

ACTION FICHE FOR UKRAINE - ENPI AAP 2008

1. IDENTIFICATION

Title	Twinning and ENP Support Technical assistance		
Total cost	<i>EC Contribution - EUR 21 million</i>		
Aid method <i>Management mode</i>	Project approach (twinning and technical assistance) <i>Centralised management</i> CRIS n. 19596		
DAC-code	43010	Sector	Multisector aid

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 ambitious objectives in a large number of sectors and activities. Both sides have now entered negotiations on a New Enhanced Agreement (NEA - the EU-Ukraine Action Plan's successor agreement) and are poised to start talks on a Deep Free Trade Agreement (DFTA), building up on the Action Plan's achievements. In the three past years of Action Plan implementation, insufficient administrative capacity and understanding of Community rules and administrative functioning have come to the fore as significant blocking factors on Ukraine's path towards economic integration into the EU Internal Market, which is the stated major objective of the above-mentioned agreements.

The proposed measure aims therefore at strengthening the capacity of the Ukrainian administration to face the implementation and integration challenge. In areas where, by anticipation, discussions with the Ukrainian Government have underlined the need for sector-wide assistance (such as the reform of the law enforcement system, including the fight against corruption; the reform of the judiciary; environment; and transport), the proposed measure envisages 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, to which Ukraine is a signing party.

The proposed measure should therefore allow for:

- A timely and cost-effective implementation of Ukraine's commitments under the above-mentioned documents, putting an emphasis on priority sectors selected in view of possible future budget support operations or stated priorities of the Ukrainian Government, as reflected in the conclusions of the Twinning Co-ordination Group¹;
- A timely and efficient preparation of future sector-wide support in jointly identified priority areas for proper EU-Ukraine Action Plan and DFTA implementation;
- An eased political dialogue for further enhancement of neighbourhood relations, based on the 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 the commitments and objectives set forth in the EU-Ukraine bilateral agreements as a basis for designing their own aid conditionalities or projects in the relevant sectors. Ownership by Ukraine of these same objectives, which are designed together in the context of a political dialogue, is not questionable.

¹

This group, established in February 2006, comprises the Twinning PAO, the Ministry of Economy (overall coordinator of external assistance to Ukraine) and the Commission, represented by its local Delegation. The Group's main purpose is to weigh requests for twinning against the priorities of the Action Plan. A priori, and non exhaustively, priority sectors should include: public finance management system; judiciary reform; law enforcement reform; trade-facilitating sectors (quality assurance infrastructure; customs; statistics; intellectual property rights...); environment; transport; and energy.

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. The project draws on past experience and on-going projects, be they funded by the Community or other donors. The delivery methods have been chosen based on recent positive experience with twinning projects (more than 30 twinning projects are now on-going or under preparation, starting from zero less than two years ago, and new requests for twinning projects flow in at an accelerated pace), and the successful use of preparatory assistance for designing sector-wide support (for instance in the agricultural, transport, financial services or energy sectors). The results expected from sector-wide studies foreseen under previous Action programmes for Ukraine have been given due consideration, as well as the need to further past or on-going assistance, where appropriate.

2.3. Complementary actions

As experience has shown for the last two years, 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 and other interventions. In this context, twinning projects are usually defined as a component of a larger sector-wide support programme (where activities are sometimes implemented in a coordinated manner with other actors such as the World Bank) or as a precursor project for further definition of a sector-wide programme. Each of them can therefore be seen as complementary to other actions, past or future, in the same sectors, including technical assistance to be designed within the framework of the proposed measure.

2.4. Donor coordination

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 external assistance. In addition, all Donors and IFIs (including USAID) are co-ordinated via the Donor-Government Working Group recently established and run by the Ministry of Economy of Ukraine.

3. DESCRIPTION

3.1. Objectives

Overall objective:

To meet the objectives of the EU-Ukraine Action Plan and prepare for future implementation of the NEA and the DFTA

Specific objectives:

- To build the capacity of the Ukrainian ministries and agencies to comply effectively with the commitments set forth in the EU-Ukraine Action Plan, the NEA and the DFTA, as well as in their national reform and development programmes (respecting the priorities referred to in Footnote 1)
- To prepare Ukraine to, and support implementation of, the DFTA in sectors identified as key for its success (like WTO SPS, Quality assurance, Market infrastructure)
- To prepare the introduction of sector-wide support, in whichever form, in the sectors recognised as priorities (see Footnote 1 for a list of priorities as at the beginning of 2008).

3.2. Expected results and main activities

The last available OECD/SIGMA analysis of Ukraine's public service (June 2006) identifies the lack of administrative capacity as the main weakness behind the country's difficulties in streamlining its reforms and abiding by its international commitments (including those

undertaken within the framework of bilateral relations with the EU). The proposed measure will address this weakness using, as appropriate, the advantages offered by the twinning modality or by technical assistance. Improved administrative capacity will be achieved by improving the ability of the Ukrainian civil servants to understand and make use of EU concepts, and adapting the institutional structure to the requirements stemming from the bilateral agreements (e.g. participative dialogue with EU and international partners, elimination of functional conflicts of interest, modernisation of the scopes of responsibilities and decision-making procedures, involving changes in sector supervision and management practices).

As a result, the proposed measure will yield EU-compatible sector-wide strategies in the areas critical to achieve the objectives of the bilateral agreements (and where Ukraine is currently seeking to achieve substantial reform), and provide the tools for their implementation, possibly with the help of sector-based donor assistance. It will also, in particular, allow using a systemic approach towards legal approximation, departing from the textbook approach, helping to achieve in due time the critical mass of approximated legislation required by the bilateral agreements.

3.3. Stakeholders

The key stakeholders will be the concerned industries and society groups, policy-setting and implementing ministries and agencies and also, 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 involving the civil society and businesses. Ukraine is characterised by a rich, though under-developed, civil society and business infrastructure, whose development the projects should foster. As for twinning, all Ukrainian government entities, including regional ones, are potential stakeholders.

3.4. Risks and assumptions

Assumptions:

- The European Union pursues its ENP policy and enhanced cooperation with Ukraine in priority sectors (see Footnote 1)
- 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
- 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.

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
- The Ukrainian Government does not improve the material conditions for the preparation and implementation of twinning projects, with particular reference to language training, the stability of persons in charge on behalf of Beneficiary administrations, the adequacy of premises, or the timely earmarking of funds for co-financing
- The Government does not provide sufficient political support to the reform processes supported by the twinning or technical assistance projects designed under this measure
- The Government does not complete the necessary steps to receive budget support

under AAP 2007 and 2008.

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 take Ukraine a major step forward to democracy at central government level; the monitoring by civil society organisations will be a guarantee of setting up an efficient and stable surveillance of the law enforcement system.
- Gender balance: The proposed measure has no direct impact per se on gender balance. However, certain activities funded by the measure may be designed to tackle gender inequality, or may have otherwise an impact on this issue. To be noted is the current gender imbalance in the Ukrainian Government, where about two thirds of the employees are female. At decision-making level, however, this imbalance does not exist: in the central Government, as at the end of 2006, 1643 heads of departments (and higher ranks) were male, whereas 1663 were female, for the same level of remuneration.
- 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 EU-Ukraine Action Plan 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

Centralised management.

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.

For all activities identified as to be best implemented under joint management, the contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the International Organisation concerned.

4.3. Budget and calendar

Each project component will include its own provision for evaluation, audit and visibility. The indicative breakdown of the budget would include : component 1 – twinning projects 16.8M€, component 2 – sectoral technical assistance 4M€ and a provision for evaluation and visibility of 0.2M€.

The measure will be implemented as appropriate via service contracts, supply contracts, twinning contracts, following the procedures of centralised management, or, where justified,

by joint management through the signature of agreements with specialised international organisations, including *inter alia* the agencies of the United Nations or the Council of Europe. As an estimate, the joint management option will be used for about half of the budget allocated for technical assistance.

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. Such contribution may be estimated at a maximum of one third of the contribution of the Commission. In the case of technical assistance projects, Ukrainian beneficiaries are commonly requested to contribute the logistical arrangements (contribution in kind).

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

4.4. Performance monitoring

The monitoring of the measure will follow standard procedures, based on benchmarks to be agreed during the preparation of each of the sub-projects to be defined under the measure, in co-operation with the Ukrainian government and civil society representatives and, in the case of twinning, based on the mandatory results agreed during the project preparation phase.

There is no standard indicator applicable to the DAC sector code of the proposed measure. It is proposed to use a modification of Standard indicator 407 "Scope of capacity-building actions", considered at central government level, to assess global project performance, given the measure's general focus on improving government administration. The performance of the proposed indicators (see annex) will be monitored based on a 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 outcome of the government-led coordination process referred to in section 2.4.

4.5. Evaluation and audit

In addition to regular ROM, a mid-term evaluation of the entire measure will be organised. Each of the sub-projects to be defined under the measure will undergo financial audit, as foreseen by the standard procedures, which foresee that such audit be properly budgeted under each of such sub-projects.

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, for which a specific budget will be allocated (section 4.3).