1. Basic Information

1.1. Desiree Number
1.2. Twinning Number
1.3. Title
Reinforcement of Institutional Capacity of the Turkish State Aid Monitoring and Supervisory Authority (SAMSA)
1.4. Sector
AD
1.5. Location
Turkey – Ankara

2. Objectives

2.1. Overall Objective

The project overall objective is to improve the effectiveness and transparency of state aid monitoring and supervision in Turkey, and to align it to EU rules and practices.

2.2. Project Purpose

Reinforcement of institutional capacity of the Turkish State Aid Monitoring and Supervisory Authority, SAMSA, once established.

2.3. Accession Partnership and NPAA Priority

AP 4.1. Short-term priority: “adapt legislation designating the responsibility of State aid control in order to provide the basis for transparency and regular State aid monitoring.”

AP 4.2. Medium-term priority: “complete alignment with the EU acquis concerning State aids including regional aid schemes and align legislation concerning monopolies and companies benefiting special rights”

NPAA 4.7.2. II (b) Necessary Amendments and Modifications in the Corresponding Turkish Legislation

“The necessary alignments in the legislation of state aid should be considered in two separate parts. Due to the fact that state aid controls are under the responsibility of various public bodies, relevant implementation regulations are enacted separately. For this reason, laws on similar issues should be grouped and these policies on state aid should be in harmony and complementary.”

“Another point in this respect is that although the current incentive legislation is in general not in contradiction with the competition and state aid criteria stipulated in the acquis communautaire of the EU and in international agreements, the whole system and its implementation should be made compatible with the EU’s regional system based on the NUTs criteria referred to above. It should also be noted that the implementation of this system is necessary not only for aid awards, but for future allocation of funds from the Community budget. Therefore, in addition to the regional structures, sectoral practices and the negligible
state aid “de minimis rule”, implementations regarding SMEs and social practices also need to be reviewed with respect to the Community acquis.”

NPAA 4.7.2. II (c): Necessary Institutional Changes

“There exist some administrative differences between the bodies responsible for state aid in Turkey and in the EU member states. Aid in the EU is provided through EU funds, central government or local administrations of the member states. However, the Commission monitors all aid schemes in member states from the notification and approval stage until its termination. Therefore, there is a need for a body in member states, to act as a National State Aid Monitoring Authority to inform the Commission regularly. This authority will be entrusted with the task of evaluating the compatibility of state aid practices with the criteria set forth in the acquis of the EU.”

“Thus, the Commission will be able to carry out its monitoring and control activities by addressing this authority. These activities are only conducted by the central government in Turkey. In this respect, it has become clear that the legislation with which Turkey must align does not only cover the implementation provisions. So, administrative restructuring is essential in order to notify the EU concerning the control, pursuit and the assessment of aid awards of the responsible units.”

“The body or the authority to be set up will take an active role in notifying changes to legislation and its implementation, exchanging information, ensuring alignment with international agreements such as GATT/WTO and the criteria and methodology followed in the EU, contributing to the establishment of state aid policies in accordance with national interests, preparing legislative procedures, and assessing the results of the practices.”

NPAA 4.7.2. II (d): Additional Requirements Stemming From Entry into Force of the New Legislation

“To ensure alignment with the acquis communautaire in state aid, simply embodying or adopting EU legislation will not be sufficient. Joint studies should be conducted at the technical level to overcome possible administrative and technical inconveniences likely to occur during the solution of these harmonization problems and also to shorten the process. The work on the NUTs regional system makes it necessary for all the above-referred authorities to work jointly to this end. At the same time, common works should be conducted with the EU at the technical level to ensure the integration and adoption of EU state aid instruments (such as the regional and sectoral preferential criteria, SME definition, aid ceilings and rationales, etc.) into the current state aid system of Turkey, which has a fairly different structure than the EU in economic and social terms. As regards the works executed and the projects prepared by Turkey, contacts with the EU remained at insufficient levels. Therefore, technical works have not yet been started.”

“Moreover, it is required to set a framework not only to eliminate the disorganised structure of the legislation and the administrative bodies, but to determine regional assessment criteria as well.”

2.4. Contribution to National development Plan

Turkey has not yet been requested to submit a National Development Plan.
2.5. Cross Border Impact

Not Applicable

3. Description

3.1. Background and description

Turkey signed the Ankara Agreement establishing an Association between the European Economic Community and Turkey in 1963. The Ankara Agreement comprised three stages. The preparatory stage was completed in 1972. The transition stage, whose conditions were laid down by the Additional Protocol, lasted between the date of signature of the Additional Protocol and the adoption of Association Council Decision Nr. 1/95. By this Association Council Decision, the Ankara Agreement entered into its final stage. Articles 32 to 43 of the Association Council Decision sets the obligations of Turkey to harmonize its legislation in the field of competition and state aids with the acquis. Article 39(2)(d) stated that Turkey adapt all aid schemes other than those granted to the textile and clothing sector to the rules laid down in Community frameworks and guidelines under Articles 92 and 93 of the EC Treaty within two years after the entry into force of the Customs Union Decision. The same article obliged Turkey to adopt all its aids granted to the textile and clothing sector to the rules laid down in the relevant acquis before the entry into force of the Customs Union Decision. Furthermore, Turkey has an obligation to inform the Community of all aid schemes in force in Turkey and notify the Community in advance of any individual aid to be granted to an enterprise or a group of enterprises.

Apart from the Association relation determined by the Ankara Agreement between Turkey and the EC, the confirmation of Turkey’s candidacy in the Helsinki Summit put Turkey in a process of preparing itself, with the help of the Union, for accession. This inevitably requires substantial efforts by Turkey to harmonize its legislation with the EU acquis in accordance with the priorities set forth in the Accession Partnership and its National Program for the Adoption of the Acquis.

At present, no effective state aid control, based on EC principles and criteria, exists in Turkey. Turkey needs to complete the alignment of its legislation with the acquis in this area, and to effectively apply it. Turkey also does not have an inventory of existing State aid, nor is there a regular annual reporting following the methodology and the presentation of the Community’s survey on state aid. In addition, the definition of an aid map has not taken place in Turkey.

Draft Law on “Monitoring and Supervising of State Aids” was already presented to the Prime Ministry. This legal act is expected to be adopted by the Parliament until the end of 2002.

The law will establish a monitoring and supervising authority of state aids. The authority will be an independent body that will be responsible for preparing and enacting secondary legislation. The law will only set general procedural rules, but leave other issues especially sectoral regulations to secondary legislation. Furthermore, the rules that regulate transparency of financial relations between State and public undertakings, negligible aids, and regional aid intensities will be determined by secondary legislation. Enacting secondary legislation in full conformity with the acquis is an obligation of Turkey, as well as crucial for the efficient state aids monitoring system.
The Law will contain a general prohibition to grant state aid with exemption of measures and it defines competence of the monitoring authority. The Law will provide for *ex ante* and *ex post* control of all state aid measures to ensure their compatibility with the provisions thereof and with the international agreements signed by the Republic of Turkey. In order to introduce *ex ante* control the Law will impose obligation to obtain an opinion of the monitoring authority on compatibility of proposed aid with binding regulations. Subject to such opinion are draft legal acts by virtue of which State aid is to be granted: aid schemes, decisions and individual aid awards. The monitoring authority may initiate investigation *ex officio* where relevant legal acts related to aid scheme or decision were not consulted with the monitoring authority. If its opinion was not taken into account, within the frame of *ex post* control the monitoring authority is empowered to apply to the Council of State with a motion to present the case for assessment of incompatibility of such act with provisions of the Law or with ratified international agreements. Inadmissible aid is to be reimbursed, including interest. Effective *ex ante* and *ex-post* controls, and handling of cases in high quality by the monitoring authority could only be ensured through an authority, which has sufficient level of administrative capacity.

To ensure transparency of granted aid measures and the scope of aid, all administrative bodies granting State aid to entrepreneurs are obliged to collect data and report to the monitoring authority. The monitoring authority is obliged to prepare annual reports on state aid awarded.

By virtue of the new legal provisions state aid monitoring authority will be an independent body where should be better equipped to control measures proposed by different public institutions. Undersecretariat of Treasury has an authority to grant state aids for investments. Furthermore, Undersecretariat of Foreign Trade is the body to grant state aids to support exports with the Turkish EXIMBANK. Another important state aid provider in Turkey is the Small and Medium Industry Development Organization (*KOSGEB*) that grants state aids for small and medium size firms. The State Planning Organization (*SPO*) is the public body, which prepared development plans in particular for underdeveloped regions. Ministry of Finance has the authority to prepare secondary legislation for tax exemption and exceptions. Ministry of Finance will play a very important role in data collection, as information provided by Tax Offices. Consequently it is very important to develop IT system of data collection at this level. There are sectoral regulatory authorities in particular the Banking Regulatory and Supervisory Agency, the Telecommunications Authority, the Energy Monitoring and Regulatory Authority, and Radio and Television Supreme Council, which are responsible for setting rules for undertakings. For the reason that all public institutions are obliged to obtain an opinion of the monitoring authority on compatibility of proposed aid with binding regulations, awareness raising of all related public institutions will be very crucial for smooth functioning of state aid monitoring system.

As it was mentioned above, the strategic target of the project is the reinforcement of institutional capacity of the State Aid Monitoring Authority. To reach this target, with the support of Pre-Accession Adviser, the first stage will be the enactment of secondary legislation in full conformity with the acquis. Furthermore, amendment process of legislative acts, which are stipulating state aid schemes and measures incompatible with the new Law, will be initiated. In addition, technical support will be given to the SAMSA to handle cases, if it is needed. Secondly, establishment of efficient IT system to collect data on state aids will be crucial for both effective application of *ex-ante* and *ex-post* controls and quality of annual report that will be prepared by the SAMSA. Another important part of the project, which
should be initiated simultaneously with the start of the project, is to elaborate a sustainable training system for the SAMSA’s staff. Awareness raising of officials of the relevant public authorities, and private undertakings, which are the biggest state aid customers, is also included in this stage. Through these activities stated above, this project will help to improve effectiveness and transparency of state aid monitoring and supervision in Turkey.

3.2. Linked activities

3.2.1. Intensive Training Seminar on Harmonisation of the Turkish State Aids System with the EU Rules

A training seminar is planned to be organised under the Administrative Cooperation programme in October 2002. The specific objectives of this seminar are: 1) to increase awareness among Turkish public administrative bodies on EU state aids guidelines and framework, 2) to update and improve their knowledge on state aids rules, and 3) to enable them to disseminate the acquired knowledge.

This 2-week training seminar is expected to help Turkish public officials, with a maximum of 40 people, understand the main aspects of the EU acquis in the field of state aids. The participants will include people from various state aids granting institutions, in particular Undersecretariat of Treasury, Undersecretariat of Foreign Trade, Small and Medium Industry Development Organisation, and other relevant public authorities such as Undersecretariat of State Planning Organisation, Ministry of Finance. The training seminar is expected to focus on state aids schemes in the EU member states which are in full conformity with the EU acquis, the responsibilities of public officials in EU member states to notify state aids schemes, the rules and criteria of ex ante control of the related state aids monitoring body in the member states and DG Competition of the European Commission.

The training is expected to cover the following items:

- Provisions of Treaties establishing the EU on state aids inventory and monitoring, WTO rules on subsidies.
- Horizontal state aids schemes (R&D, environmental protection, rescue & restructuring, SMEs, employment aid, training aid, de minimis)
- Regional aid guidelines and guidelines for undertakings in deprived urban areas
- Guidelines for sectors subject to special rules (steel, shipbuilding, synthetic fiber motor vehicles and multisectoral framework)
- Guidelines for government capital injections, financial transfer to public enterprises, state guarantees
- Guidelines for public land sales, export credit insurance, fiscal aid and financial services and investment incentives

In specific, the trainers are expected to:

- Supply detailed information on the subjects (guidelines & framework) mentioned above
- Provide an overview of information resources, including online, on the subject,
- Provide full and user-friendly documentation plus legal texts and case studies,
- Design the training in a way to allow later dissemination of the training by the participants (training of trainers)
• Give examples/ case studies on each subject, in particular case law of the European Court of Justice.
• Evaluate presentations and case studies concerning the Turkish state aids legislation by the officials of Turkish state aids granting authorities and compare the Turkish legislation with the relevant EU rules and guidelines to make an analytical explanation on the subject matter in question for the adaptation purposes
• Help participants to clarify and compare EU legislation with Turkish legislation

No feasibility study was done for project preparation.

3.3. Results

1. Legislative framework on state aids in conformity with the acquis is adopted, and monitoring of state aids granted in Turkey is operational.

2. Registration and reporting of State aids granted are initiated.

3. Training and skills of the SAMSA’s staff and officials of relevant public institutions dealing with implementation of state aids are enhanced, and awareness of public on newly adopted rules in the field of state aids is increased.

3.4. Activities

To achieve the objectives, mentioned above, the following actions should be undertaken:

(I) Legal support

1.1. Legal support to the SAMSA in drafting secondary legislation necessary to implement and enforce provisions of the Law on State Aids Monitoring and Supervising, and in assessing compliance with the acquis (please see Annexe 4c).

1.2. Legal support to the SAMSA in elaborating for the sector specific rules (in co-operation with relevant sectoral agencies), establishing rules for monitoring de minimis aid measures and in assessing compliance with the acquis; (please see Annexe 4c)

1.3 Legal support to the SAMSA in preparing of its recommendations for the amendment of existing aid schemes which are incompatible with the provisions of Law on State Aid Monitoring and Supervising. According to this Law, all existing state aid schemes are obliged to be notified to the SAMSA within 6 months period after the law was enacted.

1.4. Legal advice to the SAMSA given its hitherto lack of experience to assess draft legal acts prepared by other administrative bodies pertaining granting any kind of state aid for the entrepreneurs from the point of view of its admissibility;

1.5. Legal support to the relevant public authorities such as Undersecretariat of Treasury, Undersecretariat Foreign Trade, Ministry of Finance, and the State Planning Organisation where proposals on granting state aid are taken;

1.6. Legal support to the SAMSA in handling of investigations for selected new state aid scheme or individual aid.
(II) Setting Up Registering and Reporting System

2.1. Support in clarification of necessary investment needs in order to set up IT infrastructure of the SAMSA to facilitate registration of awarded aids.

2.2. Support in clarification of necessary investment needs in order to collect data from Ministry of Finance through its local tax offices.

2.3. Support in preparation of annual report that will be submitted to the EC Commission.

(III) Training and Awareness Raising

3.1. Developing training curricula for the newly recruited staff of the SAMSA. The training curricula will be designed as appropriate in the areas of EC competition and state aid law. The curricula will be designed for the continuous assessment, evaluation and quality control;

3.2. Training on monitoring, supervision and reporting techniques of state aids for the staff of the SAMSA in order to make them enforce provisions of legislation effectively;

3.3. Designing and implementing a ‘training-the-trainers’ programme for selected staff of the SAMSA, in order to ensure sustainable in-house training activities;

3.4. Training for public officials in selected sectoral, horizontal and regional rules in order to make them prepare proposals of new aid schemes and implement either existing or newly adopted state aid schemes in conformity with new state aid legislation;

3.5. Awareness raising seminar for the representatives of state economic enterprises, private undertakings in particular to the undertakings being the biggest beneficiaries of public aid, chambers, professional associations, non-governmental organizations, local government authorities granting state aid on the regional level, and related departments of selected universities on basic rules in the field of state aid, and guidelines of the procedures and principles.

Necessary inputs:

- Pre-Accession Adviser for 24 months:

Background of the PAA
The PAA must be highly qualified in all subject matters covered by the twinning arrangement, and must possess good management skills. He/she must be well acquainted with the enforcement of the EC State aids rules. Experiencing in organising training programmes is a comparative advantage.

More specifically, the PAA
  > Shall have sound theoretical and practical experience in enforcement of state aid monitoring and supervising rules as well as reporting techniques.
  > Shall have broad international contacts,
  > Shall be fluent in English
Tasks of the PAA:
> To co-ordinate the programme,
> To mobilise short-term experts,
> To ensure proper quality of outputs,
> To provide detailed report on the impact of the programme

- Short-term expert(s) for 12 man-months of assistance (indicative)
Areas not directly covered by the PAA can be taken over by short-term experts within the limits of the budget. Short-term expert(s) are expected to cover, among others, the tasks listed below: (for indicative purpose)
> To organise training seminars,
> To contribute/prepare training materials and manuals,
> To deliver training,
> To prepare a list of investment needs of the SAMSA to set up efficient IT infrastructure to facilitate registration,
> To prepare a list of investment needs in order to collect data from Ministry of Finance through its local tax offices,

- Experts’ studies, legal assistance, experts on ad hoc basis:
To reach all results of the project experts’ studies, legal assistance and experts on ad hoc basis will be provided within the limits of the budget in particular with regard to;
> support in drafting secondary legislation in full conformity with the acquis,
> support in preparation of recommendations to amend incompatible existing state aid schemes and measures,
> support in preparation and assessment of proposal of new aid schemes,
> support in preparation of annual report,

- Organisation of training seminars:
To train staff of the SAMSA, advanced training seminars that could be repeated periodically, in particular on state aid rules, monitoring, registration and reporting techniques are expected to be held. Furthermore, it is expected to develop a training-the-trainers program for a limited number of the SAMSA’s staff. In addition, to train officials of related public institutions, seminars are expected to be held on the subjects that are listed below;
> General state aid rules and procedures
> Sectoral state aid rules
> Regional state aid rules
> Horizontal state aid rules
> Rules on rescue aid
> State aids in financial sector

- Study visits and short secondments in the EU Member State institutions:
Study visits can be organised for limited number of the SAMSA’s staff within the limit of budget to the state aid monitoring authority of Member State, or other related institutions in EU that will be specified in consultation with PAA.

Operating Environment:
A Pre-Accession Adviser (PAA) will be placed at the SAMSA and will provide expert advice for effective implementation of the twinning arrangement. The PAA will also be responsible to identify short-term experts with the assistance of his/her delegating institution.
The responsible staff of the SAMSA will co-operate in identifying needs and will arrange local inputs.

3.5. Lessons Learned

Progress Reports on Turkey’s Application for Membership of the Union have highlighted urgent need for establishment of an authority to monitor and supervise state aids granted in Turkey according to the EC Rules. The Progress Report 2001 underlined lacking of effective state aid control, based on EC rules and criteria in Turkey. The report also mentioned that Turkey should speed up the preparation for establishment of an independent State aid control body. In addition, the Report stressed that Turkey does not have an inventory of existing state aid, nor is there a regular annual reporting following the methodology and the presentation of the Community’s survey on state aid.

Furthermore, the Report of Regulatory Reform in Turkey by OECD emphasized the need of establishment of a body to monitor “anti-competitive” state aids.

4. Institutional framework

This project will be implemented through a twining covenant.

The draft law on Monitoring and Supervision of State Aid is expected to be adopted by the Turkish Parliament until the end of 2002. This law will establish the State Aid Monitoring and Supervisory Authority. The SAMSA will be operationally independent and have financial autonomy. The SAMSA’s executive organ is the State Aid Monitoring and Supervisory Board. The Board is composed by 7 members. The Board members will be appointed by the Council of Ministers. The Board will be responsible for;

- Monitoring and supervising existing and new aids. In this respect, the SAMSA will be responsible to
  a- make guidance on the basis of the relevant EC acquis and other international legislation,
  b- make recommendations
  c- initiate formal investigations upon notifications and complaints or on its own initiative
- Taking necessary actions in the case of unlawful or misuse of aid,
- Requesting to suspend or recover the aid in the case of incompatibility of the aid with the Law
- Monitoring the annual reports that are prepared by the granting institutions of state aid,
- Recording state aid inventory
- Making necessary notification to international organizations,
- Preparing annual report on state aid which will be submitted to the EC Commission
- Preparing secondary legislation
- Elaborating and implementing the human resources strategy for the SAMSA’s staff.

The project is mainly targeting the SAMSA that will have a sole responsibility for monitoring and supervising state aids in order ensure that the system is compliant with the legal provisions. However, support will also be given to other relevant public authorities, which are mainly aid granting authorities, in order to assist the smooth functioning state aid system. Cooperation and coordination between the SAMSA and the other relevant public authorities and with the PAA is crucial to reach the objectives successfully.
5. **Budget (EUR Million)**

<table>
<thead>
<tr>
<th>Component</th>
<th>Pre-Accession Financial Assistance</th>
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<td></td>
<td>Investments (I)</td>
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<td>TOTAL</td>
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The Turkish co-financing will cover e.g. provision of office equipment and space for the PAA, organisational costs of trainings, and seminars and other cost non-eligible for the Pre-Accession Support, as specified in the “Reference Manual on Twinning Projects”.

The SAMSA, supported by the Pre-Accession Adviser, will co-ordinate implementation of the project, which will be addressed also to other administration bodies on central and local levels.

6. **Implementing Arrangements**

6.1. **Implementing Agency**

The Central Financing Contracting Unit (CFCU) will be the Implementing Agency and will be responsible for all procedural aspects of the tendering process, contracting matters and financial management (including payments) of the project activities.

6.2. **Twinning**

The project will be implemented in the form of one Twinning Covenant between Turkey and a Member State. The twinning partner will manage all aspects of execution in close collaboration with the SAMSA, as well as securing a pool of international and national experts.

Member States may form a Consortium, which shall result in a wide range of experience of short-term experts gathered from different national administrations of more than one Member State provided that national approaches can be harmonised within the Consortium.

The beneficiary institution of the Twining arrangement will be the State Aid Monitoring and Supervisory Authority (SAMSA).

6.3. **Non-Standard Aspects**

The manual on Twining Projects will be strictly followed.

6.4. **Contracts**

One twinning covenant will be concluded covering the full amount of the project.

7. **Implementation Schedule**

The project will start after all preconditions listed in 12.1 are realised.
8. Equal opportunity

The State Aid Monitoring and Supervisory Authority as principal beneficiary implementing the project will be responsible for granting equal chances of participation in this project independently of gender.

9. Environment

Not applicable

10. Rates of Return

Not applicable

11. Investment Criteria:

Not applicable

12. Conditionality and sequencing:

12.1. Conditionality

- Adoption of the state aid monitoring and supervisory law by the Turkish Parliament.
- Establishment of State Aid Monitoring and Supervisory Authority.
- Recruitment of officials by the SAMSA, financed by the Turkish Government budget, before the start of the project.
- Provision of necessary office building and equipment for the SAMSA financed by the Turkish Government budget prior to the start of the project.
**LOGFRAME PLANNING MATRIX FOR PROGRAMME**

<table>
<thead>
<tr>
<th>Programme Number:</th>
<th>Programme Title:</th>
<th>Overall Objective</th>
<th>Objectively verifiable indicators</th>
<th>Sources of verification</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>The effectiveness and transparency of state aid monitoring and supervision in Turkey improved, and aligned to EU rules and practices.</td>
<td>Harmonization of the Turkish law in the field of state aid.</td>
<td>The acquis communautaire, in particular Articles 37, 77, 90, 92-94 of the Treaty of Rome and secondary legislation.</td>
<td>Turkish government dedication to prepare Turkey to accession.</td>
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<table>
<thead>
<tr>
<th>Project Purpose</th>
<th>Objectively verifiable indicators</th>
<th>Sources of Verification</th>
<th>Assumptions and Risks</th>
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</thead>
</table>
| The reinforcement of institutional capacity of the Turkish State Aid Monitoring and Supervisory Authority. (SAMSA), once it was established. | - Adoption of secondary legislation fully aligned with the relevant EC acquis.  
- Due to *ex ante* control existing state aid schemes and new state aids that are granted in conformity with the EU rules  
- Functioning of the IT monitoring systems permits efficient and transparent registering and *ex post* reporting on granted state aid  
- Production of first annual report by the end of the project | Progress Report on Turkey's Application for Membership of the European Union, Final Evaluation Report.  
Final Evaluation Report  
Official publications of Turkey, Final Evaluation Reports  
Progress Report on Turkey's Application for Membership of the European Union, Official publications of DG competition | The SAMSA committed to enact secondary legislation  
Staff of the SAMSA was recruited.  
Notification system became operational. |

<table>
<thead>
<tr>
<th>Results</th>
<th>Objectively verifiable indicators</th>
<th>Sources of Verification</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
</table>
| 1. Legislative framework on state aids in conformity with the acquis is adopted, and monitoring of state aids granted in Turkey is operational. | Adopted secondary legislation regarding general rules by the end of the project.  
Adopted secondary legislation setting sector specific rules and de | Progress Report on Turkey's Application for Membership of the European Union, Official Gazette, Interim and Final Evaluation Reports |
<table>
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<tr>
<th>Results</th>
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<tr>
<td>2. Registration and reporting of state aids granted are initiated.</td>
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<table>
<thead>
<tr>
<th>Objectively verifiable indicators</th>
<th>Sources of Verification</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Starting of investments in IT infrastructure of the SAMSA to facilitate registration of awarded aids during the project period.</td>
<td>Official publications of Turkey, and interim and final evaluation report.</td>
<td></td>
</tr>
<tr>
<td>Starting of investments in IT infrastructure local tax offices to improve data collection capacity during the project period.</td>
<td>Official publications of Turkey, Interim and final evaluation reports.</td>
<td></td>
</tr>
<tr>
<td>Annual report that will be submitted to the EC prepared by the end of the project.</td>
<td>Progress report on Turkey’s Application for Membership of the European Union, Interim and Final Evaluation Reports</td>
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</table>
3. Training and skills of the SAMSA’s staff and officials of relevant public institutions dealing with implementation of state aids are enhanced, and awareness of public on newly adopted rules in the field of state aids is increased.

<table>
<thead>
<tr>
<th>Activities</th>
<th>Means</th>
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<tbody>
<tr>
<td>Training curricula for newly recruited staff of the SAMSA developed.</td>
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<td></td>
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<tr>
<td>Training-the-trainers program for selected staff of the staff developed</td>
<td>Official publications of the SAMSA, Interim and Final Evaluation Reports</td>
<td></td>
</tr>
<tr>
<td>All newly recruited staff of the SAMSA trained during the project period.</td>
<td>Official publications of Turkey, Interim and Final Evaluation Reports</td>
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<tr>
<td>Enough number of public officials in relevant public authorities with</td>
<td>Interim and Final Evaluation Reports</td>
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<tr>
<td>implementation of state aids trained</td>
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<tr>
<td>A seminar held for representatives of government authorities, economic</td>
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<tr>
<td>authorities, state economic enterprises, chambers, professional</td>
<td></td>
<td></td>
</tr>
<tr>
<td>associations, NGOs, and academics</td>
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</tbody>
</table>
1.1. Legal support to the SAMSA in drafting secondary legislation necessary to implement and enforce provisions of the Law on State Aids Monitoring and Supervising, and in assessing compliance with the acquis.

1.2. Legal support to the SAMSA in elaborating for the sector specific rules (in cooperation with relevant sectoral agencies), establishing rules for monitoring *de minimis* aid measures and in assessing compliance with the acquis.

Legal support to the SAMSA in preparing of its recommendations for the amendment of existing aid schemes, which are incompatible with the provisions of Law on State Aid Monitoring and Supervising.

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<th>Activities</th>
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<tbody>
<tr>
<td>One twinning covenant concerning all activities</td>
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1.4. Legal advice to the SAMSA given its hitherto lack of experience to assess draft legal acts prepared by other administrative bodies pertaining granting any kind of state aid for the entrepreneurs from the point of view of its admissibility;

1.5. Legal support to the relevant public authorities such as Undersecretariat of Treasury, Undersecretariat of Foreign Trade, Ministry of Finance, and the State Planning Organisation where proposals on granting state aid are taken;

1.6. Legal support to the SAMSA in handling of investigations for selected new state aid scheme or individual aid.

2.1. Support in clarification of necessary investment needs in order to set up IT infrastructure of the SAMSA to facilitate registration of awarded aids.

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<td></td>
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</tr>
</tbody>
</table>
2.2. Support in clarification of necessary investment needs in order to collect data from Ministry of Finance through its local tax offices.

2.3. Support in preparation of annual report that will be submitted to the EC Commission.

3.1. Developing training curricula for the newly recruited staff of the SAMSA. The training curricula will be designed as appropriate in the areas of EC competition and state aid law. The curricula will be designed for the continuous assessment, evaluation and quality control.

3.2. Training on monitoring, supervision and reporting techniques of state aids for the staff of the SAMSA in order to make them enforce provisions of legislation effectively;

<table>
<thead>
<tr>
<th>Activities</th>
<th>Means</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>One twinning covenant concerning all activities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.3. Designing and implementing a ‘training-the-trainers’ programme for selected staff of the SAMSA, in order to ensure sustainable in-house training activities;</td>
<td>One twinning covenant concerning all activities</td>
<td></td>
</tr>
<tr>
<td>3.4. Training for public officials in selected sectoral, horizontal and regional rules in order to make them prepare proposals of new aid schemes and implement either existing or newly adopted state aid schemes in conformity with new state aid legislation;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.5. Awareness raising seminar for the representatives of state economic enterprises, private undertakings in particular to the undertakings being the biggest beneficiaries of public aid, chambers, professional associations, non-governmental organisations, local government authorities granting state aid on the regional level, and related departments of selected universities on basic rules in the field of state aid, and guidelines of the procedures and principles.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Preconditions:**

- Adoption of the state aid monitoring and supervisory law by the Turkish Parliament.
- Establishment of State Aid Monitoring and Supervisory Authority.
- Recruitment of officials by the SAMSA, financed by the Turkish Government budget, before the start of the project.
- Provision of necessary office building and equipment for the SAMSA financed by the Turkish Government budget prior to the start of the project.
**ANNEXE 2: (Indicative) Detailed Cost Breakdown (EUR)**

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Institution Building (IB)</th>
<th>National co-financing</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-Accession Adviser (PAA)</td>
<td>400.000</td>
<td>400.000</td>
<td>400.000</td>
</tr>
<tr>
<td>Short-term experts for training seminars,</td>
<td>245.000</td>
<td>245.000</td>
<td>245.000</td>
</tr>
<tr>
<td>Experts for legal advice</td>
<td>115.000</td>
<td>115.000</td>
<td>115.000</td>
</tr>
<tr>
<td>IT experts</td>
<td>80.000</td>
<td>80.000</td>
<td>80.000</td>
</tr>
<tr>
<td>Translation and Interpretation</td>
<td>60.000</td>
<td>60.000</td>
<td>60.000</td>
</tr>
<tr>
<td><em>Ad hoc</em> experts</td>
<td>60.000</td>
<td>60.000</td>
<td>60.000</td>
</tr>
<tr>
<td>Study visits</td>
<td>25.000</td>
<td>25.000</td>
<td>25.000</td>
</tr>
<tr>
<td>Contingency fund for adjustment of estimated costs</td>
<td>15.000</td>
<td>15.000</td>
<td>15.000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>1.000.000</strong></td>
<td><strong>1.000.000</strong></td>
<td></td>
</tr>
</tbody>
</table>
### IMPLEMENTATION SCHEDULE OF THE PROGRAMME

<table>
<thead>
<tr>
<th>Year</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Twinning</td>
<td>N N N N N</td>
<td>N I I I I I</td>
<td>I I I I I I I I I</td>
</tr>
</tbody>
</table>
ANNEXE 3 b

CUMULATIVE COMMITMENT (CONTRACT) and DISBURSEMENT SCHEDULE

<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Commitment</td>
<td>-</td>
<td>-</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Disbursement</td>
<td>-</td>
<td>-</td>
<td>0.375</td>
<td>0.400</td>
<td>0.450</td>
<td>0.500</td>
<td>0.600</td>
<td>0.700</td>
<td>0.800</td>
<td>1.00</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Amounts in MEUR
ANNEXE 4a

List of relevant Laws and Regulations

Subsidies for Investment

The legislation in force under the title State Aid in Investments is divided into two main parts: countrywide investment and regional awards.

1. General Practices

General Legislation on Incentives

The legislative provisions are subject to Decree No 98/10755 of 23 February 1998 on State Aid in Investments and Investment Incentive Fund published in the Official Gazette No 23297 of 25 March 1998, and Communiqué No 98/1 on The Implementation of the Decree Setting the Principles for State Aid for Investments and the Investment Incentive Fund published in the Official Gazette No 23334 of 6 May 1998. (Decree 98/10755 was annulled by Decree 2000/1821 of 18 January 2001 published in the Official Gazette No 24291, and Communiqué No 98/1 was annulled by Communiqué No 2001/1 of 18 February 2001 published in the Official Gazette No 24322)

The general legislation on incentives was a horizontal and global legislation, not covering any regional and sectoral discrimination. Accordingly, there exist only tax exemptions and exceptions in this framework. However, the issues included in the tax legislation of the other countries are reflected in the incentive legislation of Turkey. The incentives currently in effect are:

**Investment allowance:** Allows some reduction from income and corporate taxes.

**Customs duty exemption:** Applicable to the machinery and equipment included under the scope of investments (investment goods subject to amortisation). This exemption lost its significance after the Customs Union to a great extent.

**VAT exemption:** Machinery and equipment listed in Incentive Certificate are subject to VAT exemption.

**Exemption from taxes, levies and duties:** Provides exemption from stamp and duty tax accrued in credit facilities and capital increases. The aim of this practice is to prevent paper work and loss of time rather than providing financial benefits to the companies. The amounts of such exemptions remain negligible.

2. Legislation on Incentives for SMEs

Applicable under Decree No 99/12474 of 19 February 1999 published in the Official Gazette No 23630 of 5 March 1999. (Decree was annulled by Decree no 2000/1822 of 18 January 2001 published in the Official Gazette no 24291)

Establishments operating in the manufacturing sector with less than 150 employees, and having machinery and equipment the value of which does not exceed TL 100 Billion, are included in the scope of SME’s.

Besides the above listed tax incentives, short and medium term investment and operating credit opportunities up to TL 75 Billion are also available. The interest rate is 20% in the so-called priority-provinces for development, whereas it is 30% in all other regions.
3. Regional Practices

_Incentives provided under the Decree for Regaining Investments into the Economy, Investments Not Been Able to Operate or Investments in Partial Operation Due to Lack of Operating Capital_

Executed as per Decree No 99/12474 published in the Official Gazette No 23630 of 5 March 1999. The aim of this practice is to support the development of facilities in the below listed provinces which have or have not been completed, due to the lack of operating capital, and thus to stimulate the economy of those regions. (Decree was annulled by Decree no 2000/1721 of 25 December 2000 published in the Official Gazette no 24271)

With Decree No 99/12477 incomplete investments in the manufacturing industry (excluding cotton ginning and packaging investments), the agricultural industry, and health and education in the provinces of Adiyaman, Agri, Ardahan, Bayburt, Batman, Bingöl, Bitlis, Diyarbakır, Elazığ, Erzincan, Erzurum, Gümüşhane, Hakkari, Hatay, Iğdır, Kars, Mardin, Mus, Ordu, Siirt, Sivas, Sanlıurfa, Şırnak, Tunceli, Van and Yozgat are included to the above mentioned system.

An investment and/or operating credit up to TL 300 Billion is furnished to each establishment.

4. Energy Subsidies


The aim is to supply energy to establishments having incentive certificates, with a 50% allowance in the first year following the completion of the investment, 40% in the second and 25% in the third year.

Companies operating in the following provinces are under the scope of the aforementioned Decree: Adiyaman, Agri, Ardahan, Batman, Bingöl, Bitlis, Diyarbakır, Elazığ, Erzincan, Erzurum, Gümüşhane, Hakkari, Hatay, Iğdır, Kars, Mardin, Mus, Ordu, Siirt, Sivas, Sanlıurfa, Şırnak, Tunceli, Van and Yozgat. These provinces are not only in regions experiencing severe energy and infrastructure problems, but also face many social difficulties.

Thus, the said legislation is provisionally applied to ensure social and economic stabilisation, as well as fostering economic activities in the region (it is foreseen that the practices will expire by the end of 2002).

Decree for Regaining Investments into the Economy Which Have Suffered Losses Due to Natural Disasters

With Decree No 99/13717 it is aimed to reactivate the facilities affected by the earthquake disaster and stimulate the economic environment of the region. Accordingly, it is anticipated to furnish a credit facility amounting to half of the worth of the facilities and machinery/equipment affected by the earthquake.

5. Export Subsidies

Export subsidies that are currently in force in Turkey are as follows:

- Export Credits and Insurances financed by Eximbank: Turkey has rearranged its respective legislation to comply with the rules stipulated in the OECD Resolutions. At present,
implementations within the framework of OECD principles and the EU rules are being conducted in accordance with the Communiqué No 96/12, an obligation stemming from the Customs Union.

- State Aid for Research Development Projects (Communiqué No 98/10, Official Gazette 4 November 1998)
- State Aid for Environmental Protection Activities (Communiqués No 97/5 and 98/13, Official Gazette: 31 July 1997 and 14 November 1998)
- State Aid for Organizing Domestic Fairs Having International Status (Communiqué No 95/7, Official Gazette: 1 June 1995)
- State Aid for Operating Stores Abroad (Communiqués No 97/9 and 98/14, Official Gazette: 31 July 1997 and 15 November 1998)
- State Aid for Participation in International Fairs and Exhibitions (Communiqués No 95/6 and 97/3, Official Gazette: 1 June 1995 and 31 July 1997)
- State Aid for Encouraging Employment in Sectoral Foreign Trade Companies (Communiqués No 97/8 and 2000/1, Official Gazette: 31 July 1997 and 29 January 2000)
- State Aid for Vocational Training (Communiqués No 97/7 and 2000/2, Official Gazette: 31 July 1997 and 29 January 2000)
- State Aid for Market Research Projects (Communiqués No 97/6 and 98/12, Official Gazette: 31 July 1997 and 14 November 1998)
- State Aid for Activities Aimed at the Promotion of Turkish Trademarks and the Improvement of the Image of Turkish Products Abroad (Communiqué No 2000/3, Official Gazette: 29 January 2000)
ANNEXE 4b

DECISION No 1/95 OF THE EC-TURKEY ASSOCIATION COUNCIL
of
22 December
1995 on implementing the final phase of the Customs Union (96/142/EC)

SECTION II

Competition

A. Competition rules of the Customs Union

Article 32

1. The following shall be prohibited as incompatible with the proper functioning of the Customs Union, in so far as they may affect trade between the Community and Turkey: all agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition, and in particular those which:

(a) directly or indirectly fix purchase or selling prices or any other trading conditions;

(b) limit or control production, markets, technical development or investment;

(c) share markets or sources of supply;

(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this Article shall automatically be void.

3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:

- any agreement or category of agreements between undertakings,

- any decision or category of decisions by associations of undertakings,

- any concerted practice or category of concerted practices which contributes to improving the production or distribution of goods or to promoting technical or economic progress, which allowing consumers a fair share of the resulting benefit, and which does not:

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment to these objectives;

(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.
Article 33

1. Any abuse by one or more undertakings of a dominant position in the territories of the Community and/or of Turkey as a whole or in a substantial part thereof shall be prohibited as incompatible with the proper functioning of the Customs Union, in so far as it may affect trade between the Community and Turkey.

2. Such abuse may, in particular, consist in:

(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;

(b) limiting production, markets or technical development to the prejudice of consumers;

(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Article 34

1. Any aid granted by Member States of the Community or by Turkey through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between the Community and Turkey, be incompatible with the proper functioning of the Customs Union.

2. The following shall be compatible with the functioning of the Customs Union:

(a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;

(b) aid to make good the damage caused by natural disasters or exceptional occurrences;

(c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division;

(d) for a period of five years from the entry into force of this Decision, aid to promote economic development of Turkey's less developed regions, provided that such aid does not adversely affect trading conditions between the Community and Turkey to an extent contrary to the common interest.

3. The following may be considered to be compatible with the functioning of the Customs Union:

(a) in conformity with Article 43 (2) of the Additional Protocol, aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;

(b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State of the Community or of Turkey;

(c) for a period of five years after the entry into force of this Decision, in conformity with Article 43 (2) of the Additional Protocol, aids aiming at accomplishing structural adjustment necessitated by
the establishment of the Customs Union. The Association Council shall review the application of that clause after the aforesaid period.

(d) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions between the Community and Turkey to an extent contrary to the common interest;

(e) aid to promote culture and heritage conservation where such aid does not adversely affect trading conditions between the Community and Turkey to an extent contrary to the common interest;

(f) such other categories of aid as may be specified by the Association Council.

Article 35

Any practices contrary to Articles 32, 33 and 34 shall be assessed on the basis of criteria arising from the application of the rules of Articles 85, 86 and 92 of the Treaty establishing the European Community and its secondary legislation.

Article 36

The Parties shall exchange information, taking into account the limitations imposed by the requirements of professional and business secrecy.

Article 37

1. The Association Council shall, within two years following the entry into force of the Customs Union, adopt by Decision the necessary rules for the implementation of Articles 32, 33 and 34 and related parts of Article 35. These rules shall be based upon those already existing in the Community and shall inter alia specify the role of each competition authority.

2. Until these rules are adopted,

(a) the authorities of the Community or Turkey shall rule on the admissibility of agreements, decisions and concerted practices and on abuse of a dominant position in accordance with Articles 32 and 33;

(b) the provisions of the GATT Subsidies Code shall be applied as the rules for the implementation of Article 34.

Article 38

1. If the Community or Turkey considers that a particular practice is incompatible with the terms of Articles 32, 33 or 34, and - is not adequately dealt with under the implementing rules referred to in Article 37, or - in the absence of such rules, and if such practice causes or threatens to cause serious prejudice to the interest of the other Party or material injury to its domestic industry, it may take appropriate measures after consultation within the Joint Customs Union Committee or after 45 working days following referral for such consultation. Priority shall be given to such measures that will least disturb the functioning of the Customs Union.

2. In the case of practices incompatible with Article 34, such appropriate measures may, where the General Agreement on Tariffs and Trade applies thereto, only be adopted in conformity with the procedures and under the conditions laid down by the General Agreement on Tariffs and Trade and any other relevant instrument negotiated under its auspices which are applicable between the Parties.
B. Approximation of legislation

**Article 39**

1. With a view to achieving the economic integration sought by the Customs Union, Turkey shall ensure that its legislation in the field of competition rules is made compatible with that of the European Community, and is applied effectively.

2. To comply with the obligations of paragraph 1, Turkey shall

(a) before the entry into force of the Customs Union, adopt a law which shall prohibit behaviours of undertakings under the conditions laid down in Articles 85 and 86 of the EC Treaty. It shall also ensure that, within one year after the entry into force of the Customs Union, the principles contained in block exemption Regulations in force in the Community, as well as in the case-law developed by EC authorities, shall be applied in Turkey. The Community shall inform Turkey as soon as possible of any procedure related to the adoption, abolition, or modification of block exemption Regulations by the EC after the entry into force of the Customs Union. After such information has been given, Turkey shall have one year to adapt its legislation, if necessary;

(b) before the entry into force of the Customs Union, establish a competition authority which shall apply these rules and principles effectively;

(c) before the entry into force of this Decision, adapt all its aids granted to the textile and clothing sector to the rules laid down in the relevant Community frameworks and guidelines under Articles 92 and 93 of the EC Treaty. Turkey shall inform the Community of all its aid schemes to this sector as adapted in accordance with these frameworks and guidelines. The Community shall inform Turkey as soon as possible of any procedure related to the adoption, abolition or modification of such frameworks and guidelines by the Community after the entry into force of the Customs Union. After such information has been given, Turkey shall have one year to adapt its legislation;

(d) within two years after the entry into force of this Decision, adapt all aid schemes other than those granted to the textile and clothing sector to the rules laid down in Community frameworks and guidelines under Articles 92 and 93 of the EC Treaty. The Community shall inform Turkey as soon as possible of any procedure related to the adoption, abolition or modification of such frameworks and guidelines by the Community. After such information has been given, Turkey shall have one year to adapt its legislation;

(e) within two years after the entry into force of the Customs Union, inform the Community of all aid schemes in force in Turkey as adapted in accordance with point (d). If a new scheme is to be adopted, Turkey shall inform the Community as soon as possible of the content of such scheme;

(f) notify the Community in advance of any individual aid to be granted to an enterprise or a group of enterprises that would be notifiable under Community frameworks or guidelines had it been granted by a Member State, or of individual aid awards outside of Community frameworks or guidelines above an amount of ECU 12 million and which would have been notified under EC law had it been granted by a Member State.

Regarding individual aids granted by Member States and subject to the analysis by the Commission, on the basis of Article 93 of the EC Treaty, Turkey will be informed on the same basis as the Member States.
3. The Community and Turkey shall communicate to each other all amendments to their laws concerning restrictive practices by undertakings. They shall also inform each other of the cases when these laws have been applied.

4. In relation to information supplied under paragraph 2, points (c), (e) and (f), the Community shall have the right to raise objections against an aid granted by Turkey which it would have deemed unlawful under EC law had it been granted by a Member State. If Turkey does not agree with the Community's opinion, and if the case is not resolved within 30 days, the Community and Turkey shall each have the right to refer the case to arbitration.

5. Turkey shall have the right to raise objections and seize the Association Council against an aid granted by a Member State which it deems to be unlawful under EC law. If the case is not resolved by the Association Council within three months, the Association Council may decide to refer the case to the Court of Justice of the European Communities.

**Article 40**

1. The Community shall inform Turkey as soon as possible of the adoption of any Decision under Articles 85, 86 and 92 of the EC Treaty which might affect Turkey's interests.

2. Turkey shall be entitled to ask information about any specific case decided by the Community under Articles 85, 86 and 92 of the EC Treaty.

**Article 41**

With regard to public undertakings and undertakings to which special or exclusive rights have been granted, Turkey shall ensure that, by the end of the first year following the entry into force of the Customs Union, the principles of the Treaty establishing the European Economic Community, notably Article 90, as well as the principles contained in the secondary legislation and the case-law developed on this basis, are upheld.

**Article 42**

Turkey shall progressively adjust, in accordance with the conditions and the time-table laid down by the Association Council any State monopolies of a commercial character so as to ensure that, by the end of the second year following the entry into force of this Decision, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Member States and of Turkey.

**Article 43**

1. If the Community or Turkey believes that anti-competitive activities carried out on the territory of the other Party are adversely affecting its interests or the interests of its undertakings, the first Party may notify the other Party and may request that the other Party's competition authority initiate appropriate enforcement action. The notification shall be as specific as possible about the nature of the anti-competitive activities and their effects on the interests of the notifying Party, and shall include an offer for such further information and other cooperation as the notifying Party is able to provide.

2. Upon receipt of a notification under paragraph 1 and after such other discussion between the Parties as may be appropriate and useful in the circumstances, the competition authority of the notified Party will consider whether or not to initiate enforcement action, with respect to the anti-competitive activities identified in the notification. The notified Party will advise the notifying Party
of its decision. If enforcement action is initiated, the notified Party will advise the notifying Party of its outcome and, to the extent possible, of significant interim developments.

3. Nothing in this Article limits the discretion of the notified Party under its competition laws and enforcement policies as to whether or not to undertake enforcement action with respect to the notified anti-competitive activities, or precludes the notifying Party from undertaking enforcement action with respect to such anti-competitive activities.
ANNEXE 4c State aid legislation of the EC

General procedural rules

- Procedural regulation
    Official Journal L 83, 27.03.1999, pages 1-9

Enabling Regulation


  Official Journal L 10, 13.01.2001, pages 30-32


- [now articles 87 and 88]
  Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid
  Official Journal L 142, 14.05.1998, pages 1-4
  Only the text published in the Official Journal is authentic

Communications to Member States and public notices on procedural issues

- Notification obligation and consequences of breach of obligation
  - The notification of State Aid to the Commission pursuant to Article 93(3) [now 88(3)] of the EEC Treaty: the failure of Member States to respect their obligations 30.9.1980
  - Commission communication 24.11.1983
  - Commission communication 5.1.1985
  - Commission letter to Member States SG(89) D/5521 of 27 April 1989
  - Commission letter to Member States SG (91) D/4577 of 4 March 1991
  - Annex: Information to be supplied in an Article 93(3) [now 88(3)] notification
  - Guidance note on use of the minimis facility provided for in the SME aid guidelines (letter of 23 March 1993)
  - Annex: calculation of the cash grant equivalent of a soft loan
  - Commission communication to the Member States on the recovery of unlawful aid (22.6.1995)
  - Interest rate to be applied when aid granted unlawfully is being recovered (Letter to Member States of 22.2.1995)
• Notifications and standardized annual reports
  o Commission letter to Member States of 2 August 1995
  o Annex I: Standardized reporting format
  o Annex II: Standardized notification format
• Time-limits for decision
  o Commission letter to Member States SG (81) 12740 of 2 October 1981
  o Commission letter to Member States of 30 April 1987
• Accelerated procedure
  o Commission communication to the Member States on the accelerated clearance of aid schemes for SMEs and of amendments of existing schemes 19.8.1992
  o Accelerated procedure for processing notifications of employment aid, 27.07.1996
• Publication
  o Commission letter to Member States of 27 June 1989
  o Commission letter to Member States of 11 October 1990
• Notice on cooperation between national courts and the Commission in the State Aid field
• Reference and discount rates
  o Commission letter to MS of 18.8.1997
  o Commission notice of 26.08.1999

Guide to procedures in State Aid Cases
• Introduction
  o Notification
  o Decisions of the Commission to approve notified aid without opening Article 93(2) [now 88(2)] proceedings
  o 3. Formal investigation procedure under Article 93(2) [now 88(2)]
  o 4. Unnotified aid cases
  o 5. Monitoring of 'existing aid' under Article 93(1) [now 88(1)], review of general policy and reporting requirements
  o 6. Complaints
  o 7. Publication of decisions
  o Annex 1:A + B + C
Financial Transfers and Transactions

- Government Capital Injections
  - Application of Articles 92 and 93 [now 87 and 88] of the EEC Treaty to public authorities' holdings
    (Bulletin EC 9-1984)

- Financial Transfers to public enterprises
    *Official Journal L 193 of 29.07.2000, page 75*
  - Commission communication to the Member States 13.11.1993

- State Guarantees
  - Commission notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees
    *Published in the Official Journal C 71 of 11.03.2000 - only the published text is authentic*
    Commission letter to Member States of 5 April 1989 (SG(89) D/4328)
  - Commission letter to Member States of 12 October 1989 (SG(89) D12772)

- De Minimis

- Public Land Sales
  - Commission communication concerning aid elements in land sales by public authorities
    *(OJ C 209/3 of 10.7.1997)*

- Export Credit Insurance
  - Communication of the Commission to Member States amending the communication pursuant to Article 93(1) of the EC Treaty applying Articles 92 and 93 of the Treaty to short-term export-credit insurance (Text with EEA relevance)
    *Official Journal C 217, 02.08.2001, pages 2-3*
  - Communication of the Commission to the Member States pursuant to Article 93 (1) of the EC Treaty applying Articles 92 and 93 of the Treaty to short-term export-
credit insurance (Text with EEA relevance)

Official Journal C 281, 17.09.1997, pages 4-10

- Fiscal aid - Direct Business Taxation:
  - Commission notice on the application of the State aid rules to measures relating to direct business taxation

Rules on the assessment for approval of State aid with horizontal objectives
- Research and development aid
  - Community framework for State aid for Research and Development
  - Annex I Annex II Annex III
  - Commission letter to Member States of 2.5.1997
  - Commission communication amending the Community framework for State Aid for research and development
- Environmental aid
  - EFTA Surveillance Authority Decision No 152/01/COL of 23 May 2001 revising the guidelines on the application of the EEA State aid provisions to aid for environmental protection and amending for the twenty-eighth time the Procedural and Substantive Rules in the Field of State Aid
    Official Journal L 237, 06.09.2001, pages 16-31
  - Community guidelines on State aid for environmental protection
    Official Journal C 37, 03.02.2001, pages 3-15
- Rescue and restructuring aid - new guidelines
  - OJ C 288, 09.10.1999, p. 2-18
    Only the text published in the Official Journal is authentic
  - Community guidelines on State aid for rescuing and restructuring firms in difficulty, 23.12.1994
  - Commission communication concerning extension of the guidelines on State aid for rescuing and restructuring firms in difficulty, 10.03.1998
  - Commission communication concerning the extension of the Guidelines on State aid for rescuing and restructuring firms in difficulty
    OJ C 67, 10.03.1999, p. 11
    Only the text published in the Official Journal is authentic
  - OJ C 2001 C 368, Communication of the Commission to Member States: Multisectoral framework on regional aid for large investment projects
    see also
  - Communications from the Commission: Multisectoral Framework on regional aid for large investment projects - rescue and restructuring aid and closure aid for the steel sector.

- SMES
- Community guidelines on State aid for small and medium-sized enterprises (SMEs)
  - *Official Journal C 213, 23.7.1996*
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### Employment
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- Monitoring of State aid and reduction of labour costs

### Training
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• **Fisheries**

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  *Official Journal C 19, 20.01.2001, pages 7-15*

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  **and**

  
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• **Motor vehicle industry**

• Community framework on State Aid to the motor vehicle industry *15.09.1997*

• **Shipbuilding**

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Transport

i. Air transport
   o Application of Articles 92 and 93 [now 87 and 88] of the EC Treaty and Article 61 of the EEA agreement to State aids in the aviation sector (OJ C 350, 10.12.94)

ii. Maritime transport
   o Community guidelines on State aid to maritime transport
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iii. Road, rail and inland waterway
   o See also
     OJ C 2001 C 368, Communication of the Commission to Member States: Community
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- Council Regulation (EEC) n° 1191/69 of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway, 28.6.1969


- Council Regulation (EEC) n° 3572/90 of 4 December 1990 amending, as a result of German unification, certain Directives, Decisions and Regulations relating to transport by road, railroad and inland waterway, 17.12.1990

