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TACIS REGIONAL 2001 (TRACECA)

*TECHNICAL ASSISTANCE to the New Independent
States and Mongolia*

TRADE and TRANSPORT SECTORS

**TERMS OF REFERENCE:
COMMON LEGAL BASIS
FOR
TRANSIT TRANSPORTATION**

Project budget: 2 000 000 €

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1. Background

1.1. Beneficiary countries

Armenia, Azerbaijan, Bulgaria, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Romania, Tajikistan, Turkey, Turkmenistan, Uzbekistan, Ukraine

1.2. Contracting authority

European Commission, on behalf of the beneficiary countries.

1.3. Relevant country background

During May 1993, a conference organised by the European Commission was held in Brussels at which the states of Armenia, Azerbaijan, Georgia, Turkmenistan, Uzbekistan, Kazakhstan, Kyrgyzstan and Tajikistan were represented.

The objectives of the Conference were:

- To promote co-operation among the participating states in all matters pertaining to the development of trade and transport in the region.
- To promote the Central Asian-Trans-Caucasian-Europe transport corridor.
- To identify problems and deficiencies in the regional trade and transport systems.
- To define in terms of content and timing a Technical Assistance Programme to be financed by the EU.

From this conference the TRACECA (Transport Corridor Europe Caucasus Central Asia) programme was created as a component of the TACIS interstate programme.

1.4. Current state of affairs in the relevant sector

On September 7-8, 1998, delegations of 32 countries and 13 international organisations gathered in Baku for the International TRACECA Conference. Nine Presidents and one Prime Minister, Ministers, Ambassadors and heads of delegation discussed the importance of the TRACECA programme as the shortest way of integration into the international economic structures, as a guarantee of political and economic stability and also as a means to improve regional co-operation.

During this Conference, 12 countries:

Azerbaijan Republic	Republic of Moldova
Republic of Armenia	Romania
Republic of Bulgaria	Republic of Tadjikistan
Georgia	Turkish Republic
Republic of Kazakhstan	Republic of Uzbekistan
Kyrgyz Republic	Ukraine

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signed a Multi-Lateral Agreement (MLA) on International Transport in the transport corridor Europe-Caucasus-Central Asia (and four supplementary technical annexes on Customs, road, maritime and rail transport), which has been ratified by 10 countries. It is anticipated that Turkey and Kazakhstan will ratify the Agreement by the end of 2000.

In accordance with the MLA a Permanent Secretariat in Baku was set up.

On 10-11 March 2000 in Tbilisi the First Conference of the TRACECA Intergovernmental Commission (IGC) was held. The Conference adopted the Intergovernmental Commission rules and procedures as well as the statutes of the Permanent Secretariat and elected its first Secretary-General.

National TRACECA Commissions have been set up and a National Secretary appointed in most of the TRACECA States and it is anticipated that all will be in place by the beginning of 2001. The National Commissions have been asked to make comment on proposals for new projects and their comments and recommendations are reflected in the content and structure of these Terms of Reference.

It must be noted that Turkmenistan was not present in Baku and Mongolia, which was represented, has not yet signed the MLA. However, article 14 provides that the Basic Agreement is "open for accession of any state". This provision is clearly intended to make room for them, once they have considered the benefits they may obtain from membership.

1.5. Related programmes and other donor activities

Past and present TRACECA projects have analysed the current situation of the transport sector in the region. The projects of most relevance to the present project include:

- A project to establish road transport training centres in each TRACECA state which included an element to assist in the establishment or expansion of TIR and SafeTIR (the computerised component of TIR), wherever possible and an element on Operator Licensing.
- A project to provide assistance in the establishment of a Transport Legal Framework in each TRACECA state. The project worked with local experts to propose and assist in the implementation of national legislation for the transport sector; on a draft multi-lateral agreement and forwarding law; and to secure adherence to the most useful international conventions.
- A TACIS national project in Kazakhstan in 1995 which advised on legal frameworks for road and rail transport and on related institutional issues.
- A project entitled "Trade Facilitation" which carried out a detailed survey of current trade documentation usage, border-crossing conditions and recommended streamlined procedures.
- Two projects to assist Road Transport operators and support service providers in the region that also addressed regulatory issues in the sub-sector.

Training and familiarisation in international transport practices including legal issues has been included in the content of most TRACECA projects.

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At the time of writing, two new TRACECA projects and one national TACIS project sharing certain domains of interest with this project should be commissioned within the time frame of the project:

- The Unified Policy on Transit Fees and Tariffs project will investigate rail, port and maritime tariffs and road transit fees, including border costs and propose a more rational basis to be used in the setting of such fees and tariffs.
- The Border Crossing Harmonisation project will concentrate on implementation of harmonised border crossing procedures and documents on the basis of recommendations made by the earlier Trade Facilitation project and by the IGC.
- The TACIS National project in Kazakhstan on “Support to the development of a Transit Corridors Policy, in the Republic of Kazakhstan” will review adherence to international conventions and propose a draft law on transit.

The Contractor should closely co-ordinate its work with the above mentioned projects particularly the Border Crossing Harmonisation project where a number of legal issues are expected to arise and the Kazakh National TACIS Transit Corridors project, which shares some common elements in its ToR and may produce some relevant models to be considered.

2. Wider Objective, Project Purpose and Results

2.1 Problems to be addressed

Since the break-up of the Soviet Union TRACECA states have entered into a series of agreements to regulate transit traffic between and across their territories. These may be summarised as:

- bi-lateral agreements, which are the most prolific, and somewhat difficult to catalogue and administer;
- multi-lateral agreements, such as the “Sarakhs agreement” of May 1996 which is a rare example but working proof of the regional will to regulate transit traffic on a broad basis. Other agreements exist within the framework of the OCJD for rail transport, and there is also the CIS Interstate Technical Committee on Traffic Safety and the Customs Union which links, at least nominally, certain of the TRACECA states with Russia;
- International conventions, such as TIR.

Most states are in the process of adhering to the main international conventions sponsored by such bodies as UN-ECE and ESCAP. However, even where conventions have been ratified, implementation has been slow and in some cases non-existent, particularly where implementation requires investment in infrastructure or additional public sector manpower.

In the absence of detailed application of the MLA a somewhat chaotic situation exists at the operator level, particularly in road transport. Carriers are confronted by a confusing, fluid regulatory environment and transit fee structure, sometimes administered at both national and oblast level and this continues to lead to delays and inefficiencies at border crossings.

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There is no common legal framework for multimodal carriage of goods and cargo insurance is largely undeveloped in the region. Consequently there is a justified lack of confidence on the part of both local and foreign traders wishing to import or export goods which must be overcome if trade is to develop.

2.2 Project Wider Objective

2.3 Project Purpose / Specific Objectives

The Trade and Transport systems of the TRACECA states were inherited from the command economy of the former Soviet Union which was designed for trade and economic relations planned by, directed from and centred on Moscow. Moscow thus controlled internal and external trade policy, Customs administration and practice, adherence to international conventions, technical standards and liability and insurance questions. There was little or no private sector activity and little need for private international law.

The influence of the previous monolithic structures of the command economy is still perceptible in existing transport legal frameworks across the region. These are still largely based on modified versions of former USSR Codes and Normative Acts. A number of states have passed general Laws on Transport (with assistance from the earlier TRACECA Legal Framework project) which expressly provide for a free and transparent market in transport services. Counterparts in this project also accepted model Codes on road, rail and waterborne transport for adaptation into their system of laws. However, at the time of writing, it appears that, where changes were implemented, they were in a much watered-down form compared to the models. At the level of Regulations (Normative Acts) provisions based on Soviet-style principles continue to dominate.

More rapid progress has been made with adoption of international transport conventions possibly because there is no scope for prolonged national debate and ebb and flow of opinion over particular provisions: The conventions must generally either be fully accepted or totally rejected and counterparts have been persuaded of the overall balance of advantage presented by ratification, even if all provisions are not easy to accept.

However, the implementation of the conventions, and the regulation of transit traffic in general, remains problematic because of:

- lack of the necessary state monitoring or enforcement structures and lack of investment in the associated testing or control equipment;
- failure to train public officials concerning their new obligations under international law;
- failure to inform traders and carriers about their new rights and obligations;
- lack of ministerial or parliamentary time to adjust national legal frameworks by modification of relevant Normative Acts and Decrees;
- lack of adequate facilities for commercial insurances of all kinds

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In particular, Kazakstan has acknowledged these problems, and will receive assistance in drafting a Transit Law, by way of a TACIS national project. The Contractor should take account of any positive outcomes from this project in executing the present project.

The objective of this project will be to provide counterparts with the necessary elements to organise **a common legal basis** for transit traffic in each TRACECA State. It must be emphasised that **implementation** of project models and recommendations will depend on support from the IGC where harmonised changes to existing provisions are required. Also, **detailed implementation at local level** will remain the responsibility of individual TRACECA states. It should, however, be noted that failure by such states to implement any Directives agreed by the IGC may result in the dispute resolution mechanisms in the MLA being invoked against the state or states in default.

The expected final result of the project will be the removal of perceived legal barriers to effective international trade and transport services within the TRACECA region. This should ultimately result in reduced costs and delays notably for carriers, freight forwarders, exporters and importers. It must be appreciated that full delivery of these benefits cannot be guaranteed during the project timescale and that on-going monitoring and evaluation by the IGC and the National Commissions will be required over a number of years following completion of the project tasks.

2.4 Results

The expected final result of the project will be the removal of perceived legal barriers to effective international trade and transport services within the TRACECA region. This should ultimately result in reduced costs and delays notably for carriers, freight forwarders, exporters and importers. It must be appreciated that full delivery of these benefits cannot be guaranteed during the project timescale and that on-going monitoring and evaluation by the IGC and the National Commissions will be required over a number of years following completion of the project tasks.

2.5 Target Groups and Project Partner

Target groups

Ministries of Transport and/or Cabinet of Ministers of beneficiary countries

Project Partner

National Secretaries and National Commissions of beneficiary countries
Permanent Secretariat TRACECA

3. Assumptions and Risks

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3.1 Assumptions underlying the project intervention

The principal assumption is that the ratification of the MLA, and approval of these Terms of Reference, provides a sufficient mandate for the National Commission in each state to resolve the many issues that will arise at National level in attempting to implement more coherent regulation of international transit traffic. It is assumed that in the majority of states the Beneficiary will be the National TRACECA Commission and that in those where the government designates an alternative Beneficiary the same support structures will be available to the Contractor and on the same basis as would be the case if a National Commission were the designated Beneficiary.

Economic and financial appraisal

Most of the beneficiary countries have already created a National TRACECA Commission comprising personnel from key Government Ministries and National Associations. The TRACECA States will benefit long term from removal of legal barriers to trade. If the volume of trade increases within the same infrastructure costs, this should result in economies of scale for the traders, lower prices for the consumer and with increased volume of better managed trade there should be an increase in tax revenues.

Institutional appraisal

The project poses a considerable institutional challenge, both at the national and regional level. The harmonious development of the present situation is the core objective of the project. The signature and ratification of the MLA indicates that the beneficiaries are themselves placing the highest priority on achieving concrete results, which TRACECA wishes to support by this project. The Contractor should not hesitate to invoke the support of the IGC via the Permanent Secretariat in Baku where local impediments cannot be overcome via the TRACECA National Commissions though it is assumed that these Commissions will themselves have all necessary authority to deal with situations which arise.

3.2 Risks

Risks are several:

- That decisions contrary to the MLA are taken by National Authorities, possibly in pursuit of other initiatives being taken in the region through other international organisations.
- That the IGC and its Working Groups are used as a mere talking forum by the National Delegations, without members taking any decisions on key issues.
- That Oblasts or National Agencies are not informed about, or do not respect, the engagements of the MLA and its Annexes and other obligations under international law.
- That project recommendations prove incapable of implementation because of insufficient ministerial or parliamentary time in individual States.
- That National Authorities prefer to work within bodies such as the CIS Interstate Technical Committee on Traffic Safety in setting standards rather than within the IGC.

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- That the TACIS National Kazakh project on Development of a Transit Transport Policy may not produce material relevant to the region as a whole.

4. Scope of the work

4.1 General

General requirements

In order to reach the above stated overall objectives the project purpose and deliverables are defined as follows:

- To catalogue the present bilateral and multilateral transport transit agreements applicable to TRACECA states, analysing their impact on the MLA and recommending appropriate action to adapt or modify them where they are in conflict with it.
- To assist TRACECA states to accede to and implement priority international conventions as previously defined in ESCAP resolution 48/11, recommended by the TRACECA Legal Framework project and confirmed by the IGC at the Tbilisi Conference.
- To devise a Guide to International Conventions and Agreements building on the work of the earlier Legal Framework project.
- To propose a draft multimodal transit law and similar provisions which could be used in the legislation of other states building on the models devised by the TRACECA Legal Framework project and current TACIS Kazakhstan Transit Corridors project and to carry out an assessment of the feasibility of introducing a regional permit system.
- To propose technical standards for road freight vehicle construction-and-use that could be incorporated within the road transport Annexe to the MLA and phased in over a period of years. Also to suggest how EU standards on Operator Licensing and Drivers' hours could be adapted for use in the region, building on the work recently completed by the International Road Transport Facilitation project.
- To provide advice and assistance to the IGC and Permanent Secretariat in the preparation of any Directives considered necessary to implement recommended changes in international practices at the regional level and similar assistance to National Commissions preparing proposals for submission to Ministers or Parliament for legal implementation.

The Contractor shall ensure that experts are adequately supported and equipped when in the field. In particular it shall ensure that there is sufficient administrative, secretarial and interpreting provision to enable professional staff to concentrate on their core tasks. The Contractor undertakes to ensure that necessary funds are transferred to the field in a timely fashion to support the activities of the project, and that project staff are paid regularly and in a timely fashion.

Where consortia are formed, arrangements should allow for the maximum of flexibility in project implementation, and arrangements offering a fixed percentage of work to each consortium member should be avoided.

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Role of the Project Partner in the implementation of the project

The Project Partner shall appoint a senior member of its staff to liaise with the Contractor, and shall ensure that staff of the appropriate level are made available to work alongside the staff of the Contractor. Staff of the Project Partner shall not be paid from project funds.

The Project Partner will provide such assistance to the Contractor as necessary to arrange visas for expatriate personnel of the Contractor, and customs clearance and inland transport (from border point to final destination) for the Contractor's imported equipment.

The Project Partner should also provide all possible assistance to solve unforeseen problems which the Contractor may face. The possible failure to solve some of the Contractor's problems encountered locally will not free the Contractor from meeting its contractual obligations vis-à-vis the Contracting Authority.

4.2 Specific Activities

4.2.1 Working Groups

Under the MLA a Legal Working Group has been established by the IGC to work with the Permanent Secretariat and is already considering a number of relevant issues.

The Contractor, in close co-operation with the Permanent Secretariat in Baku, will set up a Legal Working Group (LWG) attached to each of the National Commissions. The Contractor should ensure representation where possible from the Presidential Apparatus and also from the Ministry of Foreign Affairs Treaties Departments, from the Ministry of Transport or equivalents, from the Ministry of Foreign Economic Relations or equivalents, from the Ministry of Justice and from Freight Forwarding Associations and National Road Transport Associations. The Legal Working Groups should meet at approximately monthly intervals and their members should be deeply involved in all project activities. The Contractor should principally act in an advisory capacity. As TRACECA programmes enter their mature phase counterparts will increasingly assume both operational and moral responsibility for day to day project activities.

Following completion of the project the LWGs should remain in place with the dual task and status of continuing input to the work of the IGC and Permanent Secretariat, and constituting the LWG of the National Traceca Commissions.

4.2.2 catalogue bilateral and multilateral agreements

The Contractor will catalogue the present bilateral and multilateral transport transit agreements applicable to TRACECA states, analysing their impact on the MLA and recommending appropriate action to adapt or modify them where they are in conflict with it. It is important to note that this task does **not** relate to **international** UN-ECE and other **conventions** but to:

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- local multilateral agreements on road, rail and waterborne transport such as the Sarakhs Agreement of 1996 by which more than two states agree on some common provisions in relation to their transit traffic;
- bilateral agreements on road transport under which annual quotas are agreed for trucks to enter each others' country subject to permits;
- bilateral agreements under which one railway administration agrees the terms for wagon exchange onward carriage etc with the railway administration of another state;
- bilateral agreements under which one state agrees with another the terms on which their respective shipping fleets may have access to each other's territorial waters and ports.

It is believed that the present situation is rather chaotic with a number of such agreements being in force although incompatible with one another. It is also thought that many obsolete agreements have never formally been revoked. Confusion over the law applicable to particular traffic flows may be leading, innocently or otherwise, to fluctuating application of levies and imposts at borders. By cataloguing and verifying the status of the various agreements the Contractor will make the situation more transparent as a preliminary step. In close co-operation with the Permanent Secretariat remedial action can then be implemented through the IGC where appropriate. It should be noted that previous projects have had difficulty in obtaining accurate information but it is assumed that the creation of the Legal Working Groups by this project will facilitate the task considerably.

4.2.3 Promote the ratification and implementation of international transport and trade conventions

This task should be clearly distinguished from the task in 4.1.2. The Contractor will assist TRACECA states to accede to and implement priority international conventions as previously defined in ESCAP resolution 48/11, recommended by the TRACECA Legal Framework project and confirmed by the IGC at the Tbilisi Conference. The Permanent Secretariat has drawn up a status report on the present situation in the region which should first be confirmed by the Contractor from latest information available inter alia on the UN-ECE Web-site.

There has been considerable progress made in the last 4 years by the TRACECA states in adhering to the recommended Conventions. However a number of the states having fewer resources or having joined the TRACECA programme in a later phase must catch up with others which have nearly completed their programme of ratification. The Contractor will work with these states and with the sponsoring international agency (generally UN-ECE in Geneva) to try to accelerate the process of ratification so that it is substantially complete by the end of the project.

Through adherence to the recommended Conventions, the region will at least theoretically enjoy a substantial degree of harmonisation of its international transport law affecting vehicle operators and traders. Unfortunately, it seems that, while ratification of Conventions has been taking place, these are not always being effectively implemented. This sometimes arises because of a lack of investment, for example in the case of the Vienna Convention on Road Signs and Signals. It also arises because the states do not inform, or sufficiently inform, relevant officials, transport operators and traders of their new rights and obligations or because associated insurance is not presently available. This seems to be so in the case of the CMR Convention where Courts of Law

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are unaware of the new law and liability insurance for the carriers is not readily available. The Contractor should therefore in respect of each recommended Convention:

- review and report on the difficulties being experienced with implementation in each newly adhering state;
- help counterparts to overcome any problems which can be resolved through technical assistance;
- Investigate the opportunities for wider availability of commercial insurance in respect of cargoes and carrier liability;
- prepare a list of recommendations for future action especially where inadequate investment in infrastructure or manpower is impeding implementation.

4.2.4 Management development and training

In order to help remedy the deficiencies identified in 4.2.3 the Contractor will:

- produce a Guide to International Conventions and Agreements for transport operators and traders. This should take as its basis the Guide to Conventions produced by the Legal Framework project (the explanatory guide not the texts of the actual conventions). This guide should be amplified by:
 - a detailed description of the Convention on a Common Transit Procedure of 20.5.87 which is relevant to the parallel TRACECA Harmonisation of Border Crossings project;
 - an explanatory section on the MLA and its annexes;
 - an explanatory section on international permit and quota systems in road transport.
- provide on-the-job training in international transport law to the specialists within each National TRACECA Commission and in particular to members of the Legal Working Groups. Use could be made of the training material on international transport law developed by the 1995 TACIS National project on a legal framework in Kazakhstan and the TRACECA Legal Framework project.

It is not envisaged that any training will take place outside the region within this project though the Contractor is welcome to assess what *long-term* on-the-job training might usefully be provided in Europe for specific categories of legal personnel in the future. There have been sufficient Europe-based familiarisation training and study tours organised by numerous previous projects for such initiatives to be considered superfluous in the present environment. As only a small number of specialist counterparts will be involved it is also probably not appropriate to organise formal seminars, but rather to plan a number of informal workshops as the project develops, held in conjunction with meetings of the LWGs.

4.2.5 Multimodal transit law

There is at present no uniform legal regime for the movement of containers involving different modes of transport. There is also no uniform relationship between freight forwarders and their customers. The Contractor will propose a model multimodal transit/forwarding law using

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material compatible with the UNCTAD/ICC Rules and FIATA FBL and codes of practice as devised by the TRACECA Legal Framework project and possibly augmented by models from the current TACIS Kazakhstan Transit Corridors project.

4.2.6 Multilateral road transit permit system feasibility

Having catalogued and analysed existing bilateral and multilateral transport agreements as set out in task 4.2.2 above, the Contractor, in close co-operation initially with the Permanent Secretariat in Baku and then with the LWGs at National level will assess the feasibility of introducing a regional system of road haulage permits and quotas to replace the existing bilateral agreements. This was strongly recommended by the Legal and Regulatory Framework project but could not find consensus in the working groups which prepared the MLA.

In view of the continuing serious problems for regional carriers in gaining access to the territory of neighbouring states (which problems currently threaten the viability of the whole TRACECA route for road transport) because of some unsatisfactory or ineffectively enforced bilateral agreements, it is an urgent priority at least to present counterparts with alternative options which could be introduced at multilateral level into the MLA technical Annexe on road transport at some future time subject to the approval of the IGC.

4.2.7 Vehicle technical standards

It is not appropriate for TRACECA states to devise their own technical standards for road vehicle construction and use as harmonisation is already addressed at international level by the UN-ECE, whose standards are adopted into their laws by other regional economic areas such as the EU.

The Consultant should, however, in close consultation with counterparts, propose appropriate existing international technical standards for road freight vehicle construction-and-use that could be incorporated within the road transport Annexe to the MLA and phased in over a period of years. The objective should be to align the rules applicable to vehicles used internationally in the TRACECA region more closely with the standards set by UN-ECE.

A sub-objective of this task would be to suggest how EU standards on Operator Licensing and Drivers' hours of work could be adapted for use in the region, building on the work recently completed by the International Road Transport Facilitation project.

4.2.8 Advice and Assistance to the IGC and National Commissions

The Contractor will provide advice and assistance to the IGC and Permanent Secretariat in the preparation of any Directives considered necessary to implement recommended changes in international practices at the regional level and similar assistance to National Commissions preparing proposals for submission to Ministers or Parliament for legal implementation. The Contractor will also provide advice to current parallel projects via the Permanent Secretariat. Because most of the tasks 4.2.1 to 4.2.7 above also require or imply direct assistance to the Secretariat and Commissions it is suggested that an informal ceiling of a maximum 10% of available in-region European expert time be allocated to non task-specific advice under task

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4.1.8. In the case of the National Commissions it must again be emphasised that the Contractor should assist with passage of domestic legislation only to the extent that it has an international significance within the project Terms of Reference.

The above eight tasks 4.2.1 to 4.2.8 are not necessarily to be carried out sequentially. The Contractor is welcome to enlarge upon the activities described in its proposal and to introduce its own approach to achieve the overall project objectives.

4.2.9 Project kick-off meeting

The Contractor will organise a project kick-off meeting in Baku to agree the pre-inception report phasing of the work and to establish priorities in discussions with the Permanent Secretariat. It will be helpful if the Permanent Secretariat can organise attendance of at least some of the National Secretaries for this initial round of meetings and brainstorming.

4.2.10 Informing National Commissions through presentation of reports

The Contractor will host meetings of National Secretaries in regional centres (Kiev, Tashkent or Bishkek appear to offer a balance of overall convenience) to receive and discuss the Contractor's reports due at months 10 and 16. A wrap-up meeting following a similar format should take place in month 22 in Baku to agree the draft final report and project recommendations.

The Contractor is expected to ensure the achievement of the results listed at 2.4 above. In order to achieve these results the tenderer may propose alternative or complementary project activities to those identified in this section, where it can clearly justify them.

4.2.11 Financing support to National Secretaries and General Secretary

The project will take up the participation in the financing of the General Secretary and National Secretaries, including monthly indemnities, travelling and office expenses, annual conference and working groups for the period July 1st 2002 to July 1st 2003.

Within the budget of the project (€2 000 000), a budget of €322 000 is to be allocated to the the financing of the General Secretary and National Secretaries as follow :

	Unit rate €	Months	Units	Amount
Indemnities National Secretaries	800	12	12	115 200
National Secretaries – Office Expenses	500	12	12	72 000
Indemnities General Secretary	1 500	12	1	18 000
Long term accommodation GS	1 000	12	1	12 000
Working Group Meetings	15 000		3	45 000
Annual IGC Meeting (Conference)	60 000		1	60 000
Total				322 200

5. Logistics and Timing

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5.1 Project Location

Armenia, Azerbaijan, Bulgaria, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Romania, Tajikistan
Turkey, Turkmenistan, Uzbekistan, Ukraine

The project is to be managed from a regional centre. The Contractor will work closely with the Permanent secretariat in Baku at all times, with National competent authorities, primarily the TRACECA Commissions at local level, and where appropriate, with other relevant National and International institutions and organisations. In designing project deliverables the Contractor's staff should work for periods alongside staff of the Permanent Secretariat.

The Contractor should bear in mind the regional rather than local emphasis, and the need to work on deliverables with the Permanent Secretariat in Baku, in planning its travel and staffing requirements. A draft schedule of visits including flight requirements and overall travel budget should accompany its proposal. It is appreciated that this may need to be adjusted at inception report stage or later with the agreement of the Task Manager.

The Contractor will be required to attend occasional co-ordination meetings in Brussels. It is assumed that office accommodation and services will be available to the Contractor at the Baku Permanent Secretariat and by arrangement with each National Commissions.

5.2 Project Period

Duration

The total project duration is 24 months.

Project extension

The Contracting Authority may, at its own discretion, extend the project in duration and/or scope, subject to the availability of funding. Any subsequent extension of the contract would be subject to satisfactory performance by the Contractor. This shall be judged, in particular, in terms of the progress towards the achievement of the project purpose, and the delivery of the anticipated results. The intervention of events outside the Contractor's control shall also be taken into consideration.

6. Requirements

The specified minimum percentage of EU expertise time to be spent in the partner states is 85% .

6.1 Key experts

Key experts – Long-term

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Legal expert and Team Leader - Education: University Degree, M.A. or B.A.

Experience and References: Minimum of 15 years in the field of International Legal, Institutional or Legislative issues related to Transport. This should include involvement in regional or national government level advice and recommendations on change of Law or Legislation.

A reasonable proportion of this experience should have been gained in the Former Soviet Union or Eastern Block Countries.

The Long-term expert should be proficient in his/her own specific technical expertise and be sufficiently acquainted with the other areas of project requirements on Trade and Transport.

Minimum inputs / 20 man/month.

In addition to the his/her specific technical expertise, the Team Leader should have considerable experience in

- managing a team composed of expatriate and local technical specialists;
- a good understanding of local and regional socio political aspects;
- supervising and co-ordinating all aspects of the project's technical work;
- ensuring good communication with the Project Partner.
- organising and overseeing administrative and logistic support;

Trade expert – Education: University Degree, M.A. or recognised equivalent.

Experience and References: Minimum of 15 years in the field of International Trade related to Transport and in particular Transit aspects. A reasonable proportion of this experience should have been gained in the Former Soviet Union or Eastern Block Countries.

The Long-term expert should be proficient in his/her own specific technical expertise and be sufficiently acquainted with the other areas of project requirements of Legal and Transport.

Minimum inputs / 12 man/month.

Transport expert – Education: University Degree, M.A. or M.Sc.

Experiences and References: Minimum of 15 years in the field of Transport Economics related to International Transport and Transit aspects. The expert should also possess reasonable experience with computer modelling for transit prognosis and diagnostics.

The Long-term expert should be proficient in his/her own specific technical expertise and be sufficiently acquainted with the other area of project requirement of Trade.

Minimum inputs / 12 man/month.

Key experts – Short-term

Legal expert - Education: University Degree, M.A. or B.A.

Experience and References: Minimum of 15 years in the field of International Legal, Institutional or Legislative issues related to Transport. This should include specific involvement in regional or national government level. He/she should have been involved in giving previous advice and recommendations on change of Law or Legislation in the region.

Minimum inputs / 6 man/month.

Transport Expert – Education: B.Sc., M.Sc. or recognised equivalent.

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Experience and References: Minimum of 15 years in the field of Modal Transport Operations, Freight Forwarding and International Trade aspects. Expertise should cover all modes of transport and this expertise should be to the project region.

Minimum inputs / 6 man/month.

Borders Expert – Education: M.Sc. or recognised equivalent.

Experience and References: Minimum of 15 years experience in the field of Customs Procedures, Border Crossing Procedures related to the project region. Expertise should also cover an understanding of regional Trade and Tariffs.

Minimum inputs / 6 man/month.

6.2 Non-key experts (EU and local)

Tenderers should not include cvs of non-key experts in their bids.

The Contractor shall select and hire local experts as required. In doing so it should pay attention to the need to ensure the active participation of local professional skills where available, and a suitable mix of European and local staff in the project teams. All local experts are to be independent and free from conflicts of interest.

The selection procedures shall be transparent, and shall be based on pre-defined criteria, including professional qualification, language skills and work experience. The findings of the selection panel shall be recorded. The selection of local experts shall be subject to approval by the Contracting Authority in the same way as expatriate staff.

Civil servants and other staff of the public administration of the beneficiary country shall not be recruited as experts (see Article 9.3 of the General Conditions for Service Contracts Financed by the EC, December 2000).

6.3 Local support staff

The proposed time-cost element for such contributions should be clearly visible in the Contractor's proposal. There should aim to be a reasonable balance between inputs from local experts in different TRACECA states.

6.4 Equipment

Equipment shall only be supplied when it contributes directly to the achievement of the objectives of this project. Where such needs are identified, the Contractor applies to Contracting Authority on behalf of the counterpart for the provision of equipment. The application shall be accompanied by a detailed specification, cost estimate and recommendation from the project team. The project equipment budget may not be used to equip the Contractor's team.

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Any equipment must be purchased in accordance with EC procurement procedures set out in the Practical Guide published on the Web site http://europa.eu.int/comm/europeaid/index_en.htm.

The Contractor shall be responsible for procuring all equipment financed out of the Incidental Expenditure. The amount of funding available for equipment is defined in the next paragraph.

6.5 Project budget

The total budget available to implement the project is €2 000 000

The Provision for incidental expenditure is € 800 000 This amount must be included without modification in the Budget Breakdown. Its use is governed by the provisions in the General Conditions and the notes in Annex V of the contract.

Incidental expenditures are broken down as follows:

- €25 000 - Equipment
- €775 000 for other incidental costs, including cost in relation to project offices to be set up by the project; office support; interpretation; drivers; translation costs; telecommunication and copying costs; travel costs in the NIS for project purposes (so-called missions, including per diems if the mission requires an overnight stay outside the duty station as defined in paragraph 5.1); car hire; studies, training, workshops; financing support to National Secretaries and General Secretary (CF 4.2.11) and the cost of the end-of -project audit (by an auditor approved by the Contracting Authority).

The Contractor will need prior written approval from the Contracting Authority before spending the funds related to following components within the Incidental Expenditure:

- Equipment
- Financing support to National Secretaries and General Secretary

No funds of the Incidental Expenditure budget may be used for fees for experts.

During contract implementation the Contractor may request the Contracting Authority for a transfer of funds from Fees to Incidental Expenditures. Such a change will require prior written approval from the Contracting Authority. Transfer of funds from Incidental Expenditure to Fees will not be possible.

7. Reports

7.1 Reporting requirements

Reports must be prepared every six months during the period of execution of the contract. There must be a final report at the end of the period of execution. Reports accompanying invoices for interim payments should be submitted as defined in Art. 28.1 of the General Conditions.

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Tacis Reporting

An inception report shall be submitted three months after the signature of the contract. Subsequently, progress reports will be submitted every six months unless otherwise agreed by the Project Manager. In addition, notes have to be submitted to the Project Manager, as frequently as considered necessary by the European Commission, in order to monitor the substance and the quality of the technical assistance. Meetings between the Contractor and the Project Manager and other appropriate EU Commission services, will be organised as frequently as necessary.

Meetings between representatives of the Project Partner and the Project Manager, or Commission Delegation shall be organised as frequently as necessary. A draft final report will be submitted one month before the end of the project.

Reports produced in this project will be submitted by the Contractor to the European Commission with copies to the Project Partner, the EC Delegation in beneficiary countries, the National Co-ordinating Unit, the Tacis Local Support Offices (where appropriate) and the Tacis Monitoring team. The Project Partner shall be encouraged to submit comments on the report to the Project Manager. The EuropeAid Project Manager is solely responsible for the approval of reports. The inception, progress and final reports will be prepared in russian and in English, and will follow general Tacis guidelines.

The reports shall be submitted in hard copy and electronic format (as a single Word file). In addition to the above formal reports, the Contractor shall provide such information on project progress as is reasonably required by the European Commission, and shall regularly inform the Commission of political, economic or institutional developments of relevance to the project. The Contractor shall in particular provide the European Commission electronic and hard copies of:

- training material prepared under this project;
- reports of short-term specialists;

No report or document shall be distributed to third parties prior to the approval by the European Commission. The Contractor shall pay particular attention to the confidentiality of data. Reports, as well as press statements, etc, made by the Contractor will make clear that any opinions expressed therein remain those of the Contractor and do not represent the opinion of the European Commission.

Copyright on all reports and other material prepared under this contract shall reside with the European Commission.

7.2 Submission & approval of reports

The Contractor shall report directly to the Project Manager:

Mr Daniel Stroobants
European Commission – EuropeAid Cooperation Office
41 Rue de la Loi

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B – 1040 Brussels

All reports are to be submitted by the Contractor in the numbers, languages and locations as follows:

	Bound		Loose leaf		Diskette
	English	Russian	English	Russian	Eng+Rus
Task Manager Brussels	1				1
TRACECA Team in Odessa, Baku and Tashkent	1 each		1each		1 each
National TRACECA Commissions in Armenia, Azerbaijan, Georgia, Uzbekistan, Kazakhstan, Tadjikistan, Kyrghyzstan, Ukraine, Moldavia, Bulgaria, Romania and Turkey, as well as Cabinet of Ministers, Ashgabad/Turkmenistan	1 each	1 each	1 each	1 each	1 each
TACIS Local Support Office (Beneficiaries States)	1 each	1 each			1each
EC Delegations in the beneficiary states	1 each	1 each			
Tacis Monitoring team (Regional Office)	1 each	1 each			1each

The word processing programme to be used will be Microsoft Word.

The importance of high-quality Russian texts, delivered on time, cannot be overemphasised. The reporting dates in these ToR are for the simultaneous delivery of the Russian and the English texts. All reports must include an Executive Summary.

8. Monitoring

The project will be monitored according to standard procedures.

Project monitoring and evaluation will be based on periodic assessment of progress on delivery of specified project Results and towards achievement of project objectives.

8.1 Definition of indicators

Suitable objectively quantifiable indicators will be agreed between the Contracting Authority and the Contractor, supported as necessary by the Monitoring contractor.

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8.2 Special requirements

Key indicators:

- Legal Working Groups established
- Bilateral and Multilateral Agreements catalogued and remedial action recommended
- Recommended Conventions ratified and implementation facilitated
- Guide to International Conventions produced and presented
- Multimodal transit/forwarding model law proposed and discussed
- Road transit permit and quota system proposed and discussed
- Technical standards recommended for inclusion in Annexes to the MLA