1. Basic Information
   
   1.1 Title: Upgrading the Physical Infrastructure in the Telecommunications sector regarding Market Surveillance
   
   1.2 Sector: Internal Market
   
   1.3 Location: Ankara, Turkey

2. Objectives
   
   2.1 Overall Objective(s):
   
   The overall objective of the project is to contribute to the enforcement of the EU acquis communautaire in the area of internal market, specifically focusing on market surveillance by means of upgrading the required laboratory infrastructure for the Telecom sector.
   
   2.2 Project Purpose:
   
   The project will contribute to the implementation of the R&TTE Directive by providing the market surveillance support laboratory of the Telecom Authority with additional equipment and related training on equipment.

2.3 Accession Partnership and NPAA priorities

   A short-term priority under the free movement of goods heading of the Accession Partnership (AP) 2003 in terms of removing technical barriers to trade, accelerating alignment and application of European standards and ensuring effective in-market control and free movement of goods in line with internal market legislation. The AP, under its short-term priorities, explicitly include starting implementation of certification and conformity assessment with the New and Global Approach Directives; reinforcing existing market surveillance and conformity assessment structures with equipment and training and creating compatible administrative infrastructure. AP gives the completion of alignment with the acquis and the completion of strengthening existing certification and market surveillance structures as a medium-term priority. The existing National Programme for the Adoption of the Acquis (NPAA) gives the completion of the whole conformity assessment and market surveillance structures as a medium-term priority. The NPAA for 2003 is expected soon.

3. Description

   3.1 Background and justification:

   The conclusions of the Helsinki European Council in December 1999 recognised Turkey as a candidate for membership to the European Union. As a candidate country Turkey has to approximate the whole body of EU legislation known as the acquis communautaire.

   For the approximation of legislation in the area of Free Movement of Goods, Turkey has a head start due to the existence, since 1996, of the Customs Union between Turkey and the EU. According to Decision 1/95 of the EC-Turkey Association Council, completing the
Customs Union, Turkey had to finalise, before the end of 2000, the harmonisation of its technical legislation, in areas of direct relevance to the Customs Union.

In line with the Association Council Decisions n° 1/95 and 2/97, a Framework Law relating to the preparation and implementation of the technical legislation regarding products has entered into force on 11 January 2002. The Law was adopted by the Parliament on 29.06.2001 and published in the Official Gazette on 11 July 2001. This Framework Law establishes the legal basis for full harmonisation with the EC legislation, and it lays down the basic principles for product safety and the implementation of Old and New Approach Directives. It sets out the conditions of the placing on the market of the products, the liabilities of the producers and distributors, the conformity assessment bodies, notified bodies, market surveillance and inspection, the prohibition of the placing on the market of certain products, the withdrawal and destruction of the marketed products as well as the notifications relating to these arrangements.

The Framework Law is complemented by five pieces of secondary legislation (by-laws) in order to become operational on the ground:

(i) market surveillance and control of the products,

(ii) use and affixing of the CE conformity mark,

(iii) working principles and procedures for the conformity assessment bodies and notified bodies and their assignments,

(iv) exchange of information on national measures derogating from the principle of the free movement of goods,

(v) notification procedures between Turkey and the EC regarding technical legislation.

The first three pieces of legislation have been published in the Official Gazette on 17 January 2002 and are applicable retroactively as from 11 January 2002. The forth one is still under consultation with the European Commission. The fifth one, regulation on the notification procedures between Turkey and the EC regarding technical legislation has been published on 3 April 2002.

Although progress has been made in terms of the alignment of technical legislation, enforcement of the new conformity assessment and market surveillance systems is still to be achieved. This is partly due to the need for technical assistance (which would be addressed by another EC programme) and also due to the lack of laboratory infrastructure and trained laboratory staff.

During the programming exercise undertaken by the National Aid Coordinator: the EU Secretariat-General (EUSG) in consultation with the Financial Cooperation Committee and related Ministries and public institutions in March 2002, the issue of upgrading the laboratory infrastructure for conformity assessment and market surveillance purposes has been identified as a priority for funding and R&TTE Directive was considered as a priority area.

A pre-feasibility study has been undertaken on the identification of needs in this area as a part of a more general exercise including other sectors which resulted in the drafting of this project fiche. The results of this study are available in Annex 8.

The Telecom sector is under the responsibility of the Telecom Authority. The R&TTE Directive has been prepared according to the Turkish laws and was published on 11 May
2003, with an enforcement period of 12 months. Market Surveillance is under the competence of the Telecom Authority.

The most momentous structural change in the Turkish telecommunication sector has been realized through the enactment of the Amending Law No. 4502 about the “Telegram and Telephone and the law about the Organization and Functions of the TA and the law about the Saving and Aid Fund of the Post, Telegram and Telephone Administration and Wireless Law” published at the Official Gazette on 29 January 2000.

By this Amending Law No.4502; policy making, regulatory and operational functions on the telecommunication sector have been separated from each other and have been vested at different bodies. Telecommunications Authority (TA) established as the independent authority with administrative and financial autonomy for regulating the overall telecommunications sector in Turkey. General Directorate of Radiocommunications functioning under the Wireless Law No. published 2813 on 7 April 1993 abolished and all of its functions transferred to TA.

TA has been authorized to prepare regulations for all telecommunications sector particularly on pricing, interconnection and quality of service; to supervise the compliance with the conditions of the mission contract, concession agreement, telecommunication licenses and general permissions and to apply some administrative fines if necessary.

TA has been authorized to determine policies for the telecommunication sector in accordance with the laws and government policies. TA also authorised to prepare the necessary regulations, to determine the terms and provisions of the concession agreement to be concluded and telecommunication licenses to be issued, to award them through tenders and to apply the heavy sanctions necessitating the power and responsibility of the state.

A market surveillance strategy has been prepared by the Telecom Authority and has been put into implementation within the scope of a pilot project. The notified body criteria of the Authority is published on its web-site.

3.2 Linked activities:

a) Institution Building of the Telecommunications Authority.

The project is financed under the pre-accession funds of 2002 and will start early 2003. It is basically a twinning project which aims at fostering the improvement of the alignment of the Turkish telecommunications legislation with the EU acquis and strengthening of the capacity of the Telecommunications Authority (TA) to reinforce its implementation ability. There is also technical assistance foreseen for the R&TTE Directive.

b) OECD Study on Regulatory Reform in Turkey, Completed in 2002.

c) Administrative Cooperation Programme

This EU funded project has become operational in 2000 and aims at providing short-term technical assistance support to Turkish authorities in its accession efforts to the EU, by
facilitating transfer of know-how and best practice from European authorities and administrations through a variety of activities and sub-projects. Short term technical assistance entitled “Assistance to the Telecommunications Authority” aimed at identifying the major gaps in the TA and elaborating an action plan. This action helped developing the action under (a).

d) Support to the Quality Infrastructure in Turkey Project

This EU funded project, with a duration of 5 years, started in August 2002, was envisaged as a technical assistance programme. The programme provides, in a broad way, expertise, either for training, consultancy for training awareness. This is achieved by providing a framework for technical assistance that will consist of four components:

- Legal and technical advice, on the design of legislative instruments,
- Institution building support, for the strengthening of the application and enforcement of the legal instruments in question,
- The transfer of know-how to both the public and private sector,
- Awareness raising on the implications of the Customs Union Agreement and the Free Movement of Goods for the public and private sector.

The project has supported the Telecommunication Authority with a short-term TA action in the drafting of its market surveillance strategy.

3.3 Results:

R1. The Telecom Authority able to verify the technical compliance of products within the scope of the R&TTE Directive using adequate and reliable laboratories facilities;

3.4 Activities:

A1 Procurement of testing equipment. The supply of laboratory equipment according to the technical specifications as detailed in Annex 7.

A2 Installation of procured equipment in beneficiary laboratories and training of the laboratories' staff in the procured equipment. The procured equipment will be installed in the premises of the beneficiaries. The laboratory staff will be trained in the use of the equipment.

3.5 Lessons Learned

This is the first investment project of this kind in this sector. There are no specific lessons learned to refer to.

A short description of lessons learned from previous related activities is provided below.

Short term technical assistance entitled “Assistance to the Telecommunications Authority” came up with a gap analysis study for the Telecommunications Authority together with an action plan aiming to close these gaps in a programmed manner. The gap analysis brought forward two sets of gaps: legislative and administrative. The report identifies the need for some further legislative actions,
including the adoption of a new framework law and issuing of implementing legislation in a number of areas. The administrative gaps part, on the other hand, involves the major shortages in the TA associated with its organizational structure, training and skill enhancement needs, information awareness level and equipment availability. The gap analysis study and corresponding action plan have been approved by the Board of the TA.

Furthermore, OECD Study on Regulatory Reform in Turkey makes an extensive analysis of the Turkish telecommunications sector and comes up with a number of recommendations. In broad terms, the Report puts emphasis on the transparent, non-discriminatory and effective application of regulations and regulatory processes in the direction of further stimulation of competition. The Telecom Authority must review the market regularly to evaluate the state of competition and determine when and how sectoral regulation can be withdrawn.

The assistance provided within the scope of the Quality project helped further defining the market surveillance strategy of the Telecom Authority. The results of that study has been taken into account in the drafting of this project fiche.

4 Institutional Framework

The Telecom Authority is the Beneficiary Institution of this programme. The Telecom Authority will provide the building able to host the Radiocom labs to operate market surveillance testing activities.

The work of the following institutions is related to the implementation of the TA’s tasks.

**Competition Authority**

By virtue of the Law of Protection of Competition No. 4054 of 7/12/94), the Competition Authority will continue to play a vital role in a liberalised telecommunications infrastructure together with the TA. With the wireline domain open to market forces on or before 1/1/04, the issue of Significant Market Power, for example, will be one that will require close cooperation between the TA and the Competition Authority.

**Ministry of Justice**

The allied issues of Data Protection and Data Privacy concern every telecommunications regulator, in terms of harmonisation and means of enforcement. Turkey’s Ministry of Justice is in the process of formulating draft legislation in this regard.

**Turkish Standards Institute (TSE)**

The TSE promulgates standards and provides calibration and certification services – including personnel certification. Because the TSE is Turkey’s focal point for the ISO 9000 series of standards, its activities are of interest to many TA departments including, but not limited to, Technical Regulations and Standards, Spectrum Management, Spectrum Monitoring and Inspection and Information Technologies.
Ministry of Transportation & Communications

Although the former regulatory functions of the Ministry of Transport & Communications have been transferred to the TA by Law No.3348, the Ministry remains legally responsible for policy in the area of telecommunications. In practice, on many of the items which are the subject of this project – such as determination of the demands and requirements for communications services and their coordination, the regulation, investigation and coordination of certain services provided by public entities, the monitoring of manufacturing of telecommunications equipment. The TA makes proposals to the Ministry for implementation by the latter.

5 Detailed Budget

<table>
<thead>
<tr>
<th>Pre-Accession Fund</th>
<th>Support</th>
<th>Total Pre-Accession Fund (=I+IB)</th>
<th>National Co-financing (25%)</th>
<th>IFI</th>
<th>TOTAL</th>
</tr>
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<tbody>
<tr>
<td>Investment Support</td>
<td>Institution Building</td>
<td>€ 3.58 Million</td>
<td>€ 1.19 Million</td>
<td>€ 4.77 Millions</td>
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</table>

Total € 3.58 Millions -- € 3.58 Million € 1.19 Million € 4.77 Millions

6 Implementation Arrangements

6.5 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. The Head of the CFCU is Mr. Nuri Ercan Tortop (tel: 90 312 285 46 20, fax:+90 312 285 9624).

The beneficiary is the Telecommunication Authority.

TELECOMMUNICATION AUTHORITY

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6.6 Twinning
6.7 Non-standard aspects
Not applicable

6.8 Contracts

<table>
<thead>
<tr>
<th>Contract 1: Supply of Laboratory equipment and related training for Telecom sector</th>
<th>€ 4.77 Millions</th>
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<tbody>
<tr>
<td><strong>Total</strong></td>
<td><strong>€ 4.77 Millions</strong></td>
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</table>

7 Implementation Schedule

7.5 Start of tendering
September 2003

7.6 Start of project activity
May 2004

7.7 Project Completion
August 2005

8 Equal Opportunity

Participation in this project will be open to both males and females involved in the sector. Records of professionals’ participation in all project related activities will reflect this and will be kept with the project documentation.

9 Environment

Not applicable

10 Rates of return

Supply of equipment for laboratory testing is to assist the beneficiary in supporting the assessment and monitoring of the aquis compliance. The investment is not of commercial or profit oriented character.

11 Investment criteria

11.5 Catalytic effect:
The EU pre-accession investments under this project will contribute to the strengthening of the necessary conformity assessment system and its functioning at the required EU level.
The overall objective of the project is to support the application and enforcement of the Acquis in the area of free movement of goods (in the Telecom Sector), which is a accession priority stressed both in the Accession Partnership and the NPAA.

11.6 Co-financing:

In addition to the EU pre-accession fund the investment will receive co-financing from national contribution for a total amount of € 1.19 Million. The national contribution will be covered by the Telecom Authority.

11.7 Additionality:

The EC grants will not displace other financiers especially from the private sector.

11.8 Project Readiness and Size:

The project is the result of an extensive pre-feasibility study, which resulted in the drafting of this project fiche (results of this pre-feasibility study are available in Annex 8). The generic technical specifications of the equipment are already given in Annex 7.

11.9 Sustainability:

The project supports the implementation and enforcement of the Acquis. All equipment will be required to comply with the applicable European directives. Maintenance of the equipment, in particular the cost for spare parts and supplies will be borne by the budget of the beneficiary

11.10 Compliance with state aids provisions

*Not applicable*

11.11 Contribution to National Development Plan

*Not applicable*. Turkey has now begun preparation of its first national development Plan. This is likely to be ready by the end of 2003.

### 12 Conditionality and sequencing

The supply contract will not be signed:

- unless the legislation harmonized is in full compliance with the one of the EU;
- unless there is evidence of the existence and functioning of the physical infrastructure building facilities of the Telecommunication Authority;
- unless there is evidence that the Telecom Authority’s market surveillance support laboratory meet the technical criteria mentioned in Annex 4;
- unless the laboratory staff of the Telecom Authority have received training on analysis methods.
ANNEXES TO PROJECT FICHE

Annex 1 - Logical framework matrix in standard format
Annex 2 - Detailed implementation chart
Annex 3 - Contracting and disbursement schedule by quarter for full duration of programme (including disbursement period)
Annex 4 - Criteria for the Equipment Support to the Telecom Laboratory
Annex 5 - Schedule for Transposition of EU Acquis into the Turkish Legislation
Annex 6 - Organisation Chart of the Telecommunications Authority
Annex 7 - List of equipment to be procured
Annex 8 - Results of the pre-feasibility study