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ANNEX

REGIONAL PROGRAMME ON INDUSTRIAL AND INTELLECTUAL PROPERTY RIGHTS

1. IDENTIFICATION

Beneficiaries	Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Republic of Montenegro, Republic of Serbia, including Kosovo (as defined by the United Nations Security Council Resolution 1244 of 10th June 1999), Turkey
CRIS number	2007/018-980
Year	2007
Cost	€2,000,000
Implementing Authority	The European Commission
Final Date for contracting:	30/11/2008
Final date for execution	30/11/2010
Sector Code	15020
Budget line	22.02.07.01 (Regional and Horizontal Programmes)
Programming Task Manager	DG Enlargement, Unit D3
Implementation Task Managers	DG Enlargement, Unit D3

2. PRIORITY AXES / (MEASURES) / PROJECTS

2.1. Priority axes

The setting up of well-functioning industrial and intellectual Property Rights System in the countries of the Western Balkans¹ and Turkey is critical in supporting efforts to guarantee proper free trade, fight counterfeiting crime, establish a skilled and accountable administration and to develop good trade relations within the region as well as with the EU Member States and elsewhere.

The Multi-Beneficiary 2007-2009 MIPD is designed to assist candidate and potential candidate countries' efforts to cooperate with each other in fields of common interest as they strive towards membership of the EU.

The proposed project is in accordance with the strategic priorities of the multi-beneficiary multi-annual indicative planning document (MIPD) 2007-2009 and the proposed assistance will contribute to the further removal of obstacles to trade and investment (fourth area of intervention specified in the MIPD).

¹ Namely Albania, Bosnia and Herzegovina (BiH), Croatia, former Yugoslav Republic of Macedonia (fYRoM), Republic of Montenegro, Republic of Serbia including Kosovo (as defined by the United Nations Security Council Resolution 1244 of 10th June 1999)

The approach is based on the axiom that certain national issues may benefit from being supported through Multi-Beneficiary programmes rather than through multiple national programmes, hence the funds being provided from the relevant National IPA allocation. For example, economies of scale may be obtained through Multi-Beneficiary programmes, including the effective and efficient use of limited resources to provide advice and consultancy on the implementation of the EU acquis, the strengthening of regional and international co-operation, co-ordinated approach towards the fight against counterfeiting.

2.2. Description of projects

The overall objective of this project is to continue to give assistance to IPR authorities and economic operators in the participating beneficiary countries in their preparation for future EU membership. The previous IPR Programmes have proved to be successful particularly in developing the administrative capacity of the countries. It is essential that the high quality of its delivery be maintained and to ensure that technical assistance be given according to the priorities defined by the Commission in the European Partnerships, in Progress Reports as well as in the dialogue with the national authorities.

Results to be obtained in all participating beneficiary countries are:

- the development of the administrative capacity of the beneficiary; including further process of informatisation;
- further adaptation of national legal frameworks in line with the EU acquis and the WTO agreement of trade related aspects of intellectual property rights (TRIPS);
- strengthening of enforcement authorities and the fight against counterfeiting of goods to be more efficient;
- the sustainability of IP Offices through the approval and/or adaptation of national IPR strategy plans, transfer of knowledge, and ultimately ownership by the beneficiary;
- create general awareness of IP amongst business, industry, education, justice and general public.

A negotiated procedure with the European Patent Office is envisaged to be signed within the first quarter following the Commission Decision of this programme.

2.3. Overview of past and present assistance

The first Cards regional programme on IIPR has finished in November 2006. The total value of the programme was €2.000.000. In addition Albania, BiH and the former Yugoslav Republic of Macedonia were beneficiary countries in the Phare Regional Industrial and Intellectual Property Programmes (RIPP) during the period 1994-1999. The total amount of those RIPP programmes was €12,000,000. Furthermore a number of countries (Croatia, Serbia, Turkey) benefited also from National sector programmes. A national programme for BiH is under preparation.

All those programmes have been previously implemented by the European Patent Office in co-operation with the Office for Harmonisation of the Internal market (OHIM).

Although the first CARDS IPR programme only finished in late 2006 and no monitoring report is available yet, some lessons learned are already clear:

- Technical assistance should be more demand-driven and not being imposed either by the Contracting Authority or the Consultant. This leads to more ownership;
- More involvement of economic operators (e.g. Chambers of Commerce) is required in the definition of the activities (e.g. awareness raising);
- More involvement of the beneficiaries in the organisation of project activities (organisation, content, selection of participants, etc.);
- Regular stock taking of sector developments

2.4. Horizontal issues

Due to previous assistance, beneficiary countries have made progress in the areas of capacity building, legal harmonisation, awareness raising, enforcement and regional co-operation.

This project will further contribute to the awareness raising within Governments of the importance of making further progress in defining and or adapting a national strategy for IPR (including fight against counterfeiting, signing international agreements) and allocating additional resources to National intellectual and Industrial Property Offices.

The principles and practice of equal opportunity will be guaranteed so as to ensure equitable gender participation in the project.

2.5. Benchmarks

	N 30/11/2007	N+1 30/11/2008	N+2 30/11/2009
Direct agreement	1	-	-
Tenders launched		-	-
Call for proposals launched	-	-	-
Contracting Rate	100%	-	-

3. BUDGET (AMOUNTS IN €MILLION)

3.1. Indicative budget table

	EU – IPA assistance				Total co-financing *		Total (IPA plus Co-financing)	
	Institution Building	Investment	Total in EUR	Total in %	EUR	(%)	EUR	(%)
TOTAL	2.00		2.00	100			2.00	100%

3.2. Principle of co-financing applying to the projects funded under the programme

Not applicable.

4. IMPLEMENTATION ARRANGEMENTS

4.1. Method of implementation

“The programme will be implemented on a centralised basis by the European Commission in accordance with Article 53a of the Financial Regulation² and the corresponding provisions of the Implementing Rules³.”

The negotiated procedure with the European Patent Office (EPO) is in conformity with Article 242(1) (b) IR whereby “*services may be entrusted to public-sector bodies and relate to activities of an institutional nature*”.

4.2. General rules for procurement

Procurement shall follow the provisions of Part Two, Title IV of the Financial Regulation and Part Two, Title III, Chapter 3 of its Implementing Rules as well as the rules and procedures for service, supply and works contracts financed from the general budget of the European Communities for the purposes of cooperation with third countries adopted by the Commission on 24 May 2007 (C(2007)2034).

Grant award procedures shall follow the provisions of Part One, Title VI of the Financial Regulation and Part One, Title VI of its Implementing Rules.

The Commission shall also use the procedural guidelines and standard templates and models facilitating the application of the above rules provided for in the “Practical

² OJ L 248, 16.9.2002, p.1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p.1)

³ OJ L 357, 31.12.2002, p.1 Regulation as last amended by Regulation (EC, Euratom) No 478/2007 (OJ L 111, 28.4.2007, p.13)

Guide to contract procedures for EC external actions" ("Practical Guide") as published on the EuropeAid website⁴ at the date of the initiation of the procurement or grant award procedure.

5. MONITORING AND EVALUATION

5.1. Monitoring

The Commission may undertake any actions that it deems necessary to monitor the programme.

5.2. Evaluation

Programmes shall be subject to ex-ante evaluations, as well as interim and, where relevant, ex-post evaluations in accordance with Articles 57 and 82 of the IPA Implementing Regulation⁵, with the aim of improving the quality, effectiveness and consistency of the assistance from Community funds and the strategy and implementation of programmes.

The results of ex-ante and interim evaluations shall be taken into account in the programming and implementation cycle.

The Commission may also carry out strategic evaluations.

6. AUDIT, FINANCIAL CONTROL AND ANTI-FRAUD MEASURES

The accounts and operations of all parties involved in the implementation of this programme, as well as all contracts and agreements implementing this programme, are subject to, on the one hand, the supervision and financial control by the Commission (including the European Anti-Fraud Office), which may carry out checks at its discretion, either by itself or through an outside auditor and, on the other hand, audits by the European Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Beneficiary Country.

In order to ensure the efficient protection of the financial interests of the Community, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (EC, Euratom) 2185/96⁶.

The controls and audits described above are applicable to all contractors, subcontractors and grant beneficiaries who have received Community funds.

7. LIMITED CHANGES

Limited changes in the implementation of this programme affecting essential elements listed under Article 90 of the Implementing Rules to the Financial

⁴ http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm

⁵ Commission Regulation (EC) No 718/2007 of 12 June 2007, *OJ L 170*, 29.6.2007, p. 1.

⁶ *OJ L 292*; 15.11.1996; p. 2

Regulation, which are of an indicative nature⁷, may be undertaken by the authorising officer by delegation (AOD), or by the authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management without an amending financing decision being necessary.

⁷ These essential elements of an indicative nature are, for grants, the indicative amount of the call for proposals and, for procurement, the indicative number and type of contracts envisaged and the indicative time frame for launching the procurement procedures.

COMMISSION DECISION

of C(2007)5394 of 12/11/2007

adopting a Regional programme on Industrial and Intellectual Property Rights in the Western Balkans and Turkey under the IPA -Transition Assistance and Institution Building Component for 2007

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA)¹, and in particular Article 14(2)(a) thereof,

Whereas:

- (1) Regulation (EC) No 1085/2006 lays down the objectives and main principles for pre-accession assistance to candidate and potential candidate countries;
- (2) In accordance with Article 7 of Regulation (EC) No 1085/2006, the assistance should be provided through multi-annual or annual programmes, which can be established by country and by component, or, as appropriate, by group of countries or by theme. These programmes should be drawn up in accordance with the general policy framework referred to in Article 4 of Regulation (EC) No 1085/2006 and the relevant multi-annual indicative planning document referred to in Article 6 of that Regulation;
- (3) The Council established for all candidate and potential candidate countries an Accession Partnership or a European Partnership. The Commission has adopted on 29 May 2007 a multi-beneficiary multi-annual indicative planning document 2007-2009 which present(s) indicative allocations for the main priorities for pre-accession assistance to countries concerned²;
- (4) Therefore, the Regional Industrial and Intellectual Property Rights Programme to the Western Balkans and Turkey under the IPA Transition Assistance and Institution Building Component for 2007 aims at providing assistance to the Industrial and Intellectual Property Rights Organisations and Authorities in the beneficiary countries in their preparation for future EU Membership;
- (5) The European Patent Organisation (EPO) has the task to grant European patents. Turkey is a member of the EPO; all other beneficiaries are observer within the EPO and are in the process of becoming member, or are expected to become member of the EPO in the future. Therefore, in accordance with article 242 (1)b of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December laying down detailed rules

¹ OJ L 210, 31.7.2006, p. 82.

² C(2007)2205

for the implementation of Council Regulation No 1605/2002³ (hereafter: "Implementing rules"), a contract should be negotiated directly with the EPO for the purpose of assisting the beneficiary countries in their efforts to enhance the administrative capacity of their industrial and intellectual property rights authorities;

- (6) This decision meets the requirements of Article 90 of Implementing Rules and constitutes thus a financing decision within the meaning of Article 75 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁴ (hereafter: "Financial Regulation");
- (7) The measures provided for by this Decision are in accordance with the opinion of the IPA Committee;

HAS DECIDED AS FOLLOWS:

Article 1

The Regional Industrial and Intellectual Property Rights Programme under the IPA Transition Assistance and Institution Building Component for 2007, as set out in the Annex, is hereby adopted.

This programme shall be implemented by centralised management.

Article 2

The maximum amount of Community contribution shall be **EUR 2 million**, to be financed through *Item 22.02.07.01* (= *regional and horizontal programmes*) of the general budget of the European Communities for 2007.

Done at Brussels, [...]

For the Commission

[...]

Member of the Commission

³ OJ L 357, 31.12.2002, p.1 Regulation as last amended by Regulation (EC, Euratom) No 478/2007 (OJ L 111, 28.4.2007, p.13)

⁴ OJ L 248, 16.9.2002, p.1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p.1)