Standard Summary Project Fiche

Project number: TR 05 03.03

1. Basic Information

1.1. CRIS Number

1.2. Title
Reinforcement of Institutional Capacity of the Directorate General for State Aids in the Undersecretariat of State Planning Organisation

1.3. Sector
AD

1.4. Location
Turkey – Ankara

1.5. Duration
Overall duration 21 months with 18 months implementation duration

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 administrative capacity of the Directorate General for State Aids, once established; alignment of the Turkish legislation with the relevant EU acquis.

2.3 Accession Partnership and NPAA Priority

AP 4. Align with the acquis concerning State aids and establish a national State aid monitoring authority to ensure an effective State aid control based on EC criteria.

NPAA 6.2.1. An authority responsible for monitoring and supervising state aids will be established as a requirement of the harmonisation of Turkish legislation and implementation of state aids with relevant EU Acquis. A Twinning Project was adopted under the “2002 Programming of Turkey-EU Pre-accession Financial Assistance” framework in order to provide assistance to the authority in its efforts on harmonisation and implementation.

2.4. Contribution to National Development Plan
Not Applicable

2.5 Cross Border Impact
Not Applicable
3. Description

3.1. Background and justification

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 set 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.

In addition, the basic principles of free trade on ECSC products between Turkey and ECSC were established by Turkey-ECSC free trade agreement, which was signed in July 25, 1996. According to the agreement Turkey will respect ECSC rules in relation with the competition, concentrations and state aid as it may affect trade between parties. State aid in any form whatsoever except derogations allowed pursuant to the ECSC Treaty is deemed incompatible with the proper functioning of the agreement according to the Article 7, and the derogation period of five years for restructuring or conversion purposes specified in the Article 8. According to Article 7 Turkey has commitment to notify the Community in sufficient time of any public aid proposed to be granted in the ECSC steel sector.

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. That 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 a NUTS based aid map has not taken place in Turkey.

The Law on “The Framework, Monitoring and Supervision of State Aids and Amending Some Other Decrees and Laws” has been already drafted and submitted to the Prime Ministry. The Draft Law will be submitted to the Parliament after the final decision.
The draft law sets out general provisions and framework regarding state aids in Turkey and enshrines the basic rules of state aids in EU in line with the relevant provisions of the agreements between Turkey and European Union. The draft establishes; a Board as a decision making body, composed of representatives from various public institutions to take independent decisions on monitoring and supervision, and also a General Directorate for state aids in the SPO to provide secretarial services to the Board. The draft law introduces only general procedural rules, leaving other issues to secondary legislation. Enacting secondary legislation in full conformity with the relevant acquis is an obligation of Turkey, as well as crucial for the efficient state aids monitoring system.

The draft law contains a general prohibition to grant state aid with certain exemptions and defines competence of the monitoring authority. The draft provides 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 draft imposes obligation to obtain an opinion of the Board on compatibility of proposed aid with binding secondary 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 Board may initiate investigation *ex officio* where relevant legal acts related to aid scheme or decision was not consulted with the Board. If its opinion was not taken into account, within the frame of *ex post* control, the Board is empowered to apply to the court with a motion to present the case for assessment of incompatibility of such act with provisions of the Law or with ratified international agreements. Unlawful aid is to be reimbursed in line with the relevant national law. Effective *ex-ante* and *ex-post* controls, and better handling of cases by the Board could only be ensured through a General Directorate, which has sufficient level of administrative capacity.

To ensure transparency of granted aid measures and the scope of aid, all institutions granting state aid are obliged to collect data and report to the General Directorate. The General Directorate is obliged to prepare annual reports on state aids awarded.

By virtue of the new legal provisions the State Aid Monitoring and Supervisory Board can take independent decisions 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. 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 an IT system for collecting data 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 administrative capacity of the General Directorate for State Aids. To reach this target, with the support of Resident Twinning Adviser, the first stage will be an intensive training
program for the staff of monitoring authority and the staff of aid granting bodies to enable them to initiate the enactment of secondary legislation in full conformity with the acquis. The program should be initiated simultaneously with the start of the project. One of the main major objectives of the project should be to elaborate a sustainable training system for the General Directorate’s staff. Awareness raising of officials of the relevant public authorities, and private undertakings, which are the biggest state aid beneficiaries, should be also included in due course. Through these activities stated above, this project will help to improve effectiveness and transparency of state aid monitoring and supervision in Turkey.

Simultaneously, legal support will be given to the General Directorate to handle the drafting of secondary legislation. 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 General Directorate.

3.2. Sectoral Rationale

Not applicable

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 General Directorate 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 is given to the General Directorate in suggesting modifications of existing Laws, if necessary, as well as drafting secondary legislation regarding general rules in assessing compliance with the acquis.

(please see Annexe 4c).

1.2. Elaboration of other specific rules not covered under Act.1.1 (e.g. establishing rules for monitoring the minimised aid measures, sector specific measures and/or in assessing compliance of other legislation, not having a direct link with state aid law, in respect with the acquis, please see Annexe 4c)

1.3 Legal support is given to the General Directorate in preparing its recommendations for the amendment of existing aid schemes, which are incompatible with the Acquis and national State aid legislation and in handling investigations into them.
1.4. Legal support is given to the General Directorate in assessing the compatibility of drafts of legal acts submitted by aid granting bodies to the General Directorate and in handling investigations into them.

1.5. Specific legal support is given to relevant public authorities such as the Undersecretariat of Treasury, Undersecretariat of Foreign Trade, the Ministry of Finance, the Ministry of Industry and Trade, TUBITAK, KOSGEB, and other institutions where aid schemes are prepared.

1.6. Legal support to the General Directorate in handling of investigations for unlawful aid and misuse of aid.

(II) Setting Up Registering and Reporting System

2.1. Support in data types to be collected and data collection and evaluation methods.

2.2. Support in clarification of necessary investment needs (hardware and software) and giving advise in order to set up IT infrastructure of the General Directorate to facilitate registration of awarded aids.

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

(III) Training and Awareness Raising

3.1. Advice is given on the organisation, operation, qualifications and recruitment of staff of the General Directorate for State Aids.

3.2. Training for the staff in the beginning of the project of the General Directorate. It will be designed as appropriate in the areas of EC state aid legislation. Study visits to Member States including Local Governments on typical problems/solutions during implementation and reporting stages and during the accession process.

3.3. The respective staff of the General Directorate will be trained on monitoring, supervising and reporting techniques of state aids to enable the staff to enforce legal provisions effectively.

3.4. In order to ensure sustainable in-house trainings, a “Training- the-Trainers” programme for selected staff will be developed and conducted. Within the programme a short term course in training institutions in Europe is planned for 5-10 persons.

3.5. 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.

3.6. State aid conference(s) on basic rules in the field of state aid, guidelines of procedures and principles is designed and implemented for relevant institutions affected by state aid regulations, i.e. representatives of government authorities, state economic enterprises, relevant courts, private undertakings, especially for the largest 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.
Necessary inputs:

1. PL (Project Leader)

The PL should be a high ranking official with broad knowledge of state aids, who will continue to work at his/her Member State (MS) administration but devote some of his/her time to conceive, supervise and co-ordinate the overall thrust of the Twinning project.

The PL will allocate a minimum of 3 days per month including one visit every 3 months to Turkey as long as the project lasts.

   a) Qualifications:
      - Broad long-term knowledge of all the relevant issues in the area of state aids;
      - High-ranking official with ability to call on short-term experts in support of the efficient implementation of the project and the full support at senior levels within Turkey;
      - Overall appreciation of the problems and solutions in the sector;
      - Capable of unblocking any problems at highest level;
      - Good leadership skills;
      - Good communication skills.

   b) Tasks:
      - Overall project co-ordination;
      - Co-chairing, with the Turkish PL, the regular project implementation steering committee meetings;
      - Mobilising short- and medium-term experts;
      - Executing administrative issues (i.e. signing reports, side letters, etc.).

2. Resident Twinning Adviser for 18 months:

   Background of the RTA
   The RTA 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 RTA
   - 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 RTA:
   - To co-ordinate the programme,
   - To ensure proper quality of outputs,
   - To provide detailed report on the impact of the programme
3. Short-term expert(s) for following areas of assistance (indicative)
Areas not directly covered by the RTA 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 data types to be collected.
- To prepare a list of investment needs of the General Directorate to set up efficient IT infrastructure to facilitate registration.

4. 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 defining and examining unlawful aid,
- support in preparation of annual report.

5. Organisation of training seminars:
To train staff of the General Directorate, 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 General Directorate’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
- Block exemption rules

6. Study visits and short secondments in the EU Member State institutions:
Study visits can be organised for limited number of the General Directorate’s staff within the limit of budget to the state aid monitoring authority of Member States, or other related institutions in EU that will be specified in consultation with RTA.
Two study visits can be organised. A study visit to a new EU-member (or a candidate country) state can be conducted to study difficulties and their respective solutions within the framework of the accession process. Also, a study visit to an old member state can be helpful to see the functioning of state aid monitoring system within the EU.
Within training the trainers programme, a short term course in training institutions in Europe is planned in order to cover new developments and implementation by the Commission and different member state authorities in the field of state aid. The number of participants will be limited to 5-10 persons.
Operating Environment:
A Resident Twinning Adviser (RTA) will be placed at the General Directorate and will provide expert advice for effective implementation of the twinning arrangement. The RTA will also be responsible to identify short-term experts with the assistance of his/her delegating institution.

The responsible staff of the General Directorate will co-operate in identifying needs and will arrange local inputs.

3.5. Linked activities

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

The project “Setting up a well-equipped Investment Promotion Agency to fulfil promotion functions” (TR03-02.06) will also be covering activities in respect to state aids. Consequently, both projects will establish a concrete coordination by regular meetings. The experts of the TR03-02.06 project will be invited to the quarterly SCs. In this context possible common actions can be planned.

An intensive training seminar was organised under the Administrative Cooperation programme between 13-25 October 2002. for officials of relevant aid granting bodies. The specific objectives of this seminar were: 1) to increase awareness on EU state aids guidelines and framework, 2) to update and improve participants’ knowledge on state aids rules, and 3) to enable participants to disseminate the acquired knowledge.

The training covered 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 fibber motor vehicles and multi-sectoral 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, during the two-week training seminar two trainers did:

- 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

The final report of the project indicates three priorities in the field of state aid monitoring:
- During the creation of and institutional embedding of a future Turkish state aid
  monitoring authority and its competencies, the opportunity of a separate state aid policy unit
  and its scope should be examined. As a matter of fact and once such an authority is set up, a
  strong policy line is required to ensure that all Turkish ministries co-operate to guarantee
  strong state aid enforcement.
  - A proper state aid inventory will have to be set up.
  - Sorting out non-complying state aids will have to be a priority.

3.6. 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 2004 underlined lacking of effective
state aid control, based on EC rules and criteria in Turkey. The report also mentioned that
“Turkey should urgently adopt legislation concerning state aid monitoring, which is in
compliance with EC state aid rules, and establish an operationally independent state aid
monitoring authority.” “The lack of progress on this key question is hindering the
implementation of a state aid control regime, resulting in potential distortions of competition
in markets via the allocation of public 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 contract.

The draft Law on The Framework, Monitoring and Supervision of State Aids and Amending
Some Other Decrees and Laws is prepared and submitted to the Prime Ministry. This law will
establish the State Aid Monitoring and Supervisory Board. The Board can take independent
decisions on monitoring, supervising and controlling state aids. General Directorate for State
Aids in the State Planning Organisation will provide secretarial services to the Board. The
Board is composed of 7 members. The Board members will be appointed by the Council of
Ministers. The Board will be responsible;
  1) To decide whether new or existing aids constituting state aids,
  2) To decide whether new or existing aids are in conformity with the legislation on
     the state aids,
  3) To decide to initiate examination upon notifications or where it is deemed
     necessary
  4) Where doubts are raised as to the compatibility of the aid, to decide to initiate
     investigation,
  5) To decide to suspend the aid where necessary,
  6) To decide to recover the aid from the beneficiary,
7) To decide to initiate necessary legal and administrative measures, where the Board Decisions are not followed,
8) To take the necessary measures in the cases of misuse of aid that distorts or threatens to distort competition,
9) To determine the principles on state aids and to ensure preparation and issuing of other legislation in the relevant subjects (when needed),
10) To examine and adopt the annual reports,
11) To ensure that relevant notifications are submitted to the European Commission,
12) To contact the European Commission (when necessary).

The project is mainly targeting the General Directorate that will have the responsibility of making necessary preparations and secretarial work 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.

The 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. Ministry of Finance has the authority to prepare secondary legislation for tax exemptions. Ministry of Finance will play a very important role in data collection, as information provided by Tax Offices. TUBITAK and TTGV are responsible for granting state aid in R&D and technology development. There are also other institutions with minor roles.

5. Budget (EUR Million)

<table>
<thead>
<tr>
<th>Year 2005- Investment support jointly co funded</th>
<th>Phare/Pre-Accession Instrument support</th>
<th>Co-financing</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twinning</td>
<td>National Public Funds(*)</td>
<td>Other Sources (**)</td>
<td>Total Co-financing of Project</td>
</tr>
<tr>
<td>Investment support – sub-total</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total project 2005</td>
<td>1,0</td>
<td>0</td>
<td>1,0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year 2005 Institution Building support</th>
<th>Co-financing</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twinning</td>
<td>1,0</td>
<td>1,0</td>
</tr>
<tr>
<td>IB support</td>
<td>1,0</td>
<td>1,0</td>
</tr>
<tr>
<td>Total project 2005</td>
<td>1,0</td>
<td>1,0</td>
</tr>
</tbody>
</table>
(*) contributions form National, Regional, Local, Municipal authorities, FIs loans to public entities, funds from public enterprises
(**) private funds, FIs loans to private entities

The Turkish co-financing will cover e.g. provision of office equipment and space for the RTA, 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 General Directorate, supported by the Resident Twinning Adviser, will co-ordinate implementation of the project, which will be addressed also to other administration bodies on central and local levels.

1. All investment sub-projects supported by the pre-accession fund must receive co-financing from national public funds. Minimum requirement for co-financing from national public funds is 25% of the combined PHARE and national contributions to the overall investment support.

2. Many Institution building projects will also have a degree of co-financing – this should be quantified and included wherever possible.

3. Expenditure related to equipment (regulatory infrastructure or ESC- related) and to Technical Assistance supporting investment (e.g. pre feasibility study / supervision of works / technical specifications) should be considered as Investment support in the project fiche.

4. All co-financing must be provided on a joint basis. Parallel co-financing will, in a principle, not be accepted. Exceptions to this rule have to be agreed with the Commission in advance.

5. All co-financing should be clearly quantified, also the degree of certainty of such co financing (i.e. for National Public Funds: is it already earmarked in local or national budget, for FIs Loans, private funds: are they already approved/ under appraisal, etc..).

6. Where parallel co financing is accepted and justified per exception to the normal rule it should be provided in monetary form. If this is not possible there should be clear criteria set out for the valuation of any non-monetary contributions (that should be quantified in the table)

7. If twinning is involved, clearly state the expected budget of the twinning covenant

8. The financial engineering of the project should be closely monitored against actual delivery during implementation and against the objectives that were set in the project fiche so that corrective actions may be taken where required.

6. Implementation Arrangements

6.1. Implementing Agency

The Central Finance and Contracts 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 Programme Authorising Officer (PAO) and the director of the CFCU is Mr. Nuri Ercan TORTOP, and contact details for the CFCU are as follows:
6.2. Twinning

The project will be implemented in the form of one Twinning Contract between Turkey and a Member State. The twinning partner will manage all aspects of execution in close collaboration with the State Planning Organisation, 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 Twinning arrangement will be the State Planning Organisation. For the project, the contact person at the State Planning Organisation is Mr. A.Latif TUNA, and his contact details are as follows:
Address: DPT, Necatibey cad. No:108 Yucetepe/Ankara
Tel: +90 312 294 63 06
Fax: +90 312 294 62 77
e-mail: altuna@dpt.gov.tr

6.3. Non-Standard Aspects

Not applicable

6.4. Contracts

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

7. Implementation Schedule

<table>
<thead>
<tr>
<th>Component</th>
<th>Start of negotiation of twinning contract</th>
<th>Start of Project Activity</th>
<th>Project Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twinning</td>
<td>11/2005</td>
<td>05/2006</td>
<td>02/2008</td>
</tr>
</tbody>
</table>

8. Equal opportunity

The State Planning Organisation 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

The project will start after the following preconditions are realised. Selection of twinning partners will not begin before the first condition (adoption of legal base) has been met.

- Adoption of the Law on the Framework, Monitoring and Supervision of State Aids and Amending Some Other Decrees and Laws by the Turkish Parliament.
- Recruitment of the officials of the General Directorate, financed by the Turkish Government budget.
- Provision of necessary office building and equipment for the General Directorate financed by the Turkish Government budget prior to the start of the project.
# ANNEX 1

## LOGFRAME PLANNING MATRIX FOR PROGRAMME

<table>
<thead>
<tr>
<th>Programme Number:</th>
<th>Programme Title:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contracting period expires:</th>
<th>Disbursement period expires:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall Objective</th>
<th>Objectively verifiable indicators</th>
<th>Sources of verification</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>The effectiveness and transparency of state aid rules and its application (including monitoring and supervision) in Turkey improved, and aligned to EU rules and practices.</td>
<td>Adapting of existing State aid rules to the EC acquis</td>
<td>The acquis communautaire, in particular Articles 86, 86-89 of the EC-Treaty and secondary EC legislation and rules.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Transposition of EC State aid rules into Turkish legislation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Effective application of State aid rules in notified cases</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Project Purpose</th>
<th>Objectively verifiable indicators</th>
<th>Sources of Verification</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>The building up and reinforcement of institutional capacity of the General Directorate, once it has been, at least partly, established; alignment of Turkish legislation with the relevant acquis</td>
<td>Adapting of existing State aid rules to the EC acquis (see Annexe 4a)</td>
<td>Progress Report on Turkey’s Application for Membership of the European Union</td>
<td>Entry into force of Turkish legislation related to state aid rules</td>
</tr>
<tr>
<td></td>
<td>Adoption of secondary legislation aligned with the relevant EC acquis. (see Annexe 4c)</td>
<td>Final Evaluation Report.</td>
<td>Notification system became operational.</td>
</tr>
<tr>
<td></td>
<td>Implementation of ex-ante control</td>
<td>Official publications of Turkey, Official Gazette</td>
<td>The Board has become operational</td>
</tr>
<tr>
<td></td>
<td>Preparation of draft/sample Annual State aid report by the end of the project</td>
<td></td>
<td>Notification of state aid programs by granting authorities</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The implementation rules which</td>
</tr>
<tr>
<td>Results</td>
<td>Objectively verifiable indicators</td>
<td>Sources of Verification</td>
<td>Assumptions and Risks</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| 1) Legislative framework on state aids in conformity with the acquis is adopted, and monitoring of state aids granted in Turkey is operational. | Existing State aid Law reviewed to be in line with EC acquis  
Preparation of secondary State aid legislation being in line with EC acquis by the end of the project.  
Amendments in existing schemes as well as new state aid schemes and individual aids are in conformity with the Acquis and national legislation as far as it is in line with the Acquis | Progress Report on Turkey’s Application for Membership of the European Union, Official Gazette, Interim and Final Evaluation Reports | specify reporting system for state aids have been adopted in compliance with the Association Council Decision 1/95, Art. 37 |
| 2. Registration and reporting of state aids granted are initiated.      | Establishing of effective procedures (incl. IT) as well as responsibilities for registering and reporting of State aids.  
Investment needs for hardware/software are determined  
Draft/sample Annual report that will be submitted to the EC prepared by the end of the project. | Progress report on Turkey’s Application for Membership of the European Union, Interim and Final Evaluation Reports. Interim and Final Evaluation Reports | The implementation rules which specify reporting system for state aids have been adopted in compliance with the Association Council Decision 1/95, Art. 37 |
3) Training and skills of the General Directorate 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.

All staff of the General Directorate shall be trained during the project period (it is estimated that General Directorate will consist of approximately 30-40 people). Permanent on the job training for the staff of the General Directorate.

Training-the-trainers program for the selected staff shall be developed. 5-10 selected trainers will be trained.

Training of public officials in relevant public authorities on effective implementation of state aid rules

Organising a fundamental Information seminar for representatives of government authorities, state economic enterprises, private enterprises, local governments, relevant courts, judges, chambers, professional associations, NGOs, and universities.

Progress report on Turkey’s Application for Membership of the European Union, Interim and Final Evaluation Reports.

The implementation rules which specify reporting system for state aids have been adopted in compliance with the Association Council Decision 1/95, Art. 37

<table>
<thead>
<tr>
<th>Activities</th>
<th>Means</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
</table>
| Component 1: Legal Support | One Twinning contract concerning all activities | • A twinning partner is identified  
• Beneficiary cooperates with twinning partner |
| 1.1 Legal support is given to the General Directorate in | | |
suggesting modifications of existing State aid law, if necessary, as well as drafting secondary legislation regarding general rules in assessing compliance with the acquis.

1.2 Elaboration of other specific rules not covered under 1.1 (e.g. establishing rules for monitoring de minimis aid measures, sector specific measures and/or in assessing compliance of other legislation, not having a direct link with state aid law, in respect with the acquis)

1.3 Legal support is given to the General Directorate in preparing its recommendations for the amendment of existing aid schemes, which are incompatible with the Acquis and national State aid legislation and in handling investigations into them.

1.4 Legal support is given to the General Directorate in assessing the compatibility of drafts of legal acts submitted by aid
granting bodies to the General Directorate and in handling investigations into them.

1.5 Specific legal support is given to relevant public authorities such as the Undersecretariat of Treasury, Undersecretariat of Foreign Trade, the Ministry of Finance, the Ministry of Industry and Trade, TUBITAK, KOSGEB, and other institutions where aid schemes are prepared.

1.6 Legal support to the General Directorate in handling of investigations for unlawful aid and misuse of aid.

<table>
<thead>
<tr>
<th>Activities</th>
<th>Means</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Component 2: Setting Up a Registering and Reporting System</td>
<td>One Twinning contract concerning all activities</td>
<td>• A twinning partner is identified</td>
</tr>
<tr>
<td>2.1. Support in data types to be collected and data collection and evaluation methods.</td>
<td></td>
<td>• Beneficiary cooperates with twinning partner</td>
</tr>
<tr>
<td>2.2. Support in clarification of necessary investment needs (hardware and software) and giving advise in order to set up</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
2.3 Support in preparation of annual report that will be submitted to the EC Commission.

<table>
<thead>
<tr>
<th>Activities</th>
<th>Means</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Component 3: Training and Awareness Raising</td>
<td>One Twinning contract concerning all activities</td>
<td>• A twinning partner is identified</td>
</tr>
<tr>
<td>3.1 Advice is given on the organisation, operation, qualifications and recruitment of staff of the General Directorate for State Aids.</td>
<td></td>
<td>• Beneficiary cooperates with twinning partner</td>
</tr>
<tr>
<td>3.2 Training for the staff in the beginning of the project of the General Directorate. It will be designed as appropriate in the areas of EC state aid legislation. Study visit to a new member state on typical problems/solutions when during the accession process</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.3 The respective staff of the General Directorate will be trained on monitoring, supervising and reporting</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
techniques of state aids to enable the staff to enforce legal provisions effectively.

3.4 In order to ensure sustainable in-house trainings, a “Training-the-Trainers” programme for selected staff will be developed and conducted. Within the programme a short term course in training institutions in Europe is planned for 5-10 persons.

3.5 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.

3.6 State aid conferences on basic rules in the field of state aid, guidelines of procedures and principles is designed and implemented for relevant institutions affected by state aid regulations, i.e. representatives of government authorities, state economic enterprises, relevant
courts, private undertakings, especially for the largest 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.

<table>
<thead>
<tr>
<th>Preconditions:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>First condition will be fulfilled before the signing of the financial memorandum.</td>
<td></td>
</tr>
<tr>
<td>• Adoption of the Law on the Framework, Monitoring and Supervision of State Aids and Amending Some Other Decrees and Laws by the Turkish Parliament.</td>
<td></td>
</tr>
<tr>
<td>• Recruitment of the officials of the General Directorate, financed by the Turkish Government budget.</td>
<td></td>
</tr>
<tr>
<td>• Provision of necessary office building and equipment for the General Directorate financed by the Turkish Government budget prior to the start of the project.</td>
<td></td>
</tr>
</tbody>
</table>

The project will start after all preconditions listed are realised.
### ANNEXE 2

**IMPLEMENTATION CHART OF THE PROGRAMME**

<table>
<thead>
<tr>
<th>Year</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Imp. Prog</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Negotiation of twinning contract</td>
<td></td>
<td></td>
<td></td>
<td>N</td>
</tr>
<tr>
<td>Contract Implementation and Payments</td>
<td></td>
<td></td>
<td></td>
<td>I</td>
</tr>
</tbody>
</table>

### ANNEXE 3 a

**CUMULATIVE COMMITMENT (CONTRACT) and DISBURSEMENT SCHEDULE**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Commitment</td>
<td>-</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>-</td>
<td>-</td>
</tr>
<tr>
<td>Disbursement</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.450</td>
<td>0.500</td>
<td>0.550</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 3 b: (Indicative) Detailed Cost Breakdown (EUR)

<table>
<thead>
<tr>
<th></th>
<th>Institution Building (IB)</th>
<th>National co-financing</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident Twinning Adviser (RTA)</td>
<td>300.000</td>
<td></td>
<td>300.000</td>
</tr>
<tr>
<td>Project Preparation and Coordination</td>
<td>25.000</td>
<td></td>
<td>25.000</td>
</tr>
<tr>
<td>Experts for legal advice</td>
<td>250.000</td>
<td></td>
<td>250.000</td>
</tr>
<tr>
<td>IT experts</td>
<td>25.000</td>
<td></td>
<td>25.000</td>
</tr>
<tr>
<td>Ad hoc experts</td>
<td>60.000</td>
<td></td>
<td>60.000</td>
</tr>
<tr>
<td>Short-term experts for training seminars</td>
<td>200.000</td>
<td></td>
<td>200.000</td>
</tr>
<tr>
<td>Translation and Interpretation</td>
<td>100.000</td>
<td></td>
<td>100.000</td>
</tr>
<tr>
<td>Study visits</td>
<td>25.000</td>
<td></td>
<td>25.000</td>
</tr>
<tr>
<td>Contingency fund for adjustment of estimated costs</td>
<td>15.000</td>
<td></td>
<td>15.000</td>
</tr>
<tr>
<td>TOTAL</td>
<td><strong>1.000.000</strong></td>
<td></td>
<td><strong>1.000.000</strong></td>
</tr>
</tbody>
</table>
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:

**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 paperwork 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 250 employees, and having machinery and equipment the value of which does not exceed TL 950 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 665 Billion are also available. The interest rate is 10% in the so-called priority-provinces for development, whereas it is 15% in all other regions.
3. 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 2003/3, Official Gazette: 28 August 2003)


4. Subsidies for Technology Development Zones

Entrepreneurs operating in Technology Development zones can benefit from supports and tax exemptions for activities based on software and R&D. Legislation for subsidies in the Technology Development Regions:

- Law of the Technology Development Regions (Law No. 4691 / Date of Acceptance: 26.6.2001)

5. Subsidies for Regional Development

Companies operating in 36 provinces where per capita GNP below 1.500 US Dollars can benefit from income tax exemption for employees, incentive for employer’s insurance premium share and...
energy subsidy. Also companies operating in the Priority Development Regions can benefit from land allocation. Legislation for Regional Development incentives:

- Law on Incentives for Investments and Employment Amending Some Other Laws (Law No 5084/ Date of Acceptance: 29.1.2004)
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 as 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

I. TREATY PROVISIONS

New numbering (Article 12 of the Treaty of Amsterdam)

Article 16 (ex 7d)
Article 36 (ex 42)
Article 73 (ex 77)
Article 86 (ex 90)
Article 87 (ex 92)
Article 88 (ex 93)
Article 89 (ex 94)

Communication from the Commission concerning certain aspects of the treatment of competition cases resulting from the expiry of the ECSC Treaty
Official Journal C 152, 26.06.2002, pages 5-12

II. GENERAL PROCEDURAL RULES

Procedural regulations

Reference/discount rates and recovery interest rates
Commission notice on technical adaptations to the method for setting the reference and discount rates Text with EEA relevance (1)
Commission letter to MS on reference/discount rates, 18.08.1997
Commission communication on the interest rates to be applied when aid granted unlawfully is being recovered

Corrigendum to the Commission communication on the interest rates to be applied when aid granted unlawfully is being recovered (OJ C 110 of 8.5.2003)

Complaints
Form for the submission of complaints concerning alleged unlawful State aid

Other notices and communications

Commission communication C(2003) 4582 of 1 December 2003 on professional secrecy in State aid decisions

Notice on cooperation between national courts and the Commission in the State Aid field OJ312, 23.11.1995, p.8

III. FINANCIAL TRANSFERS AND TRANSACTIONS

Government Capital Injections
Financial transfers to public enterprises
State Guarantees
Public land sales
Export Credit insurance
Fiscal aid - direct business taxation
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, 29.07.2000, pages 75-78


State Guarantees
Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees

Public Land Sales
Commission communication concerning aid elements in land sales by public authorities (OJ C 209 of 10.7.1997, p.3-5)

Export Credit Insurance
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

Commission 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
Official Journal C 217, 02.08.2001, pages 2-3

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

IV. ENABLING REGULATION AND BLOCK EXEMPTION REGULATIONS
Enabling regulation
De minimis aid
Block Exemption regulations being training, SMEs and Employment
Enabling Regulation [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

De minimis aid
Block Exemption Regulations
Training


SMEs*


96/280/EC: Commission Recommendation of 3 April 1996 concerning the definition of small and medium-sized enterprises (Text with EEA relevance)
Commission Journal L 107, 30.04.1996, pages 4-9
Commission communication - Model declaration on the information relating to the qualification of an enterprise as an SME

Corrigendum to the Commission Communication - Model Declaration on the information relating to the qualification of an enterprise as an SME (OJ C 118 of 20.5.2003), OJ C 156, 04.07.2003, p.14

Employment


V. RULES ON THE ASSESSMENT FOR APPROVAL OF STATE AID WITH HORIZONTAL OBJECTIVES
Research and development aid
Environmental aid
Risk capital
Research and development aid
Community framework for State aid for Research and Development, OJ C 45, 17.02.1996, p.5-16
Commission communication amending the Community framework for State aid for research and development

Commission communication concerning the review of the Community framework for State aid for research and development
Commission communication concerning the prolongation of the Community Framework for State Aid for Research and Development

Commission letter to Member States of 2 May 1997 on the amendment of the notification thresholds for aid for EUREKA projects, SG (97) D/3466

Environmental aid
Community guidelines on State Aid for Environmental protection. See Competition Policy and the Environment

Risk capital
Commission communication on State aid and risk capital

State aid and risk capital

VI. RESCUE AND RESTRUCTURING AID
Community Guidelines on State aid for rescuing and restructuring firms in difficulty (Notice to Member States including proposals for appropriate measures) Text with EEA relevance (1)

Corrigendum to the Community guidelines on State aid for rescuing and restructuring firms in difficulty (Notice to Member States including proposals for appropriate measures) (OJ C 288, 9 October 1999)

Communication from the Commission - Rescue and restructuring aid and closure aid for the steel sector (notified under document No C(2002) 315)

New guidelines set forth Commission approach to saving companies in difficulty
Press Release - IP/04/856 - 07.07.2004

VII. RULES ON THE ASSESSMENT OF SERVICES OF GENERAL ECONOMIC INTEREST
Communication from the Commission - Services of general interest in Europe

Commission communication of 26.9.1996: Services of general interest in Europe
OJ C 281, 26.09.1996, p.3-1

VIII. RULES ON THE ASSESSMENT FOR APPROVAL OF REGIONAL AID
Guidelines on national regional aid

Corrigendum to Guidelines on National Regional Aid (OJ C 74, 10.3.1998)

Amendments to the Guidelines on national regional aid

National ceilings for regional aid coverage under the derogations provided for in Article 92(3)(a) and (c) of the Treaty for the period 2000 to 2006?

Commission communication - Review of the guidelines on national regional aid for the period after 1 January 2007

Communication from the Commission - Multisectoral framework on regional aid for large investment projects (notified under document No C(2002) 315)

Commission communication on the modification of the Multisectoral Framework on regional aid for large investment projects (2002) with regard to the establishment of a list of sectors facing structural problems and on a proposal of appropriate measures pursuant to Article 88 paragraph 1 of the EC Treaty, concerning the motor vehicle sector and the synthetic fibres sector
IX. RULES ON THE ASSESSMENT FOR APPROVAL OF AID TO PARTICULAR SECTORS
Postal Services
Broadcasting
Audiovisual production
Electricity
Shipbuilding
Steel
Postal Services
Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services?

Broadcasting
Communication from the Commission on the application of State aid rules to public service broadcasting

Audiovisual production
Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on certain legal aspects relating to cinematographic and other audiovisual works

Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the follow-up to the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works (Cinema communication) of 26.09.2001 (published in OJ C 43 on 16.2.2002), COM(2004) 171 final

Electricity (stranded costs)
Commission Communication relating to the methodology for analysing State aid linked to stranded costs, Adopted by the Commission on 26.07.2001

Shipbuilding
Framework on State aid to shipbuilding


Communication Commission on the submission to individual notification of the application of all regional investment aid schemes to the shipbuilding sector and proposal of appropriate measures pursuant to Article 88 paragraph 1 of the EC Treaty