

## **Pre-accession Financial Assistance: 2002 National Programme for Turkey**

### **1. STRATEGY**

The overall aim of the National Programme is 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 on 8 March 2001. Pre-accession financial assistance programming has also taken careful account of the findings of the Commission's Regular Report on Turkey's progress towards accession (November 2001), the priorities identified in the Government of Turkey's National Programme for the Adoption of the Acquis (March 2001), and the issues arising in Association Committee sub-committee discussions under the aegis of the EC-Turkey Association Agreement.

The Turkish National Aid Co-ordinator played an active role in helping to identify 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 IMF, World Bank, EIB and bilateral aid agencies to ensure adequate co-ordination of external assistance.

The main criteria used for the final selection of projects for support under the 2002 National Programme were the extent to which proposed projects reflected the programming priorities and the maturity of projects at the time that the programme was finalised in July 2002. Pre-accession financial assistance is programmed with a multi-annual perspective, so account was taken of past and ongoing support in each sector under previous years' Meda annual financing plans and "European Strategy" programmes.

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, bearing in mind the predominance of socio-economic development support in previous years and the need to "kick start" institution building actions in the framework of the Accession Partnership. Careful 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.

The 1999 and 2000 Meda national programmes and assistance under the "European Strategy" regulations (764/2000 and 257/2001) to support the Customs Union and economic and social development financed a broad range of projects. For the period until 1999 the key aim of assistance to Turkey under the Meda programme had been to accompany the process of structural reform, as for other Mediterranean partners. To this end it focused on four main types of activity: structural reform programmes consisting of conditional direct budgetary support; economic transition and private sector development; strengthening the socio-economic balance through health, education, rural development and environmental programmes; and regional initiatives in all three fields of the Euro-Mediterranean Partnership - political, economic and social. However, a start was made under both the 2001 Meda national programme and the Regulation 764/2000 (Customs Union) to develop a greater pre-accession focus to European assistance, including institution building (in particular related to the internal market) and activities related to the Copenhagen political criteria.

The 2002 programme consists of the following main elements:

- **Addressing the Copenhagen political criteria.** Turkey is the only candidate country which does not meet the political criteria set out in Copenhagen in 1993. As a result, previous financial assistance programmes have been heavily weighted towards support for non-governmental organisations and other civil society groups. This year it is intended to work more directly with state bodies, and in particular the police, who have been implicated in allegations of human rights abuses in order to develop modern working methods which can help eliminate such problems
- **Economic reform and support for new regulatory bodies.** Turkey is in the middle of an extensive economic reform programme to defeat an entrenched pattern of high inflation and restore sustained growth, in conjunction with the IMF and the World Bank. In parallel, it is attempting to modernize the role of the state in the economy, and begin to address deep-rooted social problems. Major structural reforms are being undertaken in agriculture, pensions, banking, energy and telecommunications. On the 2002 budget a Small Enterprise Loan Scheme (€20 million) has already been committed, having been presented to the MED Committee in November 2001 but not included in the 2001 MEDA Annual Financing Plan due to lack of budgetary availability. The 2002 programme presented here goes further, including capacity building projects for newly created regulatory authorities in the energy, telecommunications and state aid sectors.
- **Strengthening public administration.** Turkey needs to continue its efforts to strengthen public administration. The programme includes projects to strengthen the capacity of the agency responsible for health and safety at work, improve the maritime safety regime, provide a significant boost to environmental planning and inspection capacity, investment in market surveillance and conformity assessment infrastructure, and a major improvement to phytosanitary and veterinary controls
- **Justice and home affairs.** Turkey has begun alignment of visa legislation and practice with the EU, and needs to continue strengthening border management and prepare for implementation of the Schengen Convention, adopt and implement EU acquis and practices on migration so as to prevent illegal migration, as well as addressing the Accession Partnership objectives relating to corruption, the fight against drugs, organised crime and money laundering. The programme addresses the majority of these areas with the first major projects in the JHA field for Turkey
- **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 – three of 19 regions, in eastern Anatolia, have GDP per capita of between 7% and 16% of the EU average. In 2001 almost €90 million was programmed to support regional programmes in eastern Anatolia and the Greater Anatolia Project area. Social disparities across the country are an equal cause for concern: Turkey has the most unequal distribution of income among individuals or households of any candidate country. This year support has therefore been programmed for nation-wide active employment measures, addressing particular concerns of the Turkish government related to the on-going economic situation and the need to develop employment opportunities, in particular for women and young people and others excluded from the labour market.

The programme also includes capacity building for the National Aid Co-ordinator secretariat (primarily in project preparation, to improve their capacity to design pre-accession assistance

programmes); and co-financing for Turkey's contribution for participation in certain EC programmes and agencies

## **2. OBJECTIVES, DESCRIPTION AND CONDITIONALITIES**

### **2.1. Objective 1: Addressing the Copenhagen political criteria**

#### **2.1.1. TR 0201.01: Improvement of statement taking methods**

This project, which will mainly be delivered through twinning, will assist the development of modern questioning techniques for law enforcement agencies. It aims to improve statement-taking activity as part of a process which begins to shift the process of judicial investigations towards preparation for evidence-based prosecution, rather than seeing the aim of statement-taking as the obtaining of confessions. It also aims to strengthen co-operation and co-ordination regarding judicial investigations between law enforcement institutions. Current statement-taking activity will be assessed in the light of these objectives, training and curriculum standards for law enforcement officials responsible for statement taking will be developed, and standards concerning the physical condition of statement taking rooms will also be developed for the Turkish National Police. A number of statement taking facilities will then be equipped, allowing them to meet European Committee for the Prevention of Torture (CPT) recommendations regarding the electronic recording of the statement taking process. There is also a significant training element both for police officers and police trainers.

The Ministry of the Interior through its National Police Organisation will commit itself to adopt the new curriculum, training methods and standards developed during the programme and disseminate them through further training and awareness-raising activities, especially through the use of trainers trained in the programme. The Ministry will also publish the newly developed standards and strategies and communicate them to the public. The Ministry will commit itself to the adoption of standards concerning the physical conditions in statement-taking rooms developed during the programme. Finally, a joint working group will be established between the Ministry of Interior, Ministry of Justice and Union of Bar Associations to examine and improve co-operation and practices in judicial investigations.

### **2.2. Objective 2: The economic criteria, economic reform and support for new regulatory bodies**

#### **2.2.1. TR 0202.01: Institutional strengthening of the Energy Market Regulatory Authority (EMRA)**

This project, which will mainly be implemented through twinning, aims to improve the ability of the newly established Energy Market Regulatory Authority (EMRA) to perform its tasks according to its legal base and in the framework of the pre-accession process. The recent (2001) opening of the energy market needs to be supported by sound institutions such as EMRA, to supervise the market and its regulatory aspects. Moreover, this regulatory function needs to be performed taking into account the relevant *acquis* to be incorporated in Turkish legislation.

The project will focus on the upgrading of the human resources assigned to EMRA, and complements other forms of assistance provided by the EU and other international donors. The key activities include long term advisory services (Pre-Accession Adviser), and short term assistance and training for the EMRA senior staff and energy experts. The project will

reinforce the ability of EMRA to perform its regulatory functions in line with the relevant EC regulations and with the practices of similar institutions in the Member States.

The main conditionality for this project is the commitment of the Turkish government to complete the opening of the Turkish electricity and gas markets.

#### 2.2.2. TR 0202.02: Institution building for the Telecommunications Authority (TA)

This project, which will mainly be delivered through twinning, aims at improving the regulatory aspects of the Turkish telecommunication market, which was opened to competition in 2000. It targets both the progressive alignment of the Turkish legislation with the relevant EC acquis, and the strengthening of the administrative capacity of the Turkish Telecommunication Authority (TA).

The Authority is charged with the regulation of the technical, administrative and financial aspects of licensing and telecommunication services. Therefore, it plays a central role in achieving the full alignment of Turkish legislation with the acquis in this area.

The project focuses on the one hand on the improvement of the legislative framework (drafting a single 'framework' law for the whole sector, secondary legislation in conformity with the acquis, and elaborating models for licenses and agreements) and, on the other hand, on the strengthening of the administrative capacity of the TA to perform its tasks (by improving its organisation, the qualifications and skills of its human resources and, to a limited extent, its equipment). Apart from some training materials and technical equipment (spectrum analysers), the technical assistance services will be provided through the twinning operation.

The project conditionalities require that before signature of any contract under this programme, a draft timetable is presented for the transposition of the EU regulatory framework for electronic communication networks and services and the full liberalisation of the markets by January 2004.

#### 2.2.3. TR 0202.03: Reinforcement of the institutional capacity of the Turkish State Aid Monitoring and Supervisory Authority (SAMSA)

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' which is expected to be adopted by the Turkish Parliament by the end of 2002. This project aims to support the establishment of the State Aid Monitoring Authority in order to enable it to perform its functions.

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 key conditionalities for the project are 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 recruitment of its staff and the availability of adequate premises).

### **2.3. Objective 3: Strengthening public administration**

#### **2.3.1. TR 0203.01: Upgrading occupational health and safety in Turkey (ISGUM)**

This project aims to enhance the alignment of Turkey to EC rules and standards in the field of occupational health and safety at work. It will enhance the administrative capacity of the Directorate General for Occupational Health and Safety (DGOHS) of the Ministry of Labour and Social Security (MOLSS) and of its laboratory centre (ISGUM).

Activities will include an institution building component targeted at improving the management (following a market-oriented approach) of the beneficiary institutions, and their research and consultancy capacities. In addition, an awareness campaign will be organised and implemented to increase the attention paid and commitment to occupational health and safety issues by all relevant actors. To complement the institutional building activities, a separate investment component will co-finance some rehabilitation works for the ISGUM centre and the provision of equipment for one fixed laboratory (ISGUM) and one mobile one.

Conditionalities for this project focus on the adoption by the Turkish Government of a framework directive and the related implementing regulations to transpose into the Turkish legal system the Community acquis in the field of health and safety at work

#### **2.3.2. TR 0203.02: Support for the enhancement of the safety of maritime transport in Turkey**

This project aims to enhance the alignment of Turkish legislation and practice with the Community acquis in the field of maritime safety and sea pollution prevention. Moreover, the upgrading of the administrative capacity of the relevant Turkish administrations charged with the implementation of these regulations will be supported with technical assistance and equipment. The project includes an institution building component, to be implemented through twinning, and an investment component.

Technical assistance inputs will concentrate on the one hand on support to the legislative alignment process and, on the other, on the improvement of the organisation (at both central and regional levels) of the relevant Turkish institutions responsible for the implementation of the regulations governing maritime safety and the prevention of marine pollution. Training activities will enhance the skills and qualifications of the institutions' human resources. The investment component will include training equipment, de-polluting equipment, equipment for surveyors, and IT supplies to establish a monitoring system for the safety situation of ships.

The key conditionalities are the adoption by the relevant Turkish Ministry of an 'Action Plan for the improvement of maritime safety in Turkey', and for the investment component (notably for the supplies related to training activities), the conclusion of a protocol between the Undersecretariat of Maritime Safety (UMA) and selected universities.

#### **2.3.3. TR 0203.03: Capacity building in the field of environment for Turkey**

The project will assist the government in designing, developing and implementing effective environmental policy measures by (i) better project management of heavy cost infrastructure projects, (ii) improving the monitoring and enforcement of environmental legislation, (iii) improving nature conservation, and (iv) improving access to environmental information, raising public awareness and participation.

This will be carried out respectively through (i) technical assistance in identifying priority environmental projects for accession (the PEPA approach initiated through Phare multi-country activity in other candidate countries) and support for the development of mechanisms for financing implementation of the “heavy cost” directives; (ii) developing capacity in implementation and enforcement through the AC-IMPEL (Associated Countries Implementation and Enforcement of Environmental Law) network and the establishment of a Regional Environmental Centre in Turkey; (iii) assistance in the implementation of Birds and Habitats Directives and the CITES convention, including reviews of protected areas and a CORINE land-cover classification for the former, the establishment of a CITES office and training for officials for the latter; and (iv) technical assistance, including to harmonise the National Environmental Database with EC reporting obligations. It is component (iii) which will be partially implemented through twinning.

A number of conditionalities are included for the implementation of the respective components of the project: the Ministry of Environment will apply, and be accepted, as a member of the AC-IMPEL network, the government will ratify the Regional Environment Centre (REC) Charter, the REC will be granted appropriate legal status in order to operate in Turkey and the necessary steps will be taken to allow Turkey to join the European Environment Agency. Appropriately qualified staff of the Programme Implementation Unit will be in place before any contracts under the investment component of the project are signed.

#### 2.3.4. TR 0203.04: Conformity assessment and market surveillance infrastructure

The overall objective of the project is to contribute to the enforcement of the acquis in the area of the internal market, specifically focusing on conformity assessment and market surveillance in the motor vehicles sector. According to the Accession Partnership and the NPAA, harmonisation of the technical legislation and establishment of the necessary infrastructure, including for the motor vehicles sector, are short-term priorities. Such harmonisation is also an obligation stemming from the Customs Union Decision. The project specifically aims at upgrading the national laboratory infrastructure to support the enforcement of acquis-compatible legislation in the motor vehicles sector.

This specific project will complement a larger investment in the sector which is designed to take place in three phases, and consists of the establishment of testing and measurement laboratories with up-to-date equipment and involving industrial and government partnership. Therefore the required preconditions for the success of this project are that the physical infrastructure (building facilities) required for this are operational, the availability of basic equipment, the availability of qualified human resources to operate the equipment and the required financial resources for the co-financing.

#### 2.3.5. TR 0203.05: Support for Turkey’s alignment to the EU veterinary acquis

The objective of this project, which includes a twinning component, is to support the alignment to the relevant EC standards of Turkish legislation and its implementation in the fields of animal health, veterinary public health and animal welfare.

Activities include technical assistance for the transposition into the Turkish legal system of the main EC directives in the field of animal health (secondary legislation), and support (technical assistance and equipment) to the relevant Turkish administrations for disease surveillance, control and eradication activities (including the creation of a Veterinary Information System). Moreover, advisory services and equipment will be provided to enhance

the border inspection system and to develop veterinary public health through legislative change and organisation of the relevant institutions at central and regional levels. The project will also support the development of the concept of and the relevant legal framework related to animal welfare.

Most of the project activities will be implemented through twinning although specialised technical assistance for the border inspection activities will be procured separately. The project also includes an investment component to co-finance the supply of the required epidemiological products and laboratory equipment (to implement the disease surveillance and prevention actions), and the set up costs for the establishment of the Veterinary Information System. Financing of works is also envisaged to upgrade at least one border inspection post to test the possible improvements of the border inspection system.

Conditionalities include the development of the legislative process leading to the adoption of the Veterinary Framework Law and of the regulations on animal identification and registration

#### 2.3.6. TR 0203.06: Support for Turkey's alignment to the EU acquis in the phytosanitary field

This project aims to support the Turkish Ministry of Agriculture and Rural Affairs (MARA) in order to facilitate the legislative process and to improve the administrative capacity of aligning the Turkish phytosanitary sector to EU rules and practices. The project scope is limited to three key areas, notably (a) plant quarantine (including border inspection posts), b) plant health (including potato diseases) and, c) pesticide registration and residual analysis.

The project will lead to adoption of relevant legislation in conformity with the acquis, and the improvement of the capacity of the concerned Turkish institutions to implement and enforce such legislation in the three areas concerned in line with the standards within the EU. The Institution Building component will be implemented through twinning, while separate contracts are envisaged for the equipment (and related training activities) of selected quarantine, plant health, and pesticide laboratories, and for the establishment of an IT network for border control posts.

Conditionalities link the implementation of the programme to the adoption of legal acts on the control of potato diseases and pesticide regulation, in line with EC provisions

### **2.4. Objective 4: Justice and home affairs**

#### 2.4.1. TR 0204.01: Support for the development of an action plan to implement Turkey's integrated border management strategy

This project, to be implemented primarily through twinning, will support the preparation of an action plan to implement Turkey's integrated border management strategy with a view to aligning its border management policy with EU legislation and best practice. The project should also improve the operational capacity of the agencies responsible for border management.

The Pre-Accession Adviser will assist a task force which has been established to draft an action plan setting out: the necessary legislative changes for alignment with the acquis (and an appropriate timetable); a programme of support for the development of institutions whose roles will be set out in the strategy; identified training needs and a training programme for personnel involved in border management; and the infrastructure and equipment necessary to

implement the strategy. In addition, with the support of short-term experts the project will prepare a detailed implementation schedule for priority investment projects for implementation in 2004 and thereafter. Training for both administrative and operational staff will be organised relating to the adopted strategy, the acquis and best practice. Seminars and workshops will also be arranged both for headquarters and operational staff to spread awareness of the new strategy.

The project depends upon the adoption, as planned, of Turkey's integrated border management strategy by the end of 2002.

#### 2.4.2. TR 0204.02: Support for the development of an Action Plan to implement Turkey's asylum and migration strategy

This project, to be implemented primarily through twinning, will support the preparation of an action plan to implement Turkey's asylum and migration strategy with a view to aligning its asylum and migration policies with EU legislation. The project should also improve the operational capacity of the agencies responsible for asylum and migration management.

The Pre-Accession Adviser will assist a task force which has been established to draft an action plan setting out: the necessary legislative changes for alignment with the acquis (and an appropriate timetable); a programme of support for the development of institutions whose roles will be set out in the strategy; identified training needs and a training programme for personnel involved in asylum and migration; and the infrastructure and equipment necessary to implement the strategy. In addition, with the support of short-term experts the project will prepare a detailed implementation schedule for priority investment projects for implementation in 2004 and thereafter. Training for both administrative and operational staff will be organised relating to the adopted strategy, the acquis and best practice. Seminars and workshops will also be arranged both for headquarters and operational staff to spread awareness of the new strategy.

The project depends upon the adoption, as planned, of Turkey's asylum and migration strategy, guided by the national Task Force established for this task, by the end of 2002

#### 2.4.3. TR 0204.03: Sustaining the National Drugs Focal Point (EMCDDA)

This project, which will primarily be implemented through twinning, will facilitate Turkey's full participation in the European Monitoring Centre for Drugs and Drugs Addiction (EMCDDA). This will be accomplished through administrative and data support for the establishment of the national focal point in Turkey for the EMCDDA. In addition the project aims to review and update Turkey's National Drugs Strategy.

Developing and strengthening the national focal point is at the heart of the project and this will include the development of the focal point's management/organisational plan, recruitment advice, the development of appropriate training programmes, and the development of a data source network and data management and analysis systems appropriate to the EMCDDA. Limited purchase of relevant hardware and software, in particular to manage and analyse this data, will be undertaken. In support of the National Drug Strategy, technical assistance will also be provided to advise on the development of specific drug demand reduction programmes (including piloting suggested approaches) and their evaluation, and advice on the development of a primary prevention programme

#### 2.4.4. TR 0204.04: Strengthening the fight against money laundering

This project, which will partly be implemented through twinning, aims to develop an efficient legal, institutional and technical framework for combating money laundering, in line with EU legislation and practice, thereby leading to a higher rate of successful prosecution in this field.

The project will provide analysis of and draft proposals for strengthening legislation and enforcement procedures to increase the capacity to prosecute the offence of money laundering and proceed with asset confiscation. There will be a review of reporting structures between all agencies responsible for preventing money laundering and appropriate training support and the development of local training capacity targeting all institutions involved (in particular the ministries of finance, interior, justice, law enforcement agencies and financial institutions). Institution building support will be complemented by investment in information technology and analytical tools targeting the central analytical systems of the Financial Crimes Investigation Board. Analytical software will be provided for selected Financial Offices and for the police.

#### 2.4.5. TR 0204.05: Strengthening the fight against organised crime

This project, which will primarily be delivered through twinning, aims to strengthen the law enforcement institutions of the Ministry of the Interior, national police and gendarmerie dealing with the fight against organised crime. There are six key elements to the project. The first consists of assistance in the development and promulgation of the Turkish government's policy for combating organised crime. The second will assist those institutions specifically concerned with combating organised criminal groups involved in the illicit use, production and trafficking of drugs. The third will target in a similar way those institutions combating internet or high technology criminal networking. A fourth element will assist Turkish institutions in working more successfully with their Europol colleagues and promote wider international co-operation. A further module will provide assistance to strengthen the criminal analysis capability of the police institutions involved in the fight against organised crime. Finally, an action plan will be developed addressing the current systems, procedures and legislation related to the investigation of police corruption.

### **2.5. Objective 5: Economic and social cohesion**

#### 2.5.1. TR 0205.01: Active labour market strategy programme

This project aims to raise awareness at national level of the importance of investing in human resources development. It will assist the Turkish government in designing, developing and implementing effective employment policy measures and services aligned with the European Employment Strategy. The institutional capacity of the Turkish Employment Organisation (ISKUR) will be enhanced, both in terms of its policy development in line with its new legal mandate, and in terms of delivery of services. To assist it in its tasks a number of its offices will be enhanced or, where appropriate, new ones will be opened. A grant scheme to support active labour market measures will also be developed.

A National Action Plan for Employment, in line with the European Employment Strategy, will be prepared as part of the project. There will also be support for extensive dissemination at regional, national and international level of the results of labour market analysis undertaken through the project and by ISKUR, and a communication and information campaign appropriate to the tasks of the new organisation will be developed.

The fund (grant scheme) for active employment measures will be promoted nationally through the media and other outlets to ensure the widest possible participation, including from the private sector and civil society organisations. The project will help ISKUR monitor and analyse the results of the projects funded; it will also offer technical assistance to potential applicants to help them with the formulation of their ideas.

The signature of the investment components under this project is conditional upon parliamentary approval being given to the draft law establishing ISKUR and upon ISKUR establishing a project co-ordination unit.

## **2.6. Objective 6: Project preparation and Community programmes**

### **2.6.1. TR 0206.01: Support activities to strengthen the European integration process**

This facility aims at enhancing the ability of the various Turkish institutions concerned of playing an active and effective role in EU pre-accession process.

It will be mainly targeted at increasing the quality of pre-accession projects (Project Preparation component) and at upgrading the skills and knowledge of the staff of various Turkish administrations on EU related issues, thus increasing their ability to implement the NPAA (training in EU affairs and short term technical assistance for acquis related activities).

For the preparation of pre-accession projects, this facility will finance the external expertise required for feasibility studies, detailed design of institutional building or investment support projects, environmental impact assessment and the definition of technical specifications and tender documents. In terms of training on EU affairs organised by the NAC and short term technical assistance for acquis related activities, the project will mainly target those institutions (including public bodies and NGOs) closely involved in the pre-accession process. Training will be delivered complementing theoretical sessions with practical cases emerging from the pre-accession activities, while short term expertise will be provided to the Turkish institutions responsible for legislative alignment and harmonisation of the Turkish regulatory framework with that of the EU.

The conditionality for the implementation of this project is the establishment and operational effectiveness of the ‘Decentralised Implementation System’ (DIS) in Turkey.

### **2.6.2. TR 0206.02: Participation in Community programmes and agencies**

This facility will provide co-financing to help Turkey pay its contribution for participating in, among others, the following Community programmes and agencies in 2003: the European Monitoring Centre for Drugs and Drug Addiction, the Sixth Framework Programme for Research and Development, IDA, the new public health programme, Combating Discrimination, Gender Equality, Combating Social Exclusion and Incentive Measures in Employment, as well as Customs 2007. Both pre-accession assistance co-financing and participation will take place on the basis of the relevant Association Council decisions or Memoranda of Understanding.

## **Lessons learned**

In designing the 2002 programme, account has been taken of the results of projects programmed in previous years. However, most of these activities focus on socio-economic development objectives and are not directly related to the institution building or acquis focus of the “new wave” of pre-accession financial assistance. Implementation of existing projects

is beginning to accelerate due to the deconcentrated approach newly established at the EC delegation in Ankara; the key lesson learned from previous years is the need for maturity in project design at the moment of approval – something very much at the forefront of preparations for the 2002 programme.

Experience with the implementation of Phare programmes in previous years in the other candidate countries and evaluation of these have led to a number of general lessons being learned. These lessons are reflected in the design and implementation of the 2002 national programme for Turkey. The thematic reports on Phare assistance in various sectors over the past six years have also proved useful sources, in particular in fields such as justice and home affairs or public administration reform where EC assistance to Turkey has not previously been targeted. Pre-accession advisers (“twins”) serving in other candidate countries have undertaken short missions in Turkey to help design similar projects for the Turkish national programme in the justice and home affairs field. TAIEX support to Turkey has proved to be successful.

The programming of assistance has also benefited from experience from pilot actions funded from three “unallocated institution building” type activities under the Meda programme totalling €25 million since 1999. These projects (1999 Administrative Co-operation, 2001 Administrative Co-operation II and 2001 Overall Allocation) have provided “seed” institution building resources for a wide range of ministries and agencies responsible for the implementation of the acquis. They have also allowed the EC to respond rapidly to needs emerging during the Association Committee sub-committee discussions (including detailed legislative scrutiny).

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

### **Overall programme conditionalities**

Before the Financing Memorandum 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 staff and resource adequately the National Fund, CFCU, and other agencies involved in implementing this programme. All contracts and covenants under this programme will be signed by the CFCU thus necessitating its establishment and subsequent accreditation by the EC prior to signature of any contract under this programme.

Before the Financing Memorandum 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 Memorandum 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 all necessary actions have been completed to establish the Joint Monitoring Committee and Monitoring Sub-Committees (see section 7) and that the first meetings of these bodies take place in 2003 at the latest.

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, 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. In addition to providing the twinning partner with adequate staff and other resources to operate effectively, the senior management must be 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.

### 3. BUDGET (MILLION EURO)

Code	CRIS/DAC Code	Objective	Total EC support	Institution Building	Investment
TR 0201	002-555/15063	Addressing the Copenhagen political criteria	2.044	1.347	0.6975
TR 0202	002-555/15040	Economic reform and support for new regulatory bodies	4.307	4.124	0.183
TR 0203	002-555/15040	Strengthening public administration	44.667	20.06	24.607
TR 0204	002-555/15030	Justice and home affairs	12.2065	7.204	5.0025
TR 0205	002-555/161	Economic and social cohesion	40.0	10.0	30.0
TR 0206	002-555/43010	Programme preparation and Community programmes	22.775	6.078	16.697
		<b>TOTAL</b>	<b>126</b>	<b>48.813</b>	<b>77.187</b>

A fuller budget breakdown by project is provided in annex 3.

## **4. IMPLEMENTATION ARRANGEMENTS**

### **4.1. a) Financial and project management by the candidate country**

The programme will be managed in accordance with the Decentralised Implementation System (DIS) procedures as set out in Article 7 (and annex) of Regulation 2500/2001.

The National Aid Co-ordinator (NAC) will have overall responsibility for programming, monitoring and implementation of pre-accession financial assistance programmes. The National Authorising Officer (NAO) and the Project Authorising Officers (PAO) will ensure that the programmes are implemented in line with the procedures laid down in the DIS Manual and other instructions of the Commission, and that all contracts are being prepared in accordance with the Practical Guide for PHARE, ISPA and SAPARD<sup>1</sup>.

The National Fund (NF) 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 overall responsibility for financial management of the EC pre-accession financial assistance funds. He shall ensure that the rules, regulations and procedures pertaining to procurement, reporting and financial management as well as Community state aid rules are respected, and that a reporting and project information system is functioning. This includes the responsibility of reporting all suspected and actual cases of fraud and irregularity. The NAO shall have the full overall accountability for the EC pre-accession financial assistance funds of a programme until the closure of the programme.

### **4.2. b) Project size**

All projects will be greater than €2 million, except those in the following areas:

- a) projects focused primarily on institution building for new regulatory agencies where the Turkish ministry or agency concerned has limited absorption capacity and cannot utilise as much as €2m (regulatory bodies in the energy, telecommunications and state aid fields, and the national focal point for EMCDDA) and;
- b) technical assistance for the implementation of Turkey's integrated border management strategy (asylum, migration and border controls) where pre-accession financial assistance in 2002 is intended to be the precursor to significant institution building and investment support from future annual programmes.

### **4.3. c) Contracting and disbursement deadline**

All contracts must be concluded by 30 November 2004. All disbursements must be made by 30 November 2005.

### **4.4. d) Recovery of funds**

Any proven irregularity or fraud discovered at any time during the implementation of the programme will lead to the recovery of funds by the Commission.

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<sup>1</sup> The Practical Guide has replaced section F ("Procurement") of the DIS Manual.

If the implementation of a measure appears not to justify either a part or the whole of the assistance allocated, the Commission is to conduct an appropriate examination of the case, in particular requesting the beneficiary country to submit its comments within a specified period of time and to correct any irregularity.

Following the examination referred to in the previous paragraph, the Commission may reduce, suspend or cancel assistance in respect of the measures concerned if the examination reveals irregularity, an improper combination of funds or a failure to comply with one of the conditions in the Financing Memorandum and in particular any significant change affecting the nature or conditions of implementation of the measure for which the Commission's approval has not been sought. Any reduction or cancellation of the assistance is to give rise to recovery of the sums paid.

Where the Commission considers that an irregularity has not been corrected or that all or part of an operation does not justify either all or part of the assistance granted to it, the Commission is to conduct a suitable examination of the case and request the beneficiary country to submit its comments within a specified period. After the examination, if the beneficiary country has undertaken no corrective measures, the Commission may:

- a) reduce or cancel any advance;
- b) cancel all or part of the assistance granted to the measure.

The Commission is to determine the size of a correction taking into account the nature of the irregularity and the extent of any failures in the management and control systems.

Any funds not used by the expiry date of the programme will be recovered by the Commission. A final written declaration with supporting documentation shall be issued by the NAO just after the end of the disbursement period of the Financing Memorandum showing the total amount contracted and disbursed. A final bank reconciliation showing the existing balances in the NF/IA/CFCU shall also be enclosed.

Notwithstanding the recovery of unused and ineligible funds after expiry of the Financing Memorandum, a complementary recovery order may be issued after the final audit of the reliability and consistency of contracts and disbursements as well as their compliance with the provisions of the Financing Memorandum has been carried out, taking into account the independent opinion of the final audit.

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 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 payments shall be charged on sums not repaid by applying the rules specified in the Financial Regulation governing the Community Budget.

#### **4.5. e) Financial Flows**

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and the Government of Turkey in February 2002. Funds will be transferred following requests from the NAO onto a separate bank account, denominated in Euro, which will be opened and managed by the NF in the Central Bank.

#### 4.5.1. aa) Transfer of funds to the National Fund

A payment of up to 20% of the funds to be managed locally\* will be transferred to the NF following signature of the Financing Memorandum and the Financing Agreements (FAs) between the NF and the Implementing Agencies (IAs)/Central Finance and Contracts Unit (CFCU). The provisions foreseen in Articles 2 and 12 of the MoU on the NF must also be met. 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 will be carried out.

Two replenishments will be made of up to 30 % of the funds to be managed locally\* and the final payment of up to 20% or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 5% of the budget\* has been disbursed by the IAs and the CFCU. The second replenishment may be requested when 35% of the total budget\* in force has been disbursed. The final third replenishment will be paid when 70% of the total budget\* in force is disbursed. Exceptionally the NAO may request an advance payment of more than the percentages mentioned above in accordance with the procedures laid down in the aforesaid Memorandum of Understanding. Save for express prior authorisation from the Commission HQ, no replenishment may be made if the trigger points mentioned above have not been respected.

#### 4.5.2. bb) Transfer of funds to the implementing agencies

The National Fund will transfer funds to IAs, including the Central Financing and Contracting Unit (CFCU), in accordance with Financing Agreements (FAs) signed between the NFs and the IAs/CFCU where applicable. Bank accounts for sub-programmes shall be opened in the name of the relevant Implementing Agency/CFCU in charge of the financial administration of the sub-programme in line with Article 12 of the MoU on the establishment of the National Fund.

Each individual FA will 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 transfer of funds from the NF to the CFCU/IA. 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 the operations carried out by the relevant CFCU/IA.

For those contracts with funds retained for a warranty period extending beyond the end of the disbursement period of the programme, the overall total of funds related to those contracts, as calculated by the PAO and established by the Commission, will be paid to the Implementing Agency before the official closure of the programme. The Implementing Agency assumes full responsibility of depositing the funds until final payment is due and for ensuring that said funds will only be used to make payments related to the retention clauses.

The Implementing Agency further assumes full responsibility towards the contractors for fulfilling the obligations related to the retention clauses. Interests accrued on the funds deposited will be paid to the Commission after final payment to the contractors. Funds not paid out to the contractors after final payments have been settled shall be reimbursed to the Commission. An overview of the use of funds deposited on warranty accounts - and notably of the payments made out of them - and of interests accrued will annually be provided by the NAO to the Commission.

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\* excluding the amount foreseen for the Community programmes

#### 4.5.3. cc) Transfer of funds to the National Fund for participation in Community programmes and agencies

A single advance will be made to the National Fund to cover the full amount of the pre-accession financial assistance part of the financial contribution for participation in Community programmes and agencies. This advance will be made following signature of the Financing Memorandum and upon request from the National Fund.

This advance is separate from the advances made for the rest of the programme. However, it should be noted that the pre-accession financial assistance contribution for each programme will 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 tranches, so that 100% of the funds necessary for the programmes in force can be transferred immediately.

The National Fund will be responsible for transferring the funds back to the Commission, following the call for funds of the Commission's Directorate General responsible for the programmes concerned and within the deadlines requested.

#### 4.5.4. dd) Interest

In principle, all bank accounts<sup>2</sup> will be interest bearing. Interest will be reported to the European Commission. If the Commission so decides, on the basis of a proposal from the NAO, interest may be reinvested in the programme.

#### **4.6. f) Implementing Agencies will be responsible for sub-programmes as follows:**

The Central Finance and Contracting Unit (CFCU) of the Prime Ministry will be the Implementing Agency for all programmes and sub-programmes.

In addition, for Turkey, payments in respect of participation in EC programmes and agencies will be made by the National Fund directly.

#### **4.7. g) Environmental Impact Assessment and nature conservation**

The procedures for environmental impact assessment as set down in the EIA-directive<sup>3</sup> are fully applicable for all investment projects under the pre-accession financial assistance programme. 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 I or annex II of the EIA Directive, the carrying out of the EIA procedure must be documented.<sup>4</sup>

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Article 6 of the Habitats Directive<sup>5</sup> must be documented<sup>6</sup>.

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<sup>2</sup> in particular, but not exclusively, accounts run by the NF, the CFCU and IAs

<sup>3</sup> DIR 85/337/EEC; OJ L 175/40; 5.7.1985; as amended by DIR 97/11/EEC; OJ L 73/5; 14.3.1997

<sup>4</sup> in **Annex EIA** to the corresponding investment project fiche

<sup>5</sup> DIR 92/43/EEC; OJ 206/7; 22.7.1992

<sup>6</sup> in **Annex Nature Conservation** to the corresponding investment project fiche

All investment projects 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.

#### **4.8. h) Special rules for certain components for the programme**

##### **Twinning**

The amounts earmarked for twinning projects will cover the eligible costs (as set down in the DIS instructions) for implementing the work plan agreed between the Member State and the applicant country. The eligible costs may include costs incurred by the selected Member State during the preparation of the twinning covenant in the period between signature of the Financing Memorandum and the final notification of the financing approval of the covenant.

##### **Grant Schemes**

For grant schemes whose procedures and formats are not covered by the current DIS rules, the precise implementation arrangements will be specified in the relevant project fiches in line with the following principles:

- the procedures and formats to be used in the implementation of the schemes and award of the grants will follow the provisions of the Practical Guide. In particular, due care will be given to the selection process of the beneficiary projects, which has to be done at technical level through selection committees composed of experts appointed by the authorities which are co-financing the schemes as well as by the relevant administrations and interest groups involved in the schemes,
- 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 has also to sign the grant contracts with the beneficiaries and to ensure adequate monitoring and financial control under his/her authority and responsibility. With this reservation, the management of the schemes can be decentralised from the PAO to the appropriate bodies at sectoral or regional level,
- The ex ante approval of the Commission (through its Representation in Ankara) will be required for the call for proposals, application forms, evaluation criteria, the selection procedures (including the composition of the committees) and results (list of projects to be funded). The grant contracts signed by the PAO will be subject to the ex-ante control of the EC Representation.

The implementation of the selected projects through the provision of works, supplies, services and grant sub-contracted by the final beneficiaries of the individual grants shall be subject to the procurement regulations in the Practical Guide. The financial commitments in pre-accession financial assistance terms will be effected at the date of signature of the grant contracts by the competent PAO. Project implementation and all pre-accession financial assistance disbursements are to be undertaken before the expiry date of the present Financing Memorandum.

## **Direct agreements**

Under the environment programme, two direct agreements are foreseen in the project fiche. The first is with the Regional Environment Centre to support the establishment of a REC branch office in Turkey. The Community support will be limited to the start-up phase of this centre. The second is for the component related to the “development of capacity in implementation and enforcement through the AC-IMPEL network”. A direct agreement under this component will be signed for a value of ca €40,000 with the successful tenderer of the corresponding Phare multi-country project as one component of this activity aims to ensure Turkey’s participation in the Phare multi-country activities. The same fee rates etc as those presented in the tender under the Phare multi-country programme will be applied.

## **5. MONITORING AND ASSESSMENT**

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

The JMC will be assisted by Monitoring Sub-Committees (MSC) which will include the NAC, the PAO of each IA (and of the CFCU where applicable) and the Commission Services. The MSC will review in detail the progress of each programme, including its components and contracts, on the basis of regular monitoring and assessment reports produced with the assistance of external consultants (in accordance with the provisions of the DIS Manual), and will put forward recommendations on aspects of management and design, ensuring these are effected. The MSC will report to the JMC, to which it will submit overall detailed reports on all pre-accession financial assistance funded programmes.

The Commission services shall ensure that an ex-post evaluation is carried out after completion of the national programme.

## **6. AUDIT AND ANTI-FRAUD MEASURES**

### **6.1. a) By the candidate countries**

Each year an audit plan and a summary of the findings of the audits carried out shall be sent to the Commission. Audit reports shall be at the disposal of the Commission.

Appropriate financial control shall be carried out by the competent national financial control authority with respect to the implementation of the programme.

Beneficiary countries shall ensure investigation and satisfactory treatment of suspected and actual cases of fraud and irregularity following national or Community controls.

Irregularity shall mean any infringement of a provision of Community law 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, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

Fraud shall mean any intentional act or omission relating to:

- (i) 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,
- (ii) non-disclosure of information in violation of a specific obligation, with the same effect,
- (iii) the misapplication of such funds for purposes other than those for which they are originally granted.

The national authorities shall ensure the functioning of a control and reporting mechanism equivalent to the one foreseen in Commission Regulation 1681/94<sup>7</sup>.

In particular, all suspected and actual cases of fraud and irregularity as well as all measures related thereto taken by the national authority must be reported to the Commission services without delay. Should there be no suspected or actual cases of fraud and irregularity to report, the beneficiary country shall inform the Commission of this fact at the end of each quarter.

## **6.2. b) By the Commission**

All financing memoranda as well as the resulting contracts are subject to supervision and financial control by the Commission (including the European Anti-fraud Office) and audits by the Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation (in this case, the EC Representation) in the candidate country concerned and on-the-spot checks.

In order to ensure efficient protection of the financial interests of the Community, the Commission may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (Euratom, EC) No. 2185/96<sup>8</sup>

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 an outside auditor contracted by the Commission without prejudice to the responsibilities of the Commission and the European Union's Court of Auditors as referred to in the "General Conditions relating to the Financing Memorandum" attached to the Framework Agreement.

## **7. VISIBILITY AND PUBLICITY**

The appropriate Programme Authorising Officer 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 Representation. Further details are set down in the Annex "Visibility/Publicity" (enclosed).

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<sup>7</sup> OJ L 178; 12.7.94; p. 43-46

<sup>8</sup> OJ L 292; 15.11.1996; p. 2-5

## **8. 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 financial assistance programme.