor in the courtroom (recommendation 33). A recovery of funds will be executed should these recommendations not be implemented when the Court Houses begin functioning.

Objective 2: Economic and Social Cohesion

The projects presented in this section address a short term priority to develop a national policy for economic and social cohesion aimed at reducing regional disparities through a National Development Plan and the establishment of regional development plans at NUTS II level. The activities undertaken are in line with the preliminary National Development Plan (pNDP), and their outcome will inform the further development of the NDP.

TR 05 02 01 Technical Assistance for Programming, Management and Implementation of Regional Development Programmes and Support to RDAs

This project aims to support institutional development and operational capacity in the 12 priority NUTS II regions identified in the pNDP to increase their absorption capacity in anticipation of larger-scale Economic and Social Cohesion activities foreseen from 2007 in the frame of the IPA regulation. It responds to a short term priority of the Accession Partnership to strengthen the administrative structures for managing regional development. It also reflects recommendations arising from the interim evaluation of on-going Economic and Social Cohesion programmes, namely that the participatory and decentralised nature these programmes should be promoted. The establishment of Regional Development Agencies (RDAs) in the target regions will be supported to allow for the efficient preparation, implementation and management of future programmes. The project will consist of three main components: 1) Technical assistance for the development of participatory regional development strategies and operational plans; 2) Technical assistance to support central (particularly the State Planning Organisation General Directorate of Regional Development and Structural Adjustment that has a coordinating role for Turkish regional policy) and regional institutions with the implementation and monitoring of ongoing programmes and the 2005 Trabzon regional development programme (see project *TR 05 02 02* below); 3) support for the

start up of RDAs through technical assistance for capacity building and the supply of office and other equipment.

The project will be implemented through service contracts corresponding to each of the components and supply contracts for component 3. A pre-condition for the launch of the third component of this project is the adoption of legislation relating to the establishment of RDAs, and the provision of premises and staff for their operation.

TR 05 02 02 Regional Development in TR90 NUTS II Region

The overall objective of this project is to reduce interregional disparities in Turkey and build institutional capacity at regional level. This project, targeting the Dokap region of north-east Turkey, project completes the first cycle of and social cohesion measures directed to the 12 priority NUTS II regions targeted by the pNDP, the eleven other regions having been covered by previous annual programmes. The project will support grant schemes for SMEs, local development initiatives (Applicants to this scheme will, as a general rule, be non-profit institutions), and small-scale environmental and tourism projects promoted by local authorities.

It is not expected that the project will have a significant macroeconomic impact, however implementation of the project will have a substantial capacity building effect. It will allow for administrative, management and monitoring structures to be set in place, tested and improved through practical experience, and will thus represent a learning-by-doing complement to TR0502.01 The State Planning Organization (SPO) will act as the beneficiary institution. A pre-condition for the launch of this project is that implementation and monitoring structures (RDA or a service union as the core of a future RDA) are established with adequate premises and full staffing. After the RDA will have been established in the region, any equipment that is purchased for the benefit of the Service Union will be transferred to the RDA. The project will be implemented through three grant schemes, leading to some 150 – 200 grants.

TR 05 02 03 Support to the Solution of Economic and Social Integration Problems in Urban Areas as Major In-Migrant Destinations in Priority Nuts II Regions

The objective of this project is to address economic and social integration problems arising in four pilot urban areas that have seen large inward migration in recent years, and whose infrastructure is under stress as a result. It responds to one of the Accession Partnership political criteria priorities to “improve the situation in the south-east, with a view to enhancing economic, social and cultural opportunities for all citizens”. One component of the project will assist municipalities to improve their planning and project development capacity. This will concentrate on larger-scale problems such as infrastructure and housing. Contacts with IFIs to examine funding possibilities will be facilitated. A second component will finance small-scale local initiatives in areas such as vocational training; community health, and social exclusion, focusing on vulnerable social groups (street children, youths, the unemployed, women). The involvement of a variety of local stakeholders such as NGOs, neighbourhood associations, social health and educational services, will be sought. The project will be implemented through service, works and supply contracts.

TR 05 02 04 CBC with Bulgaria: Joint Small Project Fund

The Joint Small Projects Fund (JSPF) supports the key objectives of the Turkish-Bulgarian CBC Programme, namely to help the border regions to overcome specific development problems resulting from their relative isolation in the framework of national economies; the JSPF also supports the establishment and development of co-operative networks on both sides of the border

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

TR 05 02 05 Interreg III/A Greece-Turkey Programme

The overall objective is to improve cooperation at local level between the two countries and to support the further development of the economic potential of the border regions. It is foreseen that the project will be implemented in line with the Implementing Guidelines for Neighbourhood Programmes (adapted for the Turkey pre-accession instrument) and using joint management structures foreseen therein. Two main priority areas are covered: i) Economic Development and Employment (the tourism industry is expected to be a particular focus), and ii) Quality of life / Environment / Culture (environmental problems of the region are expected to be addressed and cultural resources of the region protected and better promoted). Technical assistance will increase the technical and institutional capacity to manage cooperation programmes and related EU procedures. The project will be implemented through two grant schemes (for non-commercial projects) and a service contract.

TR 05 02 06 Fashion and Textile Cluster (FTC) - Phase II

The overall objective is to increase the international competitiveness of SMEs active in textile and clothing sector, through increase of their productivity and their share in total added value, in line with the SME policy of the EC. This second part of the project (Phase I was financed under the 2003 programme) aims at strengthening the Fashion and Textile Cluster support structures created under Phase I of the project, by providing them with equipment to ensure on allow them to provide relevant services for SMEs (enhancement of technological level, access to consultancy services, improvement of product quality, improvement of cooperation among enterprises, etc). The project will be implemented through a supply contract.

TR 05 02 07 Development of a clustering policy in Turkey

The objectives of the project are on one hand to improve competitiveness of Turkey in international markets and on the other hand to exploit the synergies between Turkish and European clusters and thereby contribute to the EU's Lisbon strategy. The project aims to develop a comprehensive clustering policy that contributes to the sustainable social, environmental and economic development in Turkey. Increasing networking among SMEs, as well as with business support organisations and structures, should permit to combine the flexibility available to individual firms with economies of scale and scope achievable in wider-collaborating groupings of firms. Two main results are expected: 1) an improvement of the institutional capacity of the Undersecretariat of Foreign Trade (UFT) and other relevant organisations to develop and execute an integrated clustering policy, and 2) the mapping of 10 clusters, including needs analyses and cluster development roadmaps. The project will be implemented through a service contract.

TR 05 02 08 Small Enterprise Loan Programme, 2nd phase (SELP II)

This project seeks to make a contribution to the economic development and employment creation by strengthening the financial sector and to the reduction of the regional disparities in Turkey. It has been developed in analogy with other EU SME support instruments such as the SME Facility and the European Fund of Southeast Europe. The predecessor project, *SELP* has been rated highly relevant in the 2004 interim evaluation. The project will make available to the target group (Turkish SMEs with fewer than 50 employees and assets of less than EUR 1 million each) permanent access to loans (particularly long-term loans) to be provided by private commercial banks at close to market conditions in the project locations. Activities within the project will cover three major components: 1) establishment of revolving loan fund from which banks can draw down funds at close-to-market conditions for their on-lending to SMEs (European Fund for Turkey); 2) establishment of an exchange risk cover fund to cushion the commercial banks' foreign exchange risk for Turkish Lira loans; and 3) technical assistance to train the banks' SME-staff in assisting the new target group. The fund will be co-financed by the Council of Europe Bank and KfW, and will be open to other financial intermediaries.

The project will be implemented through a grant awarded without a call for proposals, to the Council of Europe Bank, establishing the mechanism for the EU contribution to the Fund (including both the Fund itself as well as an Exchange Risk Cover Fund), and a service contract for the provision of technical assistance to on-lending banks. Since *SELP II* is a revolving fund, it is envisaged that at the end of the project the EU grant will be transferred to the Turkish Treasury, which will on-lend the funds as special assets to the Development Bank of Turkey (TKB).

TR 05 02 09 Supporting Women's Entrepreneurship

This project addresses the low participation of women in Turkey's economic life. Its objective is to promote women's entrepreneurship through two components: 1) the provision of management training and consultancy services to women who wish to start up their own businesses, and 2) support for the establishment of business incubators. A preceding project, *Supporting Women Entrepreneurs* has been rated highly effective in the 2004 interim evaluation.

Concerning the first component, it is foreseen to create a two-tiered network of Training Centres (25 in all), and to provide training and consultancy services through these centres to several thousand women. Turkish Confederation of Craftsmen and Tradesmen personnel will be trained to support the operation and to ensure sustainability and replicability. This component will be implemented through a service contract and a supply contract for training equipment. Under the second component three business incubators, accommodating a minimum of 60 businesses will be established under the aegis of KOSGEB (Small and Medium Sized Industry Development Organization). Priority access to these incubators will be given to businesses started up by women. EU financing for component 2 will be considered under the 2006 programme. However, providing the identification of the sites for the 3 incubators, the establishment of an appropriate legal status, and the specification of assistance needs (renovation works, equipment supplies, technical assistance) proceeds sufficiently quickly, and if savings arise within the 2005 programme, a reallocation of funds not exceeding 3.5m euro may be considered to accelerate the implementation of the project. Component 1 will be implemented through a service contract and a supply contract for training equipment. Component 2 will be implemented through service, works and supply contracts.

TR 05 02 10 Contribution to the FEMIP Support Fund

In the frame of the Euro-Mediterranean Investment and Partnership Facility (FEMIP) the European Investment Bank (EIB) finances operations in Turkey, supporting the private sector and the development of infrastructure, notably in the water management sector. This project will finance

technical assistance, for project identification, preparation and implementation, in support of EIB loan and equity participation operations, through a contribution to the FEMIP Support Fund. The objective is to increase the effectiveness of EIB operations in Turkey, by increasing the quality and the development impact of the Bank's portfolio.

In past years, the contribution in support of operations in Turkey was financed from the MEDA programme. However, because Turkey is now the beneficiary of a dedicated pre-accession assistance instrument, the 2005 contribution will be financed from this programme.

The project will be implemented under centralised indirect management. The European Commission and the European Investment Bank have signed a Framework Agreement on the general operating provisions for the constitution and operation of the FEMIP Support Fund on 30 July, 2003. Pursuant to the present financing decision, an Implementation Agreement on the FEMIP Support Fund for 2005 will be signed. The Commission's contribution to the FEMIP Support Fund, financed from the Turkey 2005 National Programme, will be paid through advances on a dedicated FEMIP account. The procurement procedures used by EIB for the recruitment of technical assistance are those of the European Commission.

Objective 3: Approximation to the *acquis communautaire*

TR 05 03 01 Reinforcement of Institutional Capacity for Establishing a Product Safety System in Turkey

This project answers to a short-term priority of the Accession Partnership with the objective of ensuring effective in-market control of product safety in line with internal market legislation, thus facilitating the free movement of goods. The project aims to establish a system similar to RAPEX (rapid exchange of information on risky products) in Turkey by strengthening the existing market surveillance structures, determining appropriate administrative management structures, and introducing a standardized information system. The project will be implemented through a Twinning and will include the revision of Turkish legislation on rapid exchange of information on risky products.

TR 05 03 02 Support to the Market Surveillance Laboratories for the Implementation of EC Directives in the areas of New Hot Boilers, Gas Appliances, Cosmetics, IVD, Veterinary Pharmacy, ATEX

This project addresses a short-term priority under the free movement of goods heading of the Accession Partnership by removing technical barriers to trade and accelerating alignment and application of European standards. It aims to strengthen the national system of market surveillance support laboratories in the selected priority areas: New Hot Boilers, Gas Appliances, Cosmetics, IVD, Veterinary Pharmacy, ATEX, ensuring that they are equipped and capable autonomously to carry out the relevant testing services related to market surveillance. Activities are limited to equipment supplies, as the complementary institution building support to the laboratories in question is provided under the 2004 project "*Strengthening the capacity of Turkish Ministries for market surveillance in selected areas*". Beneficiaries of this project cannot be involved in conformity assessment activities in order to avoid market distortion. The project will be implemented through supply contracts.

TR 05 03 03 Reinforcement of Institutional Capacity of the Directorate General for State Aids in the Undersecretariat of State Planning Organisation

After considerable delays, the State Aid Monitoring and Supervision Authority (SAMSA) is planned to be established as a new independent body in the framework of a new law on 'Monitoring and Supervising of State Aids', now expected to be adopted by the Turkish Parliament by the end of 2005. This project, initially included in the 2002 programme, could not be launched because the conditionality regarding the adoption of necessary legal base was not met. It aims to support the establishment of the State Aid Monitoring Authority in order to enable it to perform its functions, in line with an important short-term priority of the Accession Partnership.

The project will focus on three main objectives, namely a) legal support to SAMSA for drafting secondary legislation in conformity with the *acquis*, preparing recommendations for the amendment of existing state aid schemes, and liaising with other institutions involved in state aid, b) setting up a registering and reporting system for state aids in Turkey and, c) upgrading the skills of the staff assigned to SAMSA and raising awareness in the Turkish public and private sectors of new state aid policies and approaches.

The conditionality for the project is the adoption of the new law on state aid monitoring and supervision, and the subsequent creation of the State Aid Monitoring and Supervisory Authority (including the provision of staff and adequate premises). The project will be implemented through a twinning. Selection of twinning partners will not begin until the legal base for the establishment of the State Aid Monitoring and Supervision Authority has been adopted.

TR 05 03 04 Establishment of National Food Reference Laboratory

The main objective of this project is to meet the EU requirements for food safety and control. The project will support the establishment of a National Food Reference Laboratory (NFRL) and the development of the necessary institutional capacity for the effective implementation and enforcement of food safety and control, thus addressing a recommendation of the interim evaluation of programmes in the agriculture sector. As a result of this an established NFRL - fully equipped and ready for functioning - will assume responsibility for the analytical quality of all measurements made within the Provincial Food Control Laboratories (PFCL), through organising Proficiency Testing for all PFCLs. A Laboratory Information Management System (LIMS) will be installed in the NFRL as well as in all the regional laboratories by the end of 2007. Thank to this project, analytical methods will be harmonized and detection limits brought into line with EU requirements, enabling the newly formed NFRL to get ready to apply for accreditation (ISO 17025) by the end of 2006. The project will be implemented through 4 service, supply and works contracts.

TR 05 03 05 Establishment of Rural Development Paying Agency

The objective is to prepare the Turkish authorities to implement the national rural development plan developed under a preceding project, TR04.02.08 *Preparation for the Implementation of EU Common Agricultural Policy*, and to manage Rural Development funds (foreseen in the frame of the IPA regulation) and National funds. It addresses a medium term Accession Partnership priority to set up the administrative structures required for the implementation of EC rural development policy. The project will support the establishment of a Paying Agency for Rural Development and strengthen its institutional capacity to enable to receive accreditation under the Rural Development component of IPA. An information campaign for stakeholders will be organized. The project will be implemented through a twinning as well as supply contracts (IT and office equipment) to be specified under project TR04.02.08.

TR 05 03 06 Control of rabies disease in Turkey

The project addresses a short-term AP priority to step up animal disease eradication efforts, contingency planning and monitoring capacity. Its overall objective is to decrease the incidence of rabies, with a view for eradication of the disease in Turkey, and to ensure a human and animal health status, similar to that in the EU. The project aims to control rabies among both wild and domestic animals and to reduce risk factors for humans to become infected with rabies and other zoonoses caused by domestic animals.

The project will: introduce a control and monitoring system for rabies including laboratory diagnosis capacity; substantially increase the immunity level against rabies of livestock and wild animals in defined areas, with a concomitant decrease in the number of diagnosed rabies infections; and will provide for the control of stray dogs in a sensible and sustainable manner (i.e. vaccination, identification marking, housing). Three pilot care units will be constructed for this purpose. While the project will co-finance training and supplies (including rabies vaccine, animal markers etc) the operational costs (including staff for the identification of animals and the administration of the vaccine) will be entirely borne by the beneficiary. The existence of adequate infrastructure and staffing will be a pre-condition for the launch of the project. The project will be implemented through 4 works, supply and service contracts.

TR 05 03 07 Establishing New Border Inspection Posts (BIPs) in the Republic of Turkey

The overall objective of the project is to set up a new regime of control at the external borders of Turkey, in compliance with EU directives, so as to improve animal and human health. The project addresses a medium term priority of the Accession Partnership to strengthen the food safety and control system. It will provide institution building support (including training) for control activities at the external borders, and it will co finance the building and equipping (in line with the EC Regulation no. 1774/2002 and Commission Decision 2001/812/EC) of 6 Veterinary Border Inspection Posts at the external borders of Turkey: Izmir and Mersin (seaports) and Hatay (Cilvegözü), Habur, Gürbulak, and Sarp (land borders with Syria, Iraq, Iran and Georgia respectively). The project will be implemented through a twinning (light) and 3 works, supply and service contracts. Phytosanitary Border inspection posts have to be established in line with the provisions of Directives 2000/29/Ec (basic directive on the protection against the introduction and spread of harmful organisms in the field of plant health) and 98/22/EC (minimum conditions for phytosanitary BIPs). PHARE Project number TR 0203.06 "Support to Turkey's alignment to the EU acquis in the Phytosanitary Sector" contains support for the upgrading of the laboratory facilities at the BIPS of Istanbul, Izmir, Antalya and İçel (= Mersin). It is advisable to also establish phytosanitary BIPs along the land borders, possibly associated with the veterinary BIPs.

TR 05 03 08 Increasing Public Awareness on Energy Efficiency in Buildings

Turkey energy intensity remains considerably higher than that of the EU. This project will provide assistance for the development and implementation of education programs for specified target groups in order to increase energy efficiency consciousness in the building sector, thereby addressing a short-term priority of the Accession Partnership (enhance the implementation of energy conservation practices).

The activities which shall be carried out under this project are expected to: increase the competences of National Energy Conservation Centre personnel; introduce appropriate techniques for the effective dissemination of this subject to all target groups; increase public awareness through publications and documentation; introduce energy efficiency into the educational curricula of relevant professions (eg. Architects). The project will be implemented through one service and one supply contract.

TR 05 03 09 Enhancement of Traffic Management and Environmental Safety in Turkish Ports and Coastal Areas

The objective of this project is to improve safety in ports and coastal areas in Turkey, by improving the administrative capacity to monitor and control port traffic, as well as to respond to contingencies arising from dangerous cargo. It addresses a short term priority of the Accession Partnership to improve implementation and enforcement of maritime safety. The project will support: the establishment of Regional Harbour Coordination Centers; development of the institutional capacity to monitor pilotage and tugboat services and loading/unloading operations (the legal base for this needs to be developed); a review of the efficiency of navigational aids; and improvements of the institutional capacity to respond to contingency situations. The project will be implemented through a twinning, a supply and a service tender (for software development).

TR 05 03 10 Technical Assistance for the improvement of access regime in the Turkish telecommunications market

The objective of the project is to contribute to the liberalization of the Turkish telecommunications market and the encouragement of new entries to the market by improving the administrative capacity of the Telecommunications Authority, in line with a short term priority of the Accession Partnership. The project aims to support the Telecommunications Authority in the establishment of a non-discriminatory and transparent access pricing regime for the new entrants in line with the EU acquis, and to strengthen the implementation capacity of the Telecommunications Authority for local loop unbundling, which is a prominent element in a sound access regime promoting competition in the sector. Technical assistance on issues of pricing and account separation will be provided. The project will be implemented through a service contract.

TR 05 03 11 Çanakkale Regional Solid Waste Management Project

The objective of this project is to enable Turkey to achieve a high level of environmental protection and compliance with the EU directives in the waste sector. The project will finance the construction of a functional and environmentally sound solid waste management system for Çanakkale, Lapseki, Kepez, Çardak, Intepe, Kumkale, Umurbey in accordance with the Turkish Legislation and the environmental acquis, and thereby permit the closure of existing dumps that do not meet environmental norms. It will lead to reduced pollution of groundwater in Çanakkale and nearby municipalities and increase reuse and recycling. The project will be implemented through 5 services, supply and works contracts.

TR 05 03 12 Kusadasi Regional Solid Waste Management Project

The objective of this project is to enable Turkey to achieve a high level of environmental protection and compliance with the EU directives in the waste sector. The project finance the construction of a functional and environmentally sound solid waste management system for Kusadasi, Söke, Davutlar and Güzelçamlı municipalities in accordance with the Turkish Legislation and the environmental acquis, thereby reducing pollution of groundwater in Kusadasi and nearby municipalities and increase reuse and recycling. As the result of these investments the closure of existing dumps that do not meet environmental norms will be possible. It is expected that the volume of bio-degradable waste landfilled will be reduced from the current high level to the levels required by relevant EU directives and that recycling requirements of the packaging waste directive will be met as a consequence of an improved system of recycling including bring banks and civic amenity centres. The project will be implemented through 5 service, supply and works contracts.

TR 05 03 13 Strengthening of the Epidemiological Surveillance and Control of Communicable Diseases System (ESCCDS) in Turkey - II.

This project is the second phase of a multi-annual initiative supporting the Turkish government in its efforts to monitor and control the communicable diseases in Turkey in line with the EU acquis on communicable disease surveillance. The project addresses a medium term priority of the Accession Partnership concerning the strengthening of administrative and enforcement structures in this sector. It will provide the necessary equipment in support of the infrastructure established under the first phase of the project (“Strengthening of the ESCCDS in Turkey” TR0403.07). The network of CDSS will be strengthened through the provision of software and hardware; the technical infrastructure of laboratories for the purpose of training, microbiological diagnosis, molecular characterization and antimicrobial resistance will be improved; and equipment needed for the establishment and operation of an “Outbreak investigation and response system” and “Epidemic Preparedness” will be supplied. The project will be implemented through one service contract and several supply contracts.

TR 05 03 14 Upgrading Occupational Health and Safety (OHS) in Turkey- Phase 2

The improvement of occupational health and safety in Turkey by means of ensuring effective and efficient implementation of harmonized OHS legislation is the main objective of this project. The project addresses a medium term priority of the Accession Partnership concerning the strengthening of administrative and enforcement structures in this sector. The project will extend measurement, analysis and training services in OHS in Turkey through the provision of mobile OHS Labs, performing health and safety measurements relating to workers and environment in workplaces, especially SME’s. The project is a continuation of a project under the 2002 programme. It aims to complete the procurement of equipment infrastructure for the delivery of training programmes for OHS professionals and for social partners at enterprises. The project will be implemented through a supply tender.

TR 05 03 15 Capacity building for the compilation of accounting data in all institutions and agencies within general government sector in the context of e-government

The objective of this project is to enhance the quality of public sector financial management, and its transparency and accountability. It addresses an Accession Partnership priority to “fully harmonize government finance statistics with ESA 95 requirements” by providing assistance to the Ministry of Finance to improve its secondary legislation on Government Accounting and Reporting in order that the General Government Agencies can issue timely, accurate, reliable, consistent and analytically classified financial reports and statements on the basis of accrual accounting and in line with internationally recognised principles, standards, and practices. Within the activities of the project, government accounting and reporting standards will be prepared; data collection software developed; and training delivered. The project will be implemented through a twinning.

TR 05 03 16 Upgrading the Statistical System of Turkey – Phase II

The project will continue efforts to improve the Statistical System of Turkey in order to provide reliable data and analysis needed to inform policy decisions for the implementation of Turkey’s pre-accession strategy and the adoption of the *acquis*. In this respect, it addresses a number of short term Accession Partnership priorities. The project will mainly focus on capacity building of institutions responsible for sectoral statistical systems, the harmonisation of data collection and processing, and its efficient coordination by the State Institute of Statistics (SIS). It will support the improvement of the Business Register System and business, social, demographic, tourism agricultural, environmental and health statistics. Assistance will also be provided for a revision of

the classification system of the SIS, the development of statistical analysis, the improvement of national accounts, and of IT technology and administrative structures. The project will be implemented through 3 service and supply contracts; a direct award grant to the SIS for the participation of staff from SIS and other Ministries and institutions in training activities organised by Eurostat and other EU statistical offices; and a direct award service contract to allow Turkey's participation in Multi-Beneficiary Programme for Statistics for Member States. (For the justification for these direct awards please refer to section 7.6.)

Objective 4: Promotion of the EU-Turkey Civil Society Dialogue and Support for the European Integration Process

TR 05 04 01 Continuation of the “JEAN MONNET” Scholarship Programme

The objective of the project is to support Turkey in its efforts towards accession by raising awareness and understanding of European integration and by developing trained human resources in disciplines relevant to the EU integration process. It aims 1) to broaden young people's perspectives and perceptions of European integration through post-graduate studies and 2) to strengthen the bonds between young Turkish citizens (civil servants, graduates and those working in the private sector or in NGOs) and EU citizens by providing them with the experience of living and studying in one of the member states of the European Union. The project will be implemented through a grant scheme to finance some 100 post-graduate scholarships (including publication of the scholarship competition, selection of candidates, identification of EU universities and institutions meeting the needs of the scholars and the objectives of the scholarship programme, and establishment of an alumni network). In addition, the implementation of the scholarship programme will be supported by technical assistance procured through a service contract.

TR 05 04 02 Participation in Community Programmes and Agencies

The Framework Agreement between Turkey and the European Community on the General Principles for the Participation of Turkey in Community Programmes was signed on 26 February 2002, and entered into force on 5 September 2002. As in previous years, Turkey's participation in Community Programmes will be co-financed using 2005 pre-accession assistance funds. It is proposed to co finance participation in the programmes such as: Leonardo, Socrates, Youth, Community Action field in public health Combating discrimination, Combating social exclusion, Incentive measures in employment, IDABC, e-Content, MAP, Gender Equality, and the 6th Framework Programme. Participation in the European Monitoring Centre for Drugs and Drug Addiction is also foreseen. In view of the fact that the cost of participation in some of these programmes is not known at present, this list will be subject to review.

TR 05 04 03 Support Activities to Strengthen the European Integration Process

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

- i. Support to the Turkish administration for the design and appraisal of programmes and projects to be submitted for financing in the framework of the pre-accession financial assistance to Turkey,

- ii. Preparation of the feasibility studies for investment projects linked to the priorities identified in the pNDP/NDP and/or to be financed under IPA (CBC, Regional Development or Rural development components),
- iii. Small-scale technical assistance to meet specific and urgent needs identified in the course of the pre-accession and negotiation processes, including technical assistance in the assessment of acquis related legislation.
- iv. Support to the establishment of implementing agencies in Turkey in the context of EU financial assistance (IPA) to be provided between the years 2007 and 2013 and follow-up technical assistance to the existing DIS institutions.
- v. Support for the proper functioning of the Acquis Translation Coordination Unit.

The project will be implemented through service contracts. Any contracts providing follow-up technical assistance to the existing DIS institutions (EU Secretariat-General, CFCU, National Fund) in the frame of component iv will be implemented under centralised management (direct) by the Delegation of the European Commission to Turkey. A **grant maybe awarded without a call for proposals**, to the Council of Europe for the assessment of acquis-related legislation under component iii) in areas where the Council of Europe appears as the only suitable institution to provide such an assessment.

References to the number and nature of contracts expected in the implementation of a particular project are of an indicative nature. The exception is where the means of implementation is specified as twinning or twinning light or where reference is made to direct agreements.

Lessons learned

In designing the 2005 programme, account has been taken of the results of projects programmed in previous years, particularly since 2002, given that programmes prior to 2002 had socio-economic development objectives that were not directly related to the institution building focus of pre-accession financial assistance. In particular, project preparation in the environment sector, undertaken in the frame of the 2002 programme, has led to the development of several infrastructure projects that will represent an important component of the 2005 programme. Finally a number of projects provide assistance for the development of the legal framework in areas such as maritime safety, animal health or Phytosanitary standards that is a precondition for further investments in these sectors.

Nevertheless, given the rising trend in the budgets allocated for pre-accession assistance to Turkey, the need for further assistance in strategic planning and project preparation is considerable, and will represent an important component of the 2005 programme.

One of the key lessons learned from the implementation of institution building projects is that the pool of human resources dealing with EU integration issues in Turkish line ministries is often still very shallow. This means that the number of projects of which a given ministry can reasonably be a beneficiary must be made conditional on the allocation of separate teams for the implementation of each project. The 2005 programming exercise will pay close attention to coordination mechanisms in projects with multiple stakeholders.

Similarly, Thematic Evaluations of Phare assistance in various sectors as well as of Turkish programmes have proved useful guides for programming. Short missions to Turkey, undertaken by

Member State experts, have helped the design of projects for the Turkish national programme, particularly in the justice and home affairs field.

Another important lesson from the previous years is the need for maturity in project design at the moment of approval.

On the other hand, the use of conditionality (introduction of specific conditions that must be fulfilled for a project to be financed) has tended to work well, providing incentives for necessary policy developments and avoiding the launch of projects whose implementation or sustainability might be questionable. The launch of the Project TR0202.03 Reinforcement of the Institutional Capacity of the Turkish State Aid Monitoring and Supervising Authority was blocked by the Commission, because none of the pre-conditions set out in the project, notably the adoption of the requisite legal base, had been met by the time the contracting deadline was reached. The project will be reprogrammed under the 2005 programme, providing assurances are received that the necessary pre-conditions will now be met. Such policy-based conditionality will continue to be used as appropriate. However, the introduction of project conditionality cannot be used to substitute for project maturity and proper project preparation.

More specific lessons relating to individual sectors, ministries or project types have also been learned and are reflected in individual project documents.

Conditionality

Implementation of the 2005 pre-accession financial assistance programme will depend on the Turkish authorities' commitment to a continued forceful implementation of the pre-accession strategy. The Government should therefore continue to give attention to the establishment of adequate administrative structures for implementation of the pre-accession strategy, in order that EU financial support is used in the most effective manner. Before the Financing Agreement for the 2005 programme between the Commission and the Government of Turkey is signed, the National Aid Co-ordinator will satisfy the Commission that it is taking adequate steps to maintain and resource adequately the National Fund, CFCU, and other agencies involved in implementing this programme. It is expected that the CFCU will reach a level of around 80 staff through phased recruitments in the course of 2005.

A new Framework Agreement was ratified in February, 2005, and this should help to resolve the issues (notably in the area of taxation and customs) that have impeded the smooth implementation of the programmes in the past. Before the Financing Agreement for the 2005 programme between the Commission and the Government of Turkey is signed, the National Aid Co-ordinator will confirm that all requisite secondary legislation needed to implement the Framework Agreement has been brought into force.

The above conditionalities concerning the staffing of the CFCU and the implementation of the Framework Agreement reflect recommendations arising from the interim evaluation of on-going programmes.

Before the Financing Agreement between the Commission and the Government of Turkey is signed, the National Aid Co-ordinator will confirm the availability of the national co-financing indicated in each project fiche, and the intended means by which pre-accession financial assistance and national co-financing will be combined when projects are contracted. Any project involving the supply of equipment and works requires national co-financing equivalent to at least 25% of total eligible expenditure under the relevant project, as shown in the corresponding project fiche. If the total cost

of such equipment or works is less than the amount envisaged in the fiche, the amount of pre-accession financial assistance may be reduced to maintain the maximum proportion of pre-accession financial assistance in any such project's cost at 75%. If the total cost is greater than the amount envisaged in the fiche, the extra support required will be provided by additional national co-financing.

Before the Financing Agreement between the Commission and the Government of Turkey is signed, the National Aid Co-ordinator will satisfy the Commission that draft twinning covenants, terms of reference and technical specifications have been prepared or are under preparation, as appropriate, to allow each project to be launched in accordance with the timetable set out in the respective project fiches.

The NAC will ensure that the third meeting of the Joint Monitoring Committee will take place in December 2005.

For any project delivered partly or wholly by twinning, a draft twinning covenant shall be presented to the Commission Delegation for approval within four months of notification of selection of the twinning partner. If no draft covenant is presented within this period, the Commission may re-circulate the project to Member States for selection of a new twinning partner, request the CFCU to tender the project for commercial technical assistance, or cancel the project.

Projects to be implemented through twinning or twinning light require the full commitment and participation of the senior management of the beneficiary institution. The National Aid Co-ordinator will ensure that that the twinning partner is provided with adequate staff and other resources to operate effectively, and that the senior management in the beneficiary institution(s) is fully involved in the development and implementation of the policies and institutional change required to deliver the project results. For projects involving more than one Turkish ministry or agency, the National Aid Co-ordinator will ensure that effective mechanisms for co-operation and co-ordination between such Ministries or agencies are in place.

Pre-conditions regarding the implementation of specific projects are formulated in the project descriptions above and in the corresponding project fiches annexed to this Financing Proposal.

5. BUDGET

5.1. Budget table

| Objectives | Pre-accession instrument Funding | | | National Co-financing of Project | Total (Pre-accession instrument funding plus Co-financing) |
|---|----------------------------------|---------------|--------------------|----------------------------------|--|
| | Institution Building | Investment | Total (IB and INV) | | |
| Objective 1 Addressing the Copenhagen Political Criteria and JLS issues | 23.078.180 € | 25.170.000 € | 48.248.180 € | 8.390.000 € | 56.638.180 € |
| Objective 2 Economic and Social Cohesion | 37.468.000 € | 53.891.000 € | 91.359.000 € | 18.096.000 € | 109.455.000€ |
| Objective 3 Harmonisation with the Acquis | 18.986.500 € | 63.675.700 € | 82.662.200 € | 23.759.200 € | 106.421.400 € |
| Objective 4 Civil society dialogue & support for European Integration | 48.720.000 € | 6.710.620 € | 55.430.620 € | 99.589.689 € | 155.020.309 € |
| TOTAL | 128.252.680 € | 149.447.320 € | 277.700.000 € | 149.834.889 € | 427.534.889 € |

* In addition 40 million euro co-financing will be provided by participating financial institutions

5.2. Principle of Co-Financing

In accordance with the programming Guidelines, all investment projects supported by the EC must receive co-financing from national public funds. This includes costs for the supervision of works contracts.

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

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

Institution building projects will also have a degree of co-financing. No per diems are payable to staff of the beneficiary public institution. Travel and accommodation costs of the beneficiary staff during their domestic missions for monitoring the implementation of projects, where relevant, should be covered by their respective institutions.

6. IMPLEMENTING AGENCIES

The Implementing Agency responsible for the programme is the Central Finance and Contracts Unit of Turkey with the following exceptions:

TR 05 01 02 Strengthening Civil Society in the Pre-Accession Process -- NGO Grant facility, and *TR 05 04 03 Support Activities to Strengthen the European Integration Process*, both of which will have a component under centralised management (direct), with the EC Delegation in Ankara acting as the Contracting Authority

TR 05 02 10 Contribution to the FEMIP Support Fund, that will be implemented under centralised indirect management.

TR 05 04 02 Participation in Community Programmes and Agencies, for which implementation consists in the payments to the various Community Programmes. These payments will be made by the National Fund.

7. IMPLEMENTATION ARRANGEMENTS

7.1. Method of Implementation

Implementation of the programme will follow Art. 53 (1) b) (decentralised management) of the Financial Regulation³ with the exceptions listed hereunder. The Beneficiary Country will continue to ensure that the conditions laid down in Art. 164 (1) (a) - (e) of the Financial Regulation are respected at all times.

Prior to the accreditation of Implementing Agencies foreseen by Art. 12 (2) of Regulation 1266/1999⁴, project selection, tendering and contracting by the Beneficiary Country will be subject to ex-ante approval by the Commission.

Projects *TR 05 01 02 Strengthening Civil Society in the Pre-Accession Process* -- NGO Grant facility, and *TR 05 04 03 Support Activities to Strengthen the European Integration Process*, will each have a component implemented in accordance with art. 53.1 a) of the Financial Regulation (centralised implementation), with the EC Delegation in Ankara acting as the Contracting Authority.

Project *TR 05 02 10 Contribution to the FEMIP Support Fund* will be implemented in accordance with the Work Programme Grants 2005 of DG ELARG⁵. A Contribution Agreement will be concluded with the EIB.

³ Council Regulation (EC, Euratom) 1605/2002 of 25 June 2002; OJ L 248, 16.9.2002; p. 1

⁴ Council Regulation (EC) 1266/1999 of 21 June 1999; OJ L 161; 26.6.1999; p. 68

⁵ Council Regulation (EC) No 769//2004 of 21 April 2004

7.2. General rules for Procurement

All contracts implementing the programme must 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 time of the launch of the procedure in question.

7.3. Grant Schemes

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

All contracts implementing the programme must 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 time of the launch of the procedure in question.

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

The implementation of selected projects through provision of works, supplies and services, which are sub-contracted by the final beneficiaries of the individual grants, shall be subject to the procurement rules for External Actions at the time of implementation. Following a positive assessment of the Implementing Agency's capacity to operationally and financially manage the schemes in a sound and efficient manner⁶, the Commission has waived its ex-ante approval of sub-contracting carried out by the final beneficiaries of the individual grants.

Grant schemes will not involve projects for which the Pre-accession instrument contribution above €2 million.

The financial commitments in Pre-accession instrument terms will be effected at the date of signature of the grant agreements by the competent PAO. The projects should be fully implemented before the expiry date for contract execution of the corresponding Financing Agreement.

7.4. Implementation Principles for Twinning Projects

Twinning projects are set up in the format of a grant contract (twinning contract) whereby the selected Member State administration agrees to provide the requested public sector expertise (including the long term secondment of an official assigned to provide full time counsel to the beneficiary administration as Resident Twinning Advisor) against the reimbursement of the expenses thus incurred. This twinning contract is in line with the

⁶ see section 11 and Annex 4 of the 2005 Phare Programming Guide

provisions of Article 27 of the Financial Regulation and of Part One, Title VI on grants of the Financial Regulation and its Implementing rules.

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

LIST OF PROJECTS FOR 2005 INVOLVING TWINNING

| Project code | Twinning code | Project title |
|---------------------|----------------------|---|
| TR 05 01 05 | | An independent Police Complaints Commission and the Complaints System for the Turkish National Police and Gendarmerie |
| TR 05 01 06 | | Promoting Gender Equality |
| TR 05 03 01 | | Reinforcement of Institutional Capacity for Establishing a Product Safety System in Turkey |
| TR 05 03 03 | | Reinforcement of Institutional Capacity of the DG for State Aids in the Undersecretariat of SPO |
| TR 05 03 05 | | Establishment of a Rural Development Paying Agency |
| TR 05 03 07 | | Establishment of new Border Inspection Posts (BIPs) in the Republic of Turkey |
| TR 05 03 09 | | Enhancement of traffic management and environmental safety in Turkish ports and coastal areas |
| TR 05 03 15 | | Capacity Building for the compilation of accounting data in all institutions and agencies within general government sector in the context of e-Government |

7.5. Principles for the CBC Small Projects Fund

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

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

7.6. Direct Agreements

TR 05 01 02 Strengthening Civil Society in the Pre-Accession Process -- NGO Grant facility

Type: Grant

A grant, without a call for proposals, will be awarded to the **Regional Environmental Centre (REC)** for the implementation of the “Protection of Environment” sub-component. The objective of the sub-component is to strengthen the participation of NGOs in the field of environment, in support of the EU Accession Process of Turkey and the broader concept of sustainable development. The REC has supported the countries of Central and Eastern Europe (CEE) in the EU accession process and encouraged sustainable development practices in these countries for the past 15 years. The REC is an independent, non-partisan, non-advocacy, not-for-profit, international organisation. The REC-Turkey was established with 2002 EU Pre-accession financial assistance on April 2004 and provided services, including training, to the civic society as well as the government institutions in establishment of three grants programmes. Because of its unique experience in promoting the EU accession process in the environment sector in the candidate countries, its institutional status, its track record and its thorough experience of the situation in Turkey, the REC is the only suitable institution in Turkey to provide support for the implementation of the grant programme on environment, A grant will therefore be awarded in accordance with Art 168.1.c) of the Implementing Rules of the Financial Regulation, on the basis of the de facto monopoly for the implementation of this action.

A grant, without a call for proposals, will furthermore be awarded to the **Civil Society Development Centre Association (CSDCA)** for the implementation of the third component of the project aiming at the promotion of the NGO Grant Facility and the provision of post-grant award training to NGOs. The CSDCA was established in November 2004 as an umbrella association providing capacity building support to civic society institutions in Turkey. Being the only organisation of this kind in Turkey, a direct grant for the implementation of services and training programmes for NGOs has also been awarded to CSDCA under the 2004 programme. The ability of CSDCA to reach out to NGOs all across Turkey’s and thus to contribute to a balanced participation in the NGO grant facility appears as essential for the effective implementation of this project.

TR 05 01 03 Training Programme on the Istanbul Protocol

Type: Service

A service contract will be concluded by negotiated procedure, with the Turkish Physicians Association (TTB) for the training of Physicians, judges and prosecutors. TTB has delivered training internationally on the *Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (“the Istanbul Protocol”), and, given its role and status, it appears as the only institution with the capacity and competence to implement this project in Turkey. It is foreseen that TTB will enter into a consortium with a European partner. IRCT of Denmark, which has experience of implementing trainings on the Istanbul Protocol, has indicated its willingness to collaborate on this project. In accordance with Art 242.1.b) of the

Implementing Rules of the Financial Regulation, a service contract will be concluded by negotiated procedure with the TTB and IRCT, given that both associations are non-profit and provide services having an institutional nature.

TR 05 01 04 Cascaded Training of Turkish Lawyers on the European Convention for the Protection of Human Rights and Fundamental Freedoms

Type: Grant

A grant, without a call for proposals, will be awarded to the Council of Europe (CoE) for the implementation of this project. The CoE elaborates clear common European standards and offers a wide variety of legally binding instruments in particular fields, with effective mechanisms to ensure compliance. The standards that the CoE develops form the very basis of wider European integration and compliance with CoE commitments are a specific and important component of the Copenhagen political criteria. The Council of Europe has an undisputed and unique experience in training on the above Convention.

The award of the grant is made in accordance with Art 168.1.c) of the Implementing Rules of the Financial Regulation, considering that the Council of Europe has a de facto monopoly for the implementation of this action.

TR 05 01 06 Promoting Gender Equality

Type: Grant

An agreement will be signed with UNFPA Turkey for the implementation of the second component of this project, aimed at combating violence against women.

Given the cultural, social and regional particularities of this issue in Turkey as well as its political sensitivity, the effective implementation of the project requires an excellent knowledge of the Turkish situation, including the prevalence of the issue in different regions, a comprehensive approach, previous hands-on experience in the field of violence against women, and the ability to work and collaborate with government institutions, NGOs and other stakeholders. It should be neutral to all related stakeholders for the sound implementation of the project.

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

The UNFPA (UN Population Fund) implements interventions to help end Gender Based Violence, including advocacy, data collection on prevalence, indicators of change, male involvement and prevention, training for the police and government staff, and support to legislative and policy changes in over hundred countries worldwide. UNFPA has worked in Turkey since 1971. It has established a number of strategic partnerships including with the Turkish Parliament, Government Ministries, Turkish Armed Forces, Universities and NGOs. These partnerships have enabled effective collaboration, mutual benefit, and responsiveness to the needs of the Turkish society. UNFPA has for the past four years helped promote awareness about women's rights and violence against women through regional media training, publications, media, university and parliamentary involvement and capacity building of public institutions and NGOs under its 3rd country programme.

TR 05 02 08 Small Enterprises Loan Programme – Second Phase (SELP-2)

Type: Grant

For components 1 and 2, a Grant, without a call for proposals is foreseen to be awarded to the Council of Europe Development Bank (CEB) to establish and manage the European Fund for Turkey (for SMEs) and the associated Exchange Risk Cover Fund. The CEB and the Kreditanstalt für Wiederaufbau (KfW) will contribute with up to Euro 20,000,000 each to the project. The CEB will delegate the management of the fund to KfW.

The Council of Europe Bank serves to 36 member states. Turkey is one of the founding members of the CEB and a shareholder. Currently, the CEB provides a funding opportunity of EUR 200 million to Turkish state banks with the Treasury guarantee, targeting the medium sized enterprises. The SELP-II will be a complementary product for the CEB to reach small enterprises (up to 50 employees) through private commercial banks. The inclusion of the CEB in the project creates additionality, since both the CEB and the KfW to contribute with additional funds.

The German Development Bank (KfW) currently manages the SELP-I programme in Turkey, a MEDA project targeting the South East of Turkey in three provinces with a total budget of Euro 20,000,000. The KfW has a Project Implementation Unit in Ankara, with adequate staff and Information Systems capacity.

Participation in the SELP-2 fund will be open to other international, bilateral and private-sector financial institutions.

The award decision allowing the signature of a Contribution Agreement with CEB and KfW is included in the Work Programme Grants 2005 of DG ELARG⁷.

Because of the unique characteristics of the CEB, EBRD and EIB as IFIs, i.e. international public law bodies, Art 168 (C, de facto monopoly) of the Implementing Rules to Art 110 of the Financial Regulations applies.

TR 05 03 16 Upgrading the Statistical System of Turkey – Phase II

Type: Grant and Service

A service contract will be awarded through a negotiated procedure to the winner of the international tender arranged by Eurostat for the Multi-Beneficiary Programme for Statistics for Member States to allow for Turkey's participation in this programme. The contract will be awarded in accordance with the Implementing Rules, Article 242.1.c) and 242.2.b) as the possibility of extending the principal contract subject to the Eurostat tender will be mentioned in their contract notice.

⁷ Council Regulation (EC) No 769/2004 of 21 April 2004

8. MANAGEMENT OF ASSISTANCE

8.1. Project Management

Responsibilities

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

The National Authorising Officer (NAO) and the NAC shall be jointly responsible for the co-ordination between Phare/ pre-accession instrument (including Phare CBC), ISPA and SAPARD, as well as the Structural and Cohesion Funds.

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

8.1.2. Project Size

All projects will be greater than 2 M €, with the exception of the following institution building projects providing training to a restricted audience or addressing a narrowly focussed issue:

TR 05 01 04 Cascaded Training of Turkish Lawyers on the European Convention for the Protection of Human Rights and Fundamental Freedoms

TR 05 01 05 An Independent Police Complaints Commission and a Complaints System for the Turkish National Police and Gendarmerie

TR 05 03 01 Reinforcement of Institutional Capacity for Establishing a Product Safety-System in Turkey

TR 05 03 03 Reinforcement of Institutional Capacity of the DG for State Aids in the Under-secretariat of SPO

TR 05 03 08 Increasing Public Awareness on Energy Efficiency in Buildings

TR 05 03 08 Enhancement of Traffic Management and Environmental Safety in Turkish Ports and Coastal Areas

TR 05 03 10 Technical Assistance for the improvement of access regime in the Turkish telecommunications market

In addition, the budget for project

TR 05 02 04 Turkey-Bulgaria Cross-Border Cooperation – Joint Small Project Fund

is 0.5 m€, reflecting the low cost of people-to-people actions that the JSPF will finance.

8.1.3. Deadline for contracting and execution of contracts, programming deadline

- (1) All contracts must be concluded by no later than November 30, 2007.
- (2) All contracts must be executed by no later than November 30, 2008 with the following exceptions: for projects TR 0503.11, TR 0503.12 the execution deadline for contracts will be November 30, 2009; for TR 05 02 08 the execution deadline will be November 2012.
In no case can the contracting period for projects implemented under this programme exceed three years after the date of the global commitment (Art. 166 (2) FR). Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be decommitted (Art. 77 (3) FR).
- (3) Under DIS, a complete tender dossier must be submitted to the Delegation for approval by no later than November 30, 2006. In case of non-compliance, the Beneficiary Country will inform the JMC, which may recommend reallocation of funds in accordance with Art. 5 of the MoU on the National Fund.

8.1.4. Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive⁸ are fully applicable for all investment projects under Phare/ pre-accession instrument. If the EIA-directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-mentioned directive. If a project would fall within the scope of annex 1 or annex 2 of the EIA-directive, the carrying out of the EIA-procedure must be documented⁹.

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-directive must be documented¹⁰.

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

8.2. Financial Management

8.2.1. Principles and Responsibilities

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

⁸ DIR 85/337/EEC, OJ L 175/40; 5.7.1985, as amended

⁹ in Annex EIA to the corresponding investment project fiche

¹⁰ in Annex Nature Conservation to the corresponding investment project fiche

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

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

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

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

8.2.2. Payments to the National Fund

A first payment¹¹ of up to 20% of the funds to be managed locally¹² will be sent to the NF following signature of the Financing Agreement and the Implementing Agreements between the NF and the Implementing Agencies (IAs)/Central Finance and Contracts Unit (CFCU). Furthermore, the NAO must submit to the Commission the designation of the PAOs and a description of the system put in place, highlighting the flow of information between the NF and the IA/CFCU and the manner in which the payment function between them will be carried out.

Two further payments¹³ of up to 30% of the funds to be managed locally¹⁴ will be made. The second payment will be triggered when 5 % of the total budget in force¹⁵ has been disbursed by the IAs and the CFCU. The third payment may be requested when 35% of the total budget in force¹⁶ has been disbursed.

A final fourth payment will be made when 70 % of the total budget in force¹⁷ has been disbursed and all contracts have been signed.

Exceptionally the NAO may request more than the percentage agreed where it can be demonstrated by a cash-flow projection that the cash-flow requirements in the subsequent period will exceed such percentage. In cases where the aggregate of the funds deposited in the NF, CFCU and IAs accounts exceeds 15% of the total budget in force for the programme the Commission may exceptionally authorise a payment, if the NAO provides duly substantiated evidence that contractual obligations cannot be met with the funds available.

¹¹ representing pre-financing as defined in Art. 105 (1) of the Implementing Rules to the Financial Regulation
¹² excluding the amount foreseen for Community Programmes

¹³ representing interim payments or the renewal of pre-financing as defined in Art. 105 (1) of the Implementing Rules to the Financial Regulation

¹⁴ excluding the amount for Community Programmes

¹⁵ excluding the amount for Community Programmes

¹⁶ excluding the amount for Community Programmes

¹⁷ excluding the amount for Community Programmes

8.2.3. Payments from the National Fund to the Implementing Agency

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

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

8.2.4. Payments to the National Fund for Participation in Community Programmes and Agencies

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

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

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

8.2.5. Payments in Case of Contractual Retention Clauses

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

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

8.2.6. Closure of Expenditure and Clearance of Accounts

No later than sixteen months after the end of execution of contracts, the NF will submit a final declaration of expenditure covering both EU pre-accession support and co-financing and an attestation regarding the regularity, accuracy and veracity of the accounts transmitted. The final certified expenditure should at this point equal the original value of the contracts minus any deductions and savings agreed with contractors in the course of implementation. This should also equal payments made plus any sums outstanding on account of contractual retention.

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

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

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

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

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

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

9. MONITORING AND EVALUATION

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

For the Phare/ pre-accession instrument programme, the JMC will be assisted by Sectoral Monitoring Sub-Committees (SMSC), which will include the NAC, the PAO of each Implementing

Agency (and the CFCU where applicable) and the Commission Services. The SMSC will review in detail the progress of each programme, including its components and contracts, assembled by the JMC into suitable monitoring sectors. Each sector will be supervised by one SMSC on the basis of regular monitoring reports produced by the Implementing Agency, and interim evaluations undertaken by independent evaluators. The SMSC will put forward recommendations on aspects of management and design, ensuring that these are effected. The SMSC will report to the JMC, to which it will submit overall detailed opinions on all Phare/ pre-accession instrument financed programmes in its sector.

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

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

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

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

In order to ensure the efficient protection of the financial interests of the Community, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (EC, Euratom) 2185/96¹⁸.

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

Without prejudice to the responsibilities of the Commission and the European Court of Auditors¹⁹, the accounts and operations of the National Fund and, where applicable, the CFCU and all relevant Implementing Agencies may be checked at the Commission's discretion by the Commission itself or by an outside auditor contracted by the Commission.

10.2. Obligations of the Beneficiary Country

10.2.1. Audit and Financial Control

In order to ensure sound financial management of the Phare/ pre-accession instrument funds, the Beneficiary Country must have a system for management and control of

¹⁸ Council Regulation (EC, Euratom) 2185/96 of 11. November 1996, OJ L 292; 15.11.1996; p. 2

¹⁹ as referred to in the General Conditions relating to the Financing Memorandum" attached to the Framework Agreement

assistance in accordance with generally accepted principles and standards in place. This system shall fulfil the requirements set out in Art. 164 of the Financial Regulation and in particular provide adequate assurance of the correctness, regularity and eligibility of claims on Community assistance.

The Beneficiary Country's management and control systems shall provide a sufficient audit trail, as defined in Art. 7 (2) of Commission Regulation 438/2001²⁰.

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

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

10.2.2. Preventive Measures

The Beneficiary Country shall take any appropriate measure to prevent and counter active and passive corruption²¹ practises at any stage of the procurement procedure or grant award procedure, as well as during the implementation of corresponding contracts.

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

10.2.3. Anti-Fraud Measures and Corrective Actions

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

The national authorities shall ensure the functioning of a control and reporting mechanism equivalent to the one foreseen in Commission Regulation 1681/94²².

In particular, all suspected or actual cases of fraud²³ and irregularity²⁴ as well as all measures related thereto taken by the national authority must be reported to the

²⁰ Commission Regulation (EC, Euratom) 438/2001 of 2 March 2001, OJ L 63; 3.3.2001, p.21

²¹ 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.

²² Commission Regulation (EC) 1681/94 of 11. July 1994; 12.7.94; p. 43

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

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

10.3. Recovery of Funds in Case of Irregularity or Fraud

Any proven irregularity²⁵ or fraud²⁶ discovered at any time during the implementation of the programme or as the result of an audit will lead to the recovery of funds by the Commission.

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

- (a) the Beneficiary Country has not complied with the obligations to prevent, detect, and correct irregularities or
- (b) the implementation of a project appears not to justify either part or the whole of the assistance allocated or
- (c) there are serious failings in the management or control systems which could lead to irregularities,

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

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

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

²³ 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.

²⁴ Irregularity shall mean any infringement of a provision of national or Community law, this Financing Memorandum or ensuing contracts, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, by an unjustified item of expenditure. The term “Community law” in this context shall be defined as the entirety of Community rules applicable between the Parties of the Financing Memorandum (e.g. the Europe Agreements, Framework Agreements, the MoU on the Establishment of the National Fund etc.)

²⁵ see definition above

²⁶ see definition above

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

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

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

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

11. VISIBILITY AND PUBLICITY

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

12. SPECIAL CONDITIONS

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