

## ANNEX

### 1. IDENTIFICATION

	Title	<b>Twinning and ENP Support Technical Assistance</b>		
	Total cost	<i>€20 million</i>		
	Aid method / Management mode	Project approach – <i>centralised management</i>		
	DAC-code	<i>43010</i>	Sector	<i>Multisector aid</i>

### 2. RATIONALE

#### 2.1. Sector context

On 21 February 2005, the European Union and Ukraine signed a three-year Action Plan foreseeing the achievement of demanding objectives in a large number of sectors and activities, and in March 2007 entered negotiations on an Enhanced Agreement and a Deep Free Trade Agreement building up on these achievements. Administrative capacity and a true understanding of EU Rules have recently come to the fore as major blocking factors on Ukraine's path to implementation of the Action Plan and its successor Agreements.

The proposed measure aims at strengthening the capacity of the Ukrainian administration to face the implementation challenge. In areas where, by anticipation, discussions with the Ukrainian government have underlined the need for future sector-wide support, such as the reform of the law enforcement entities, environment, judiciary reform, transport, and the enhanced energy cooperation, the measure foresees the delivery of preparatory technical assistance. Such assistance will aim at drawing conditions from Ukraine's sectoral reform and development strategies and, where necessary, at helping Ukraine devise such strategies, in line with the Ownership objective of the Paris Declaration<sup>1</sup>.

Expected results of the proposed measure are:

- Timely and cost-effective implementation of Ukraine's commitments under the above-mentioned documents;
- Timely and efficient preparation of future sector-wide support in jointly identified priority areas for proper ENP and the Enhanced Agreement implementation;
- Eased political dialogue for further enhancement of neighbourhood relations, based on successful realisation of joint objectives defined in bilateral agreements.

Worth is noting, at this stage, that nearly all other donors and IFIs have already agreed to use Ukraine's commitments set forth in EU-Ukraine bilateral agreements as a basis for designing their own aid conditionalities in the relevant sectors.

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<sup>1</sup> Although at present Ukraine is not a party to the Paris Declaration on Aid Effectiveness, it intends to sign and ratify it in the foreseeable future.

## **2.2. Lessons learnt**

The measure focuses on raising Ukraine's chances of achieving the key objectives without which its political dialogue with the EU will likely lose momentum as a consequence of insufficient implementing capacities.

It is worth noting that, as experience has shown since last year, there is a clear correlation between the areas identified as priority ones in the unofficial Action Plan Implementation Tool and the sectors whose responsible Ministries and Agencies have been the most active in requesting Twinning interventions. Experience reached with twinning projects has also: (a) shown the value, both to Ukraine and to the implementing EU Mandated Bodies, of careful preparation of projects; and (b) allowed to set up a workable institutional framework between the Ukrainian government and the Commission to prepare jointly twinning projects. It is expected that, practice helping, the timeline for designing, developing and contracting twinning projects can be significantly shortened by the time this Action programme will enter into force.

## **2.3. Complementary actions**

The project draws on past experience and on-going projects, be they funded by the EU or by other donors. For instance, the delivery method has been chosen based on recent positive experience with twinning projects, and the successful use of preparatory assistance for designing sector-wide support. The results expected from sector-wide studies foreseen under Ukraine NAPs 2005 and 2006 has been taken into consideration, as well as the need to further past or on-going assistance, where follow-up is being required.

## **2.4. Donor coordination**

All donors and IFIs are co-ordinated via the Donor-Government Working Group established and run by the Ukrainian Ministry of Economy in line with the Paris Declaration on Aid Effectiveness. A specific working group is in charge of co-ordinating support to administrative reform and governance, including actions to strengthen administrative capacity. In addition, other Donors and IFIs have generally agreed to use Ukraine's commitments set forth in the EU-Ukraine Action Plan as a basis for designing their own aid conditionalities in the relevant sectors, thus ensuring consistency of their activities with those contemplated in this action.

## **3. DESCRIPTION**

### **3.1. Objectives**

*Overall objectives:*

- To meet the pre-requisites of government-led donor coordination;
- To meet the objectives of the Action Plan and prepare to the challenges of the Enhanced Agreement;
- To assist Ukraine in preparing the sectoral reform and development strategies which would best benefit from the EC's sector and budget support.

*Purposes (specific objectives):*

- To strengthen the administrative capacity of the Ministry of Economy to manage and coordinate external assistance;

- To build the capacity of the Ukrainian ministries and agencies to enforce effectively the commitments set forth in the ENP Action Plan and its successor Enhanced Agreement, and their national reform programmes (following the priorities identified in the related Implementation Tools, like judiciary reform; police reform; regulatory reform);
- To prepare Ukraine and support the implementation of the contemplated deep free-trade agreement in sectors identified as key for its success (such as WTO SPS, Quality assurance, Market structures).

### 3.2. Expected results and main activities

Ukraine's public service generally suffers from its insufficient administrative capacity when confronted to the task of streamlining the country's necessary reforms and abiding by its international commitments (including those undertaken within the framework of bilateral relations with the EU). This factor affects also, to some extent, the capacity of the Ministry of Economy, in its quality of External assistance co-ordinator, to manage and co-ordinate aid.

The proposed measure will address this weakness, using whenever possible the advantages offered by the twinning modality. Improved administrative capacity, approximation, and national strategies in the sectors presently defined as priorities will allow to withdraw progressively from them and address other objectives of the ENP Action Plan and the future Enhanced Agreement. This approach assumes that Ukraine will go on with its administrative reform, thus creating the pre-conditions for retaining civil servants in public administration after implementation of the measure.

For the same reason of administrative weakness, technical assistance will still be required to properly prepare sector-wide projects. In that area, coordination with other Donors will be particularly sought for, in view of more efficiency, quicker results, and EU Commitment No. 1 of the Paris Declaration ("Provide all capacity building assistance through coordinated programmes with a preference towards multi-donor agreements"). For instance, where another Donor or IFI plans to investigate a particular sector or sub-sector of importance from an AP / Enhanced Agreement support prospective, the EC will contribute via co-financing arrangements so that EU specific concerns be taken into account during the investigation (including the re-development of reform and development strategies as appropriate).

One of these sectors will be law enforcement, where Ukraine is seeking to achieve a substantial reform, ensuring that the country will respect the human rights in its task of maintaining internal order. The set-up of indicators, preparing for a budgetary support in the foreseeable future, will also help Ukraine to achieve designing the implementation of its strategy and help it to get monitoring input, for instance by the Council of Europe, supported by civil society representatives.

#### Expected results:

- Enhanced understanding of EU issues among the Ukrainian relevant administrations;
- Improved Ukrainian taking on board of EU systems and laws;
- Better preparation and guarantee of proper implementation for budgetary support<sup>2</sup>

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In line with the Paris Declaration on Aid Effectiveness.

### 3.3. Stakeholders

The key stakeholders will be the concerned industries and society groups, policy-setting and implementing ministries and agencies, the judiciary system, and, though indirectly, the community of donors. The proposed measure will impact first and foremost on the policy-setting and implementing agencies; however, enforcement of EU-compliant procedures should rapidly lead to involve the civil society and businesses in the project. Ukraine is characterised by a rich, though under-developed, civil society and business infrastructure, which will ease up their immediate involvement. The projects will its turn foster further development of this infrastructure.

As for twinning, all Ukrainian entities, including, to a certain extent, regional ones, can be potential stakeholders. For technical assistance for preparing budgetary supports, the first one to be prepared on Law Enforcement system will involve a lot of Ukrainian national and local stakeholders, including NGOs as one of the key issue will be the monitoring by the civil society.

In some other sectors like environment, civil society and business associations have declared their willingness to participate as stakeholders.

### 3.4. Risks and assumptions

#### Assumptions:

- The European Union pursues its ENP policy and enhanced cooperation with Ukraine in priority sectors (judiciary and law enforcement reform, energy, transport, environment, agriculture, implementation of WTO Norms and EU-compliant Quality assurance systems...)
- Ukraine pursues its objective of improved relations and economic integration with the EU, maintains its trend of increased co-financing of cooperation projects with the EU, and pursue its efforts to modernise its administration
- The government continues its donor coordination effort and supports improvement of decision-making processes in line with European practice

#### Risks:

- The Ukrainian Government repeals its July 2006 decision to cancel the Administrative provisions limiting the presence and access to premises and information of foreign advisers in ministries and government agencies
- Government instability delays achievement of all necessary steps to enable budgetary support.

### 3.5. Crosscutting Issues

Coherence with the cross-cutting issues can be characterised as follows:

- Good governance and human rights:

Improved administrative capacity and rendering it aware of EU policies and systems will raise the democratic standards of governance; preparing a budget support for law enforcement system, implying improved wider and systematic consultation of the civil society and

businesses, will provide Ukraine with a major step forward to democracy; the monitoring by civil society organisations will be a guarantee of setting up an efficient and stable surveillance of the law enforcement system, which is a vital one for democracy;

– Gender balance:

The measure has only indirect impact on this issue.

– Environment:

The measure will specifically prepare future sector-wide support in the environment sector, with a focus on water quality and the prevention of industrial risks, as one of the identified priorities for ENP AP implementation. In addition, the introduction of EU-compliant norms on the occasion of regulatory reform (via twinning projects) will impose the ex-ante evaluation of the impact on the environment of decisions likely to bear on it.

#### **4. IMPLEMENTATION ISSUES**

##### **4.1. Implementation method**

The measure will be implemented via service contracts (for the technical assistance component) and twinning contracts. As appropriate, financing agreements with specialised international organisations, including the Council of Europe, are envisaged, following the procedures of centralised management, insofar as sector-wide preparation and monitoring projects are concerned. Regarding twinning projects, ex-ante decentralised management, provided it is allowed, should be preferred given the peer-to-peer nature of the twinning formula, and the recent establishment of a national Twinning Programme administration office.

##### **4.2. Procurement and grant award procedures**

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for EC external actions. The maximum possible rate of co-financing for grants is 80%. Full financing may only be applied in the cases provided for in Article 253 of the Implementing Rules of the Financial Regulation where financing in full is essential to carry out the action in question.

All programme estimates must respect the procedures and standard documents laid down by the Commission, in force at the time of the adoption of the programme estimates in question.

##### **4.3. Budget and calendar**

Each project component will include its own provision for evaluation, audit and visibility. An indicative breakdown of the budget could be:

Twinning projects .....	€ 15 million
Sectoral assistance .....	€ 5 million

Sectoral assistance, meant to assist Ukraine in preparing future sector and budgetary support, will target sectors jointly assessed as priorities in the context of the Action Plan and its successor agreements (including the anticipated free trade agreement). As of today, besides the energy sector and the correlated matters of energy efficiency and renewable energy sources<sup>3</sup>, priority sectors include the maintenance of public order; the judicial system; local development; environment; transport; quality assurance systems<sup>4</sup>.

In the case of twinning projects, the beneficiary administrations are requested to make their co-financing of the measures explicit in the twinning project's budget attached to the twinning contract. Such contribution may be estimated at of one third (as a maximum) of the contribution of the Commission. In the case of technical assistance projects, Ukrainian beneficiaries are commonly requested to contribute the logistical arrangements (internalised cost) as well as political support in case the reform and development strategies in one or more of the concerned sectors need revision or update.

It is foreseen that all the components of the project will be finished 48 months after signature of the Financing Agreement.

#### **4.4. Performance monitoring**

The monitoring of the measure will follow standard procedures, based on benchmarks to be agreed with each of its beneficiaries shortly after its start-up. Project monitoring will be based on periodic assessment of progress and delivery of specified project results and towards achievement of project objectives. Harmonisation of monitoring frameworks of other Donors is expected to be one of the outcomes of the government-led coordination process referred to in paragraph 2.4 "Donor co-ordination".

#### **4.5. Evaluation and audit**

In addition to regular ROM, a mid-term evaluation of the entire measure will be organised.

#### **4.6. Communication and visibility**

Proper communication and visibility of the measure will be achieved via widespread dissemination of project achievements and results (to be budgeted under each of the activities), as well as international visibility of twinning projects. A reasonable communication budget will be set aside for promotion of the latter.

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<sup>3</sup> To be dealt with under a separate action within the framework of this Annual action programme.

<sup>4</sup> The reform of Ukraine's quality assurance system (including strengthening of the institutions) and the adoption and enforcement of WTO sanitary and phyto-sanitary norms have been targeted under Tacis NAP 2006 assistance, in view of the forthcoming EU-Ukraine agreement in the area of conformity assessment and of the recent Memorandum of understanding on agricultural co-operation.