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from : Mr Bernhard ZEPTER, Deputy Secretary-General of the European
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to : Mr Javier SOLANA, Secretary-General/High Representative

Subject: Proposal for a Council Regulation concerning pre-accession financial
assistance for Turkey

Delegations will find attached Commission document COM(2001) 230 final.

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.4.2001
COM(2001)230 final

2001/0097 (CNS)

Proposal for a

COUNCIL REGULATION

concerning pre-accession financial assistance for Turkey

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. INTRODUCTION

The Helsinki European Council of 10 and 11 December 1999 stated that Turkey was a candidate country destined to join the Union on the basis of the same criteria as applied to the other candidate countries: Turkey would benefit from a pre-accession strategy to stimulate and support its reforms.

The Nice European Council of 7-9 December 2000 welcomed the progress made in implementing the pre-accession strategy for Turkey. This strategy contains the following elements:

- enhanced political dialogue with emphasis on progress towards fulfilling the political criteria for accession, in particular as regards human rights, border disputes and Cyprus;
- the preparation of the analytical examination of the acquis;
- the establishment by the Commission of a Regular Report covering the relevant chapters of the acquis;
- the adoption of a single framework for co-ordinating all sources of European Union financial assistance for pre-accession, including a legal base for the Accession Partnership;
- the adoption of an Accession Partnership for Turkey;
- the opening of Community programmes and agencies for Turkey;
- the extension of the EC-Turkey Customs Union in the fields of services and public procurement;
- the use of the technical assistance offered by TAIEX (Technical Assistance Information Exchange Office).

The Accession Partnership is the cornerstone of the pre-accession strategy. It identifies short and medium term priorities, intermediate objectives and conditions on which accession preparations must concentrate in the light of the political and economic criteria and the requirements for Member States to adopt, to implement and to enforce the Community Acquis. It draws on the analysis of the Regular Report 2000 for Turkey.

The European Council in Nice requested Turkey to swiftly submit its National Programme for the Adoption of the Acquis, basing it on the Accession Partnership.

2. TOWARDS PRE-ACCESSION FINANCIAL ASSISTANCE FOR TURKEY

As part of the pre-accession strategy for Turkey, the European Union has recently taken a number of initiatives with respect to financial assistance for Turkey. The Council has adopted a regulation on the establishment of the Accession Partnership

for Turkey and the establishment of a single framework for co-ordinating all sources for EU financial assistance to Turkey for pre-accession (Council Regulation (EC) No 390/2001 of 26 February 2001, OJ, L 58, 28.02.2001, p. 1-2.) This regulation was modelled on the regulation for the ten Central and Eastern European candidate countries (Council Regulation (EC) No. 622/98; OJ L 85, 20.3. 1998, p.1).

On the basis of Regulation (EC) No. 390/2001 of 26 February 2001, the Council has adopted a decision on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with Turkey (OJ L85, 24.03.2001, p. 13). The purpose of the Accession Partnership is to set out, in a single framework, the priority areas for further work identified in the Commission's Regular Report 2000 on the progress made by Turkey towards membership of the European Union. It also indicates the financial means available to help Turkey implement the priorities and the conditions, which will apply. The priorities and intermediate objectives in the Accession Partnership are divided into two groups i.e. short and medium-term priorities.

Following these decisions, Community financial assistance has to be accession driven. As for all other candidate countries, financial assistance has to focus on the priorities identified in the Accession Partnership and elaborated in Turkey's National Programme for the Adoption of the Acquis.

The proposed Regulation further implements and details this approach. In drawing up this proposal, the established principles and objectives developed for pre-accession assistance to the other candidate countries (Central and Eastern European Countries, Cyprus and Malta) have as much as possible been taken into account.

3. PROGRAMMING PRINCIPLES

The new regulation will contribute to the financing of the Accession Partnership priorities for Turkey. These are divided in short and medium term priorities and address the different accession criteria. Given the fact that Turkey has not yet complied with the first criterion of Copenhagen, specific attention will be given to the implementation of the programme to support political reforms. Recently a civil society programme has become operational in Turkey. The intention is to continue such initiatives aimed at the further development of democratic practices, the rule of law, the role of the social partners and the strengthening of the institutional capacity of non-governmental organisations, and social projects at all levels.

Particular emphasis will also be given to cross-border co-operation between Turkey and the European Union, between Turkey and other candidate countries and between Turkey and other countries in the region. The same approach will be applied as for the other candidate countries. This means that actions eligible for financing will, inter alia, be the improvement of infrastructures, the promotion of environmental protection and agriculture and rural development, the stimulation of energy and transport networks and the alleviation of administrative and institutional obstacles between border regions. Finally, the creation of networks and links on either side of the border will be promoted.

The aim is also that Turkey participates in a number of horizontal programmes available for all candidate countries such as business support and customs co-operation.

4. IMPLEMENTATION

As for all candidate countries, programmes and projects will mainly have institution-building and investment components.

Institution-building is the process of helping Turkey to develop the structures, strategies, human resources and management skills needed to strengthen its economic, social, regulatory and administrative capacity. Financial assistance will be provided to:

- a) fulfil the requirements of the first Copenhagen criterion, namely the stability of institutions guaranteeing democracy, respect for the rule of law, human rights and the protection of minorities: support may be granted to public authorities or to non-governmental organisations;
- b) implement the *acquis communautaire* and to prepare for participation in EU policies, such as economic and social cohesion.

The instruments that are to be applied are twinning, specialist technical assistance and training.

Investment support will take two forms:

- a) Investment to strengthen the regulatory infrastructure needed to ensure compliance with the *acquis* and direct, *acquis*-related investments;
- b) Investment in economic and social cohesion through measures similar to those supported in Member States.

Turkey shall contribute to the financing of investments. Other principles for investment support relate, *inter alia*, to sustainability, additionality and competition. In addition, all actions financed must respect the competition and state aid provisions under the EC-Turkey Agreements.

The Commission will establish further guidelines for the implementation of the programme in accordance with the management procedure. These rules will be based on the above-mentioned principles taking into account the experience obtained under the Phare programme and the current assistance programmes for Turkey.

5. MECHANISMS AND PROCEDURES

Financial assistance for the priority actions will be made available through financing decisions taken by the Commission, following an opinion of the Phare Committee consisting of representatives of the Member States (Council Regulation (EEC) No. 3906/89, OJ L 375, 23.12.1989, p.11). The Committee will be consulted on the basis of a financial proposal, including information on the programmes and/or projects to be implemented. Specific arrangements are proposed for operations under € 2 Mio.

The implementing rules (contracting) are based on the Union's Financial Regulation and on the procedures established under this Regulation. Effective competition amongst firms, organisations and institutions interested in participating in initiatives financed by the programme will be ensured. The principle of symmetry for the participation of undertakings based in the respective countries in tendering is applied. Amendments to the Council Regulation No 3906/89 on the Phare programme and the ISPA and SAPARD Council Regulations and to the Council Regulation on the implementation of operations in the framework of the pre-accession strategy for Cyprus and Malta are proposed to that effect (Council Regulations Nos. 1267/1999; 1268/1999 and 555/2000, OJ L 161, 26.06.1999, p.73 and p. 87, OJ L 68, 16.03.2000 p. 3). Standard procedures will be used for the selection of contractors. For certain types of projects to be financed under institution-building, specific arrangements will be required, for example, twinning agreements concluded by Turkey and individual Member States and endorsed by the Commission.

Project selection, tendering and contracting by Turkey will be subject to ex-ante approval by the Commission. A number of factors such as cultural, social, gender and environmental aspects will be taken into account.

A financial contribution to each programme or project may be required from the recipients under this pre-accession assistance programme. The precise contribution will depend on the nature of the programme and project, for example civil society development and private investment support programmes can expect to be treated differently.

A policy of decentralisation of implementation, as established for the Central and Eastern European Countries and Cyprus and Malta, will be applied for Turkey. As a consequence, Turkey will need to establish a number of implementing structures (National Aid Co-ordinator, Central Financing and Contracting Unit, National Fund, National Authorising Officer, Implementing Agencies,). Further decentralisation will only be authorised by the Commission on a case-by-case basis in those sectors where the criteria defined in the Annex to the proposed Regulation can be respected by Turkey and/or the responsible implementing agency. This will ensure sound and effective management and transparency of the use of the funds in line with the objectives of the agreed programmes and projects. Turkey would commit itself to respect the implementing measures as well as the Community's Financial Regulation so that if the rules are not respected, funds would be recovered by the Commission for the total value of the contract or grant in question. The Commission will supervise and assess the implementation of the programme under the decentralised implementation system.

The programme will be subject to monitoring, ex-post evaluations and audits by both the Commission and the Court of Auditors. Technical assistance and support expenditures related to programmes and projects will be eligible under this operation.

The programme should be reviewed before 1 January 2006. An evaluation report will be submitted to the Council before 1 July 2005 to serve this purpose.

6. CONDITIONALITY

The proposed regulation establishes the conditions attached to the Community assistance for financing programmes and projects. Where an element that is essential for continuing to grant pre-accession assistance is lacking, the Council will, on the basis of a proposal from the Commission, take appropriate steps with regard to any pre-accession assistance granted. Elements deemed essential would include failure to respect the commitments contained in the EC-Turkey Agreements (the Association Agreement, the Customs Union and all related agreements and acts) and/or lack of progress towards fulfilment of the Copenhagen criteria. This would ensure respect for democratic principles, the rule of law, human rights and fundamental freedoms and international law.

In addition there will be specific conditions attached to each programme or project, e.g. with respect to sustainability, co-financing and duration of the contracting period.

7. BUDGETARY FRAMEWORK

The general budget of the European Union contains a new budget line "Pre-accession strategy for Turkey". The aim of this is to ensure the accession-driven approach for Turkey. It also regroups diverse budgetary resources into a single framework. This will allow greater effectiveness in the financial assistance programmes for Turkey. This approach was supported by the European Parliament in its opinion on the single framework regulation.

Currently, assistance is spread over MEDA (Council Regulation (EC) No. 1488/96; OJ L 189, 30.07.1996, p.1) and the two European Strategy programmes regarding the implementation of measures to intensify the EC-Turkey customs union and the implementation of measures to promote economic and social development in Turkey. (Council Regulations (EC) Nos. 764/2000 and 257/2001, OJ L 94, 14.04.2000, p.6, and OJ L 39, 09.02.2001, p. 1). Each programme has its own procedures and objectives. However, some of these already correspond to the priorities arising from the Accession Partnership, such as support for the alignment of Turkish legislation, co-operation in different fields of the community *acquis* and a contribution to the decrease in regional disparities. In fact, a number of individual projects have already been developed recently, which support the implementation of the Accession Partnership with Turkey (standards and testing; regional development; human resource development; up-grading food inspection services, etc.).

The proposed regulation will be the legal base for the new budget line for Turkey. At the same time, the two European strategy regulations will be repealed. The relevant budgetary appropriations and Turkey's financial allocation under the MEDA programme will be transferred to the new budgetary line. However, Turkey, as part of the Barcelona process, will remain eligible for financing under the MEDA regulation as far as operations of regional interests (setting up networks; statistical co-operation; co-operation in Justice and Home Affairs) are concerned.

In the financial perspective 2000-2006, the pre-accession financial assistance was doubled for all candidate countries. The financial appropriations for Turkey as a candidate country have also been doubled in 2000 and 2001 as compared to the

annual average allocations of the previous period (1996 - 1999). The aim is during the remaining part of the current financial perspective to maintain this goal for Turkey, while focussing on progress with regard to the implementation of outstanding commitments dating from earlier years.

8. DETAILS OF THE PROPOSED REGULATION

Scope (Article 1)

The proposed scope of the grant assistance is similar to those for the other candidate countries.

Financial support will be made available only for Accession Partnership priorities, mainly through institution-building and investment support. Given the importance of further developing civil society in Turkey, specific actions in this field will be further promoted. Supported actions relate to the first Copenhagen criterion (information, education and training) as well as support for NGOs with special attention on women's NGOs.

Other specific actions imply financial support for Turkey's participation in Community programmes and agencies as well as cross-border co-operation. In particular common projects are to be developed with Phare (Cross Border Co-operation) and the EU Interreg programme.

Institution building will be implemented via twinning arrangements, specific technical assistance and training. Investment support will mainly comprise supplies and works. Turkey should contribute to the financing of investments.

Co-ordination and exchange of information on programmes and projects with other donors will take place.

Suspension of Assistance (Article 4)

Assistance may be suspended if insufficient progress is made in the fulfilment of the Copenhagen criteria or essential elements are lacking in the implementation of the EC-Turkey Agreements. This principle is laid down in the single framework regulation for Turkey. A reference to the relevant article in that regulation confirms that this condition applies to the assistance under this new pre-accession financial assistance programme for Turkey.

Implementation (Articles 3, 5-6, 9-10)

The Phare Committee will assist the Commission in the implementation of the assistance. It will provide an opinion on the general guidelines that are to be established and on financial decisions relating to grants. The provisions on appraisal of programmes and projects are similar to those of the two European Strategy regulations.

Project selection, tendering and contracting by Turkey will be subject to ex-ante approval by the Commission. Use will be made of standard procedures and contracts.

In line with the approach for the other candidate countries, the Commission may in future decide to waive the ex-ante approval upon the fulfilment of a number of conditions which are the same for Turkey as for the other candidate countries (see Annex to the regulation).

The assistance for the priorities identified will be made available through financial decisions following a comitology procedure. Apart from the Accession Partnership, important documents underpinning the programming process are the Commission's Regular Report for Turkey; the Turkish National Programme for the Adoption of the Acquis; Notification and the Pre-accession Economic Programme, the Macroeconomic and Financial Sector Stability Assessment, the Joint Employment Policy Review EU-Turkey and other reports from experts such as in the field of Justice and Home Affairs. The results of the meetings of the different sub-committees under the EC-Turkey Association Committee will also provide an adequate source of information for the yearly programming exercise.

The Commission shall submit an annual report to the other institutions on the implementation of the assistance. This could constitute a part of the Phare report on pre-accession assistance. It will contain detailed information on the programmes and projects financed during the year as well as information on the results of monitoring and evaluation activities. As under Phare, the Commission and the Court of Auditors will conduct on-the-spot checks. Joint monitoring committees will be set up.

Provision is made for on-the-spot checks and inspections to protect the financial interest of the European Communities against fraud and other irregularities. The communication of individual cases of irregularity and the establishment of a system for the management of information in this field are foreseen.

Information activities will be undertaken. The programme may also fund and support activities related to the management structures of the assistance, for example to set up a Central Finance and Contracts Unit (CFCU) and National Fund in Turkey.

Participation in contracts (Articles 7 and 12)

Natural and legal persons from Member States, Turkey and the candidate countries can participate in tenders under the new programme. Given the close geographical links with Turkey, the same is proposed for such entities operating in the countries falling under the MEDA and CARDS programmes. Recipients under the TACIS programme could, on an ad-hoc basis, be invited to participate in tenders if those countries specific required expertise is available. Similar provisions exist for Turkey under this programme.

The proposed regulation would also make it possible for Turkish firms to participate in tenders under PHARE, ISPA and SAPARD. It is proposed that firms located in all the candidate countries can participate in the assistance programmes for Cyprus and Malta. Obviously Turkish firms will continue to have the possibility of participating in activities funded under MEDA programmes.

Transitional arrangements (Article 11)

The two European Strategy regulations are to be repealed due to the modified approach. Transitional arrangements are proposed for programmes and projects for

which the procedures leading to the Commission financing decision have been started but not yet completed at the time of the entry into force of this new programme.

Proposal for a

COUNCIL REGULATION

concerning pre-accession financial assistance for Turkey

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) The conditions to be fulfilled by the candidate countries wishing to join the European Union were set out at the Copenhagen European Council of June 1993;
- (2) The Helsinki European Council of December 1999 stated that Turkey is a candidate country destined to join the Union on the basis of the same criteria applied to the other candidate countries and that, building on the existing European Strategy, Turkey, like other candidate countries, will benefit from a pre-accession strategy to stimulate and support its reforms;
- (3) The Nice European Council of December 2000 welcomed the progress made in the implementation of the pre-accession strategy for Turkey;
- (4) As Turkey does not yet fulfil the political criteria of Copenhagen, the Community has called on it to improve and promote its democratic practices and respect for fundamental human rights and more closely to involve civil society in that process;
- (5) The cornerstone of the pre-accession strategy is the Accession Partnership, drawn up on the basis of previous European Council conclusions while containing priorities on which accession preparation must concentrate in the light of the political and economic criteria and the obligations of a Member State;
- (6) For Turkey, the legal base for the establishment of the Accession Partnership and the single framework for co-ordinating all sources of pre-accession financial assistance are provided in Council Regulation (EC) No. 390/2001 of 26 February 2001 on assistance to Turkey in the framework of the pre-accession strategy, and in particular on the establishment of an Accession Partnership³;

¹ OJ C, [2001], p. .

² OJ C, [2001], p. .

³ OJ L 58, 28.02.2001, p. 1.

- (7) The principles, priorities, intermediate objectives and conditions for the Accession Partnership with Turkey are contained in Council Decision 2001/235/EC of 24.03.2001 on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with the Republic of Turkey⁴. As for the other candidate countries, assistance for Turkey from the European Union shall be focused on the priorities arising from the Accession Partnership;
- (8) Community assistance will be applied mainly through institution-building and investments to promote compliance with the community acquis;
- (9) The Community will undertake specific actions to promote the development of civil society in Turkey;
- (10) Cross-border co-operation, particularly in the context of the borders between Turkey and the European Union, between Turkey and other candidate countries and between Turkey and other countries in the region, will also be the subject of specific actions;
- (11) The Community will co-finance Turkish participation in Community programmes and agencies;
- (12) Community assistance shall be subject to compliance with the undertakings contained in the EC-Turkey Agreements and the conditions laid down in Council Regulation (EC) No. 390/2001 of 26 February 2001, Council Decision 2001/235/EC and this Regulation;
- (13) The Commission shall implement the assistance in accordance with the financial regulation applicable to the general budget of the European Union⁵;
- (14) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁶;
- (15) As well as natural and legal persons from the Member States and Turkey, participation in tenders shall be open to natural and legal persons from the other candidate countries and from countries benefiting from the financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership⁷ and the assistance for Albania, Bosnia and Herzegovina, Croatia, Federal Republic of Yugoslavia and Former Yugoslav Republic of Macedonia (CARDS)⁸ and, where specific types of expertise are required, from the countries of Eastern Europe and Central Asia under the provision of assistance to the partner States in Eastern Europe and Central Asia⁹. For reasons of symmetry, similar provisions will need to be introduced in the assistance programmes for the other candidate countries;

⁴ OJ L 85, 24.03.2001, p. 13.

⁵ OJ L 356, 31.12.1977 p.1, as last amended by the Council Regulation (EC) No. 2673/1999 of 13 December 1999, OJ L 326, 18.12. 1999, p. 1.

⁶ OJ L 269, 19.10.1999, p.45.

⁷ OJ L 189, 30.07.1996, p.1, as last amended by Council Regulation (EC) No. 2698/2000 of 27 November 2000, OJ L 311, 12.12.2000, p. 1.

⁸ OJ L 306, 7.12.2000, p. 1.

⁹ OJ L 12, 18.01.2000, p. 1.

- (16) The Commission shall establish guidelines for the programming and implementation of the assistance according to the management procedure;
- (17) The Commission will be assisted in the implementation of the Community assistance by the committee set up under Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of Central and Eastern Europe¹⁰. The measures will be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹¹;
- (18) Management of pre-accession assistance shall gradually be decentralised to Turkey, taking account of its management and financial control capacities, so that it can be more closely involved in the pre-accession assistance process;
- (19) The current diverse sources of financial assistance for Turkey should be regrouped so that, whilst Turkey remains eligible under Council Regulation (EC) No 1488/96, Council Regulation (EC) No 764/2000 of 10 April 2000 regarding the implementation of measures to intensify the EC-Turkey Customs Union¹² and Council Regulation (EC) No 257/2001 of 22 January 2001 regarding the implementation of the measures to promote economic and social development in Turkey¹³, shall be repealed;
- (20) Annual reports on the implementation of the assistance programme shall be established and an evaluation report will be submitted by the end of 2005 for a review to be carried out before 30 June 2006;
- (21) In the financial perspective 2000 - 2006, the pre-accession financial assistance was doubled for the candidate countries; in the light of the Helsinki European Council, subject to the normal budgetary procedures the aim should be that this principle be applied for Turkey and continue to apply during the remaining period of the current financial perspective;
- (22) The Treaty does not provide for powers other than those of Article 308 for the adoption of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The Community shall provide pre-accession financial assistance to Turkey to support the priorities defined in the Accession Partnership for Turkey.

Article 2

1. The assistance:

¹⁰ OJ L 375, 23.12.1989, p. 11 as last amended by Council Regulation (EC) No. 2666/2000 of 5 December 2000, OJ L 306, 7.12.2000, p. 1.

¹¹ OJ L 184, 17.7.1999, p. 23.

¹² OJ L 94, 14.4.2000, p. 6.

¹³ OJ L 39, 9.02.2001, p. 1.

- shall be in the form of grants;
- shall be implemented by financing programmes or projects aimed at the fulfilment of the accession criteria and in accordance with the programming and implementation principles set out in guidelines to be adopted by the Commission in accordance with the procedure referred to in Article 9(2);
- may take the form of services, supplies and works;
- in the case of investment, may not cover the purchase of either land or buildings.

Article 3

1. A financial contribution to each programme or project may be required from the recipients of the assistance. The contribution shall depend on the nature of the programme or project. In exceptional cases, for programmes or projects aimed at the promotion of civil society development, the contribution may be in kind;
2. Assistance shall cover expenditure relating to programming support, communication and information activities and the monitoring, inspection, audit and evaluation of programmes and projects;
3. The assistance may either be independent or in the form of co-financing with the Member States, the European Investment Bank, third countries or multi-lateral bodies;
4. Opportunities may be sought for co-financing with other donors, particularly Member States;
5. The Community may contribute to the costs related to the management structures of the assistance.

Article 4

Financing of the programmes and projects shall be subject to compliance with the commitments contained in the EC-Turkey Association Agreement, the Customs Union Decision and all other related agreements and decisions, and the conditions laid down, in Article 4 of Regulation (EC) No 390/2001 of 26 February 2001, in the Accession Partnership with Turkey and in this Regulation.

Article 5

1. The Commission shall implement the Community assistance in accordance with the rules of transparency and the Financial Regulation applicable to the general budget of the European Communities, in particular Article 114 thereof;
2. Prior appraisal of programmes and projects shall take account, inter alia, of the following factors:
 - a) their effectiveness and viability;

- b) cultural, social, gender and environmental aspects;
- c) conservation and protection of the environment on the basis of the principles of sustainable development;
- d) institutional development necessary to achieve programme and project goals;
- e) experience gained from programmes and projects of the same kind.

Article 6

1. Project selection, tendering and contracting by Turkey will be subject to ex-ante approval by the Commission;
2. The Commission may, however, decide, on the basis of a case-by-case analysis of national and sectoral programme/project management capacity, financial control procedures and structures regarding public finance, to waive the ex-ante approval requirement referred to in paragraph 1 and confer on implementing agencies in Turkey management of assistance on a decentralised basis. Such a waiver will be subject to:
 - a) the minimum criteria for assessing the ability of implementing agencies in Turkey to manage assistance and the minimum conditions applicable to such agencies set out in the Annex;
 - b) specific provisions concerning, inter alia, invitations to tender, scrutiny and evaluation of tenders, the award of contracts and the implementation of Community public procurement directives, to be laid down in financing agreements with Turkey.

Article 7

1. Assistance of more than € 2.000.000 will be made available through financing decisions taken by the Commission in accordance with the procedure referred to in Article 9(2). For that purpose, the Commission shall submit to the Committee referred to in Article 9, a financing proposal describing the programmes and/or projects to be implemented.

The Commission shall inform the Committee referred to in Article 9, at least one week beforehand, of any financing decisions it intends to take regarding programmes and projects of less than € 2.000.000;
2. The Commission may approve, without seeking the opinion of the Committee referred to in Article 9, additional grants needed to cover expected or actual overruns on the programmes or projects, provided that the overrun is not more than 20 % of the initial grant set in the financing decision;
3. All financing agreements or contracts concluded under this Regulation shall provide for the Commission and the Court of Auditors to conduct on-the-spot checks in accordance with the procedures laid down by the Commission under the rules in

force, and in particular those of the Financial Regulation applicable to the general budget of the European Union.

4. In order to ensure effective protection of the financial interest of the Community, the Commission may undertake on-the-spot checks and inspections in accordance with Council Regulation 2185/96/EC of 11 November 1996 concerning monitoring and on-the-spot checks carried out by the Commission to protect the financial interest of the European Communities against fraud and other irregularities¹⁴.
5. The application of Article 15 paragraph 3 of Commission Regulation 2222/2000/EC of 7 June 2000 laying down financial rules for the application of Council Regulation (EC) No 1268/1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period¹⁵ is foreseen, including the communication of individual cases of irregularity and the establishment of a system for the management of information in this field.
6. Where programmes and projects are the subject of financing agreements between the Community and Turkey, such agreements shall stipulate that the payment of taxes, duties or any other charges is not to be covered by the assistance;
7. Participation in invitations to tender and contracts shall be open, on equal terms to all natural and legal persons from the Member States, the candidate countries for accession to the European Union and countries which are recipients under Regulation (EC) No. 1488/96 and Regulation (EC) No 2666/2000.

Participation by countries, which are recipients under Regulation (EC) No 99/2000, shall also be authorised by the Commission, on a case-by-case basis, if the programmes or projects concerned require specific forms of expertise specifically available in such countries.

In the case of co-financing, the participation of undertakings from third countries in invitations to tender and contracts may be authorised by the Commission on a case-by-case basis;

8. The provisions referred to in paragraph 7 will apply to the origin of supplies.

Article 8.

The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 9

1. The Commission shall be assisted by the Committee provided for in Article 9(1) of Regulation (EC) No 3906/89;

¹⁴ OJ L 292, 15.11.1996, p2

¹⁵ OJ L 253, 07.10.2000, p5

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4 of Decision 1999/468/EC shall be three months;

Article 10

Each year, the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the implementation of the assistance. The report shall contain information on the programmes and projects financed during the year, as well as information on the results of monitoring and evaluation. This information could be included in the report to which reference is made in Article 10 of Regulation (EC) No 3906/89.

Article 11

Regulations (EC) Nos 764/2000 and 257/2001 are hereby repealed. However, they shall remain applicable to programmes and projects for which the procedures leading to the Commission financing decision have been started, but not yet been completed, at the time of entry into force of this Regulation.

Article 12

1. At the end of Article 7(1) of Regulation (EC) No 3906/89, the words 'and Turkey, Cyprus and Malta' are added;
2. At the end of Articles 7(9) and 7(10) of Council Regulation (EC) No 555/2000 of 13 March 2000 on the implementation of operations in the framework of the pre-accession strategy for the Republic of Cyprus and the Republic of Malta¹⁶, the words 'and other candidate countries for accession to the European Union' are added;
3. The following paragraph is added to Article 7 of Council Regulation (EC) No 1267/1999 establishing an instrument for structural policies for pre-accession¹⁷: '8. Natural and legal persons from Cyprus, Malta and Turkey can participate in invitations to tender and contracts on the same terms that applies to all natural and legal persons from the Member States and the beneficiary countries';
4. The following paragraph is added to Article 3 of Council Regulation (EC) No 1268/1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries in Central and Eastern Europe in the pre-accession period¹⁸: '3. Natural and legal persons from Cyprus, Malta and Turkey can participate in invitations to tender and contracts on the same terms that apply to all natural and legal persons from the Member States and the beneficiary countries'.

¹⁶ OJ L 68, 16.03.2000, p. 3.

¹⁷ OJ L 161, 26.06.1999, p. 73.

¹⁸ OJ L 161, 26.06.1999, p.87.

Article 13

The Council will review this Regulation before 1 January 2006. To that end, the Commission shall submit to the Council before 1 July 2005 an evaluation report on the Regulation and, as appropriate a proposal to amend it.

Article 14

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

**MINIMUM CRITERIA AND CONDITIONS FOR DECENTRALISING
MANAGEMENT TO IMPLEMENTING AGENCIES IN TURKEY (ARTICLE 6)**

1. Minimum criteria for assessing the ability of implementing agencies in Turkey to manage assistance.

The following criteria shall be applied by the Commission in assessing which implementing agencies in Turkey are able to manage assistance on a decentralised basis:

- a) there should be a well-defined system for managing the funds with full internal rules of procedure, clear institutional and personal responsibilities;
- b) the principle of separation of powers must be respected so that there is no risk of conflict of interest in procurement and payment;
- c) adequate personnel must be available and assigned to the task. They must have suitable auditing skills and experience, language skills and be fully trained in implementing Community programmes.

2. Minimum conditions for decentralising management to implementing agencies in Turkey.

Decentralisation to Turkey with ex post control by the Commission may be considered for an implementing agency where the following conditions are met:

- a) demonstration of effective internal controls including an independent audit function and an effective accounting and financial reporting system which meets internationally accepted audit standards;
- b) a recent financial and operational audit showing effective and timely management of Community assistance or national measures of similar nature;
- c) a reliable national financial control system over the implementing agency;
- d) procurement rules which are endorsed by the Commission as meeting requirements of Title IX of the Financial Regulation applicable to the general budget of the European Union;
- e) commitment by the National Authorising Officer to bear the full financial responsibility and liability for the funds.

This approach shall not prejudice the right of the Commission and the Court of Auditors to check the expenditure.

LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): ENLARGEMENT

Activity(ies): Grant assistance. Financial Support for the implementation of the Association Partnership priorities with Turkey.

Title of action:

Proposal for a Council Regulation on financial pre-accession assistance for Turkey.

1. BUDGET LINE(S) + HEADING(S)

CHAPTER B7-05 — PRE-ACCESSION STRATEGY FOR THE MEDITERRANEAN COUNTRIES (TURKEY)

B7-050 Pre-accession strategy for Turkey

This single budget line will replace sources of financing foreseen under:

- B7-4035 Implementation of measures to intensify the EC-Turkey customs union.
- B7-4036 Implementation of measures to promote social and economic development in Turkey.
- B7-410 MEDA (measures to accompany the reforms to the economic and social structures in the Mediterranean non-member countries).

2. OVERALL FIGURES

2.1. Total indicative allocation for action (Part B): € 177 million for commitment (in 2002)

This indicative amount is based on an initial Meda II envelope of € 6.3 billion, which was subsequently reduced by the Council to € 5.35 billion up to 2006. The Commission will be obliged to take account of this reduction in its future budgetary proposals which implies a proportionally reduced national allocation under the existing Meda II (B7-4100) envelope (€ 84 million in 2002 and subsequent years). Turkey will also benefit from the allocation under the Regulation on the "Implementation of measures to promote social and economic development in Turkey" (B7-4036 - € 45 million) as well as from the regulation to intensify the EC-Turkey customs union (B7-4035 - € 5 million). However, the Commission will seek to mobilise additional funds to compensate Turkey for the reduced level of commitments in 2002 through additional credits in 2001 through redeployment if there is under spending in Meda and other chapters under heading IV of the Budget of the European Union.

2.2. Period of application: 2002 – 2006

2.3. Overall multiannual estimate on expenditure:

a) Schedule of commitment appropriations/payment appropriations (financial intervention) (see point 6.1.1)

€ million (to 3rd decimal place)

	Year n	n + 1	n + 2	n + 3	n + 4	n + 5	Total
	2002	2003	2004	2005	2006	2007	
Commitments	171.000	p.m.	p.m.	p.m.	p.m.	-----	171.000
Payments	171.000	p.m.	p.m.	p.m.	p.m.	-----	171.000

b) Technical and administrative assistance and support expenditure (see point 6.1.2)

Commitments	6.000	p.m.	p.m.	p.m.	p.m.	-----	6.000
Payments	6.000	p.m.	p.m.	p.m.	p.m.	-----	6.000

Subtotal a+b							
Commitments	177.000	p.m.	p.m.	p.m.	p.m.	-----	177.000
Payments	177.000	p.m.	p.m.	p.m.	p.m.	-----	177.000

c) Overall financial impact of human resources and other administrative expenditure (see points 7.2 and 7.3)

Commitments/ payments	0.850	p.m.	p.m.	p.m.	p.m.	-----	0.850
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TOTAL a+b+c							
Commitments	177.850	p.m.	p.m.	p.m.	p.m.	-----	177.850
Payments	177.850	p.m.	p.m.	p.m.	p.m.	-----	177.850

Financial allocations for the years 2002, 2003, 2004, 2005 and 2006 will be determined in the annual budgetary procedure within the framework of the Financial perspectives.

2.4. Compatibility with the financial programming and the financial perspective

Proposal compatible with the existing financial programming

- This proposal will entail reprogramming of the relevant heading in the financial perspective
- This may entail application of the provisions of the Interinstitutional Agreement.

2.5. Financial impact on revenue:

No financial implications (involves technical aspects regarding implementation of a measure) except the reimbursement of risk capital if the operation financed is an economic success.

OR

- Financial impact – the effect on revenue is as follows:

Note: All details and observations pertaining to the method of calculating the effect on revenue should be included in a separate annex.

€ million (to 1 decimal place)

		Prior to action (Year n-1)	Situation following action					
Budget line	Revenue		Year n	n+1	n+2	n+3	n+4	n+5
	a) Revenue in absolute terms							
	b) Change in Revenue	Δ						

(Please state each budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line)

3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA participation	Participation applicant countries (*)	Heading Financial Perspective
Comp/ Non-comp	Diff/ Non-diff	YES/ NO	YES/NO ''	YES/NO	No 4

(*) The participation of the applicant country to the costs envisaged by the measures to be financed can only be defined on a case by case basis.

4. LEGAL BASIS

Article 308 TEU

5. DESCRIPTION AND GROUNDS

5.1. Need for Community intervention

5.1.1. Objectives pursued

The European Council in Helsinki (December 1999) stated that Turkey is a candidate State on the basis of the same criteria applied to other candidate States, and that Turkey will benefit from a pre-accession strategy to stimulate and support its reforms.

The European Council in Feira (June 2000) invited the Commission to present as soon as possible proposals for a single financial framework for assistance to Turkey, as well as for an Accession Partnership.

The Council Regulation (EC) No 390/2001 of 26 February 2001 (on assistance to Turkey in the framework of the pre-accession strategy, and in particular on the establishment of an Accession Partnership - *Official Journal L 058, 28/02/2001 P. 0001 - 0002*) states that (art. 1) an Accession Partnership shall be established for Turkey and will provide a single framework covering the priorities on which preparations for accession must concentrate, and the financial resources for assisting Turkey to implement these priorities identified during the pre-accession period.

The Council adopted the Accession Partnership on 8.03.2001⁽¹⁹⁾, but the financial assistance measures to support the pre-accession strategy need to be framed within a new and single regulatory scheme designed for this specific purpose.

At present, financial co-operation for Turkey is based on different Regulations, notably:

- MEDA II⁽²⁰⁾,
- "Support for measures to intensify the Customs Union (2000-2002)"⁽²¹⁾ and
- "Support for measures to promote economic and social development in Turkey (2000-2002)"⁽²²⁾.

¹⁹ OJ L85, 24.03.2001, p.13

²⁰ Council Regulation (EC) No 2698/2000 of 27 November 2000 amending Regulation (EC) No 1488/96 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership. *Official Journal L 311, 12/12/2000 P. 0001 - 0008*

Council Regulation (EC) No 1488/96 of 23 July 1996 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership. *Official Journal L 189, 30/07/1996 p. 0001 - 0009*

²¹ Council Regulation (EC) No 764/2000 of 10 April 2000 regarding the implementation of measures to intensify the EC-Turkey customs union. *Official Journal L 094, 14/04/2000 p. 0006 - 0009*

²² Regulation (EC) No 257/2001 of the European Parliament and of the Council of 22 January 2001 regarding the implementation of measures to promote economic and social development in Turkey. *Official Journal L 039, 09/02/2001 P. 0001 - 0004*

The above three programmes are not adequate to obtain an accession driven approach for the financial assistance for Turkey. Therefore they need to be replaced by this new Regulation.

The Commission's Regular Report of 8 November 2000 on progress towards accession for Turkey, the Accession Partnership with Turkey, and the Turkish National Programme for the Adoption of the Acquis, set out the operational priorities of the financial co-operation for Turkey.

They focus on 'Institutional Building' measures (especially to fulfil the requirements of the political Copenhagen criterion, and to assist Turkey in the preparation and implementation of the 'Community acquis'), and on 'Investment support' measures to contribute to a policy of "social and economic cohesion", to strengthen the regulatory infrastructure, and to contribute to the financing of 'acquis-related' investments.

5.1.2. Measures taken in connection with ex ante evaluation

The ex-ante evaluation carried out by the Commission services based on priorities emerging from the Association Partnership for Turkey, the experience in other candidate countries, and the participation of Turkey under the Meda Programme.

A policy of decentralisation of programme implementation, as established for the Central and Eastern European Countries and Cyprus and Malta, will be applied for Turkey, including the ex-ante controls to be carried out by the Commission (cf. Provision of the co-ordination regulation pre-accession instruments ²³).

5.1.3. Measures taken following ex post evaluation

Since the two Regulations on the 'European Strategy' (see above) have only been adopted in 2000 or early 2001, the only 'ex-post' evaluation available is that one carried out in the framework of the Meda programme (February 1999).

5.2. Actions envisaged and arrangements for budget intervention

The objective of supporting the implementation of the priorities set out in the Accession Partnership for Turkey is pursued through the financing of targeted co-operation projects (in the form of grant assistance).

As for the other candidate countries, these projects will be focused on 'Institution Building' and 'Investment Support' measures (see above).

5.3. Methods of implementation

As for the other candidate countries, the programme management will be highly decentralised, especially as far as the implementation of projects is concerned.

As a consequence, Turkey will need to establish a number of implementing structures (National Aid Co-ordinator, Central Financing and Contracting Unit National Fund, National Authorising Officer, Implementing Agencies).

²³ OJ L161, 26.06.1999, p. 68

The Commission will supervise the implementation of the programme under the decentralised implementation system.

Further decentralisation will only be authorised by the Commission on a case-by-case basis in those sectors where the criteria defined in the Annex to the Regulation can be respected by Turkey and/or the responsible implementing agency. This will ensure sound and effective management and transparency of the use of the funds in line with the objectives of the agreed programmes and projects. Turkey would commit itself to respect the implementing measures as well as the Community's Financial Regulation so that if the rules are not respected, funds would be recovered by the Commission for the total value of the contract or grant in question.

The Commission will be mainly involved in the programming phases to ensure that the available financial resources are allocated to effectively support the priorities established in the Accession Partnership, and in the monitoring and evaluation activities.

The assistance for the priorities identified will be made available through financial decisions following a comitology procedure.

To perform its tasks the Commission will also make use of the resources made available under the new article B7-050A (Pre-accession strategy for Turkey - Expenditure on administrative management' (see 6.1.2).

This appropriation is intended to cover the expenditures for technical and/or administrative assistance relating to the identification, preparation, management, monitoring, audit and supervision of the programme or of single projects. It also covers expenditures for studies, meetings of experts, information and publications directly linked to the achievement of the objective of the programme or of the measures financed under this chapter.

6. FINANCIAL IMPACT

6.1. Total financial impact on Part B - (over the entire programming period)

6.1.1. Financial intervention

Commitments in € million (to the 3rd decimal place)

Breakdown	Year N 2002	N + 1 2003	N + 2 2004	N + 3 2005	N + 4 2006	N + 5 and subs. years	Total
Action 1 INSTITUTIONAL BUILDING	51.300	p.m.	p.m.	p.m.	p.m.	-----	51.300
Action 2 INVESTMENT SUPPORT	119.700	p.m.	p.m.	p.m.	p.m.	-----	119.700
TOTAL	171.000	p.m.	p.m.	p.m.	p.m.	-----	171.000

6.1.2. Technical and administrative assistance, support expenditure and IT expenditure (Commitment appropriations)

	Year N 2002	N + 1 2003	N + 2 2004	N + 3 2005	N + 4 2006	N + 5 and subs. Years	Total
1) Technical and administrative assistance							
a) Technical assistance offices							
b) Other technical and administrative assistance:							
- intra muros :	2.500	p.m.	p.m.	p.m.	p.m.		2.500
- extra muros (SSTA) including:	1.800	p.m.	p.m.	p.m.	p.m.		1.800
- Programming							
- Short term T.A.							
- Monitoring							
- Audit							
Subtotal 1	4.300	p.m.	p.m.	p.m.	p.m.		4.300
2) Support expenditure							
a) Studies	0.400	p.m.	p.m.	p.m.	p.m.		0.400
b) Meetings of experts	0.300	p.m.	p.m.	p.m.	p.m.		0.300

c) Information and publications	1.000	p.m.	p.m.	p.m.	p.m.		1.000
Subtotal 2	1.700	p.m.	p.m.	p.m.	p.m.		1.700
TOTAL	6.000	p.m.	p.m.	p.m.	p.m.		6.000

Financial allocations for the years 2002, 2003, 2004, 2005 and 2006 will be determined in the annual budgetary procedure within the framework of the Financial perspectives.

6.2. Calculation of costs by measure envisaged in Part B (over the entire programming period)

Commitments in € million (to the 3rd decimal place)

Breakdown	Type of outputs (projects, files)	Number of outputs (total for years 1...n)	Average unit cost (yearly)	Total cost (total for years 1...n)
	1	2	3	4=(2X3)
<u>Action 1: Institutional Building (30%)</u> - Sector-specific priorities - Civil service reform - Participation in EC programmes - Civil society - Justice and Home Affairs	Not applicable	Not applicable	51.300	p.m.
<u>Action 2: Investment support (70%)</u> - Investment in EU norms - Regional development - Large-scale infrastructure - SME support	Not applicable	Not applicable	119.700	p.m.
TOTAL COST	Not applicable	Not applicable	171.000	p.m.

The calculation of the costs by measures is merely indicative since the number of projects to be financed in each priority area and their relative costs can be defined only as an output of the programming and identification phases. Furthermore, allocations by measures may be modified during the programming period on the basis of the evolution of the Accession Partnership priorities. The information reported in the table is calculated on the basis of estimations on relative percentages for the main priority areas.

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

7.1. Impact on human resources

Types of post	Staff to be assigned to management of the action using existing and/or additional resources		Total	Description of tasks deriving from the action
	Number of permanent posts	Number of temporary posts		

Permanent officials or Temporary staff	A	4			Financial Co-operation Manager (Bxl) Co-operation Manager 1 (Ankara) Co-operation Manager 2 (Ankara) Financial Controller (Ankara)
	B		1		Programming (Bruxelles)
	C	1.5			Secretarial support (Bruxelles)
Other human resources					
Total		5.5	1	6.5	

7.2. Overall financial impact of human resources

Type of human resources	Amount €	Method of calculation *
Officials	0.598	"A" Official Brussels: € 85,000/year "A" Official Ankara: € 230,000/year (inclusive of the removal costs for the first year for € 60,000)
Temporary staff	0.050	"B" Official Brussels: € 50,000/year "C" Official Brussels: € 35,000/year
Other human resources (give budget line)		
Total	0.648	

The amounts are total expenditure for twelve months.

7.3. Other administrative expenditure deriving from the action

Budget line (number and heading)	Amount €	Method of calculation
Overall allocation (Title A7)		
A0701 – Missions	0.060	(6 mission/year – 4 officials – 10 days)
A07030 – Meetings	0.050	lump sum
A07031 – Compulsory committees ⁽¹⁾	0.000	
A07032 – Non-compulsory committees ⁽¹⁾	0.030	lump sum
A07040 ± Conferences	0.000	
A0705 – Studies and consultations	0.000	
... Other expenditure (state which)		
Information systems (A-5001/A-4300)	0.060	Satellite communication system
Other expenditure – Part A (state which)	0.000	
Total	0.200	

The amounts are total expenditure for twelve months.

⁽¹⁾ Specify the type of committee and the group to which it belongs.

I.	Annual total (7.2 + 7.3)	€ 0.848 mill.
II.	Duration of action	1 Years
III.	Total cost of action (I x II)	€ 0.848 mill.

The needs for human and administrative resources shall be covered within the allocation granted to the managing DG in the framework of the annual allocation procedure

8. FOLLOW-UP AND EVALUATION

8.1. Follow-up arrangements

Monitoring and evaluation activities related to the implementation of financial co-operation will be carried out on the basis of the existing Phare procedures for candidate countries.

This will imply the gradual establishment of a monitoring system able to assess the degree of achievement (for each financed measure) of the planned targets.

The main performance indicators selected are the following.

Output indicators (measurement of resources employed):

- the number of co-operation measures carried out between Turkish and Community institutions;
- the degree of harmonisation of Turkish legislation with the Community acquis;
- the number and diversity of infrastructures, the economic sectors, administrations and persons involved in the projects;

Impact indicators (measurement of performance against objectives):

- respect of the Copenhagen and Madrid criteria;
- improvement of Turkish governmental administration;
- harmonisation of Turkish legislation, norms and standards with that of the EU;

- impact on the development of infrastructure in particular their modernisation and conformity with EU standards;
- increase in trade flows;
- access to new technology;
- enhanced competitiveness of the Turkish productive sector;
- impact on the European investments in Turkey;
- impact on the overall trade balance and on the balance of payments;
- impact on the purchasing power per capita;
- decrease in economic and regional disparities;
- a better protection of the environment;
- impact on agriculture and other sectors;
- impact on job creation.

The relevant data will be collected through the various project reports and specific evaluation missions carried out by independent experts. The yearly Regular Report for Turkey will also contain information on the impact of the EC assistance in the different areas of the pre-accession strategy.

8.2. Arrangements and schedule for the planned evaluation

Projects will be monitored and evaluated regularly by the implementing bodies, the Commission and independent experts. Independent monitoring committees will be set up following the well-established practice of the Phare-programme.

Once operations have been completed an evaluation report will be drawn up on their content, impact and follow-up.

The programme will be reviewed at the latest by the end of 2006. For this purpose an evaluation report will be submitted to the Council.

9. ANTI-FRAUD MEASURES

Controls (e.g. on-the-spot checks, inspections, etc.) will be carried out at all levels of implementation of programmes or projects (invitations to tender,

selection, drawing-up of contracts, provision of services and payments) by the Commission's Representation in Turkey, Olaf, and by the Court of Auditors⁽²⁴⁾.

The controls will take account of contractual obligations and the principles of sound and efficient management. Provisions concerning supervision (presentation of reports, co-ordination with the Commission, etc.) will be included in all the agreements or contracts concluded between the Commission and those receiving payment.

²⁴ According to the terms set out in the Council Regulation n° 2185/96/EC, OJ L 292 15.11.1996 p.2, and in the Commission Regulation (EC) No 2222/2000 of 7 June 2000 "laying down financial rules for the application of Council Regulation (EC) No 1268/1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period" OJ L 253 , 07.10.2000 p. 0005 – 0014.

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