

ANNEX II: TERMS OF REFERENCE

Regional Action Programme 2006

**Development of common security management, maritime safety and ship
pollution prevention for the Black Sea and Caspian Sea**

Azerbaijan, Georgia, Kazakhstan, Turkmenistan, Ukraine

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1. Background Information

1.1 Beneficiary countries

The beneficiary countries are Azerbaijan, Georgia, Kazakhstan, Turkmenistan and Ukraine. Bulgaria, Romania and Turkey should be associated to the project activities such as regional workshops and seminars.

1.2 Contracting Authority

The contracting Authority will be the European Commission EuropeAid Cooperation Office in Brussels.

1.3 Relevant background

The Transport Corridor Europe-Caucasus-Asia (TRACECA) includes maritime links in the Caspian Sea and the Black Sea, linking respectively Kazakhstan, Turkmenistan at the eastern and Azerbaijan at the western shore of the Caspian Sea on the one hand and linking Georgia at the eastern shore of the Black Sea with Ukraine, Romania and Bulgaria as well as Turkey on the other hand. While Black Sea countries have access to the open sea via the Turkish Straits, the Caspian Sea is connected via the Russian inland waterway network with the rest of the world. The Russian Inland Waterway Code allows passing of non-Russian flag ships (including those from CIS) only upon special permission. There is, however, intensive maritime passenger and cargo traffic inside the Caspian Sea that should follow to the extent necessary the international safety/security requirements.

In the framework of the TRACECA/Baku initiative¹, the European Commission organised a first working group meeting on maritime safety with the Black Sea - Caspian Basin countries on 24 April 2008, in Odessa, Ukraine. Maritime experts from Azerbaijan, Bulgaria, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Romania, Turkey, Turkmenistan, Ukraine and Uzbekistan as well as from the TRACECA Permanent Secretariat and the TRACECA National Secretaries attended the meeting.

The Working group recalled the conclusions from the high level group on the extension of the major trans-European transport axes to the neighbouring countries and regions and recalled the TRACECA strategic goals and the deriving adopted Action Plan, notably with regards to maritime safety; namely the timely and full implementation of relevant IMO and ILO Conventions and the convergence of the different regional Port State Control practices and procedures at the highest level of performance, the establishment of VTMIS coordination, as well as civil protection mechanisms in case of marine pollution.

The participants exchanged views on the state of play of maritime safety in the region, and started identifying priorities for regional cooperation (for example needs assessment for regional cooperation regarding vessel traffic monitoring through Automatic Identification System and Long Range Identification and Tracking of vessels) in the framework of existing cooperation programmes such as the European Neighbourhood Policy, TRACECA, the Baku Initiative and twinning mechanisms. They also agreed on the usefulness of ratifying the Maritime Labour Convention 2006 of the International Labour Office in order to guarantee decent minimum social conditions to seafarers and to contribute to a level playing field for the shipping industry.

In this context and following up a first project dedicated to the improvement of maritime links with TENs on the Black Sea, the present project shall aim to ensure an effective and uniform implementation of international conventions and rules (IMO and ILO conventions) for maritime safety and security and the prevention of pollution from ships in both the Black Sea and Caspian Sea. In particular, the project will contribute to the implementation of the TRACECA Strategy in the following areas:

- assuring safe and secure maritime links to passengers, crews, ships and cargoes,
- environmental safety at sea and in the relevant ports,
- creating a fully integrated multimodal transport corridor.

¹ The so-called "Baku initiative" was initiated by the European Commission to strengthen thematic dialogue on transport and energy with the Black Sea/Caspian littoral States and their neighbouring countries, namely, Azerbaijan, Armenia, Bulgaria, Georgia, Iran, Kyrgyzstan, Kazakhstan, Moldova, Romania, the Russian Federation (as observer), Tajikistan, Turkey, Ukraine and Uzbekistan. The related thematic Working Groups are organised within the TRACECA programme.

Azerbaijan has ratified all relevant IMO Conventions such as MARPOL, STCW, SOLAS (including ISPS code). However it still lacks operational and practical guidelines in order to ensure an effective implementation of the legal provisions and IMO requirements for safety security and environmental protection standards.

Unlike for the Black Sea, there is no regional Memorandum of Understanding on Port State Control in the Caspian Sea.

GEORGIA

Maritime safety security and environmental protection are under the responsibility of the Ministries of Transport/Environment/Telecommunication/Interior as well as the following key administrations i.e. Maritime Administrations, Seaport Authorities, Harbour Masters and Maritime Inspectors; Immigration and Custom Authorities; Coast Guard and Police.

The Ministries of Transport/Environment/Telecommunication/Interior have got the overall responsibility for legislative issues, international conventions and their implementation. Maritime Administrations, Seaport Authorities, Harbour Masters and Maritime Inspectors share the functions for the implementation of IMO requirements in the field of safety; security and environmental protection. Functions of PSC are also managed by Coast Guard and Police as well as the Immigration and Custom Authorities.

The Maritime administration seems to be sufficiently functioning, trained and committed to the implementation of the project. Correspondence, questionnaires and exchange of information has been held during the preparatory phase with the Maritime administration in coordination with the Ministry of Transport. The project objectives are considered relevant and further training on the practical implementation of the IMO conventions would be appreciated.

Georgia has ratified all relevant IMO Conventions such as MARPOL, STCW, SOLAS (including ISPS code). It seems to have in place a system with operational and practical guidelines in order to ensure a sufficient implementation of the legal provisions.

Georgia is part of the Black Sea Memorandum of Understanding, therefore ensuring the implementation of Port State Control principles and its operational guidelines. However, improvement is needed on effective implementing measures and more detailed practical guidelines.

KAZAKHSTAN

Kazakhstan has ratified relevant IMO Conventions such as MARPOL, STCW, SOLAS (excluding ISPS code). However it still lacks effective enforcement structures as well as operational and practical guidelines in order to ensure an effective implementation of the legal provisions.

The Port of Aktau is under the direct supervision of the Ministry of Transport. It is in continuous development and an organisational structure is in place, under the responsibility of a Port Director, including an Inspectorate as well as the Port Captain having Port State Control Functions. The administrative staff lacks operational experience and has little knowledge about IMO codes, resolutions and circular letters.

Kazakhstan acceded to all MARPOL Annexes and to part of SOLAS and STCW Conventions and Protocols, but the legal system includes insufficient implementing measures and practical guidelines to ensure an effective implementation of the International and IMO requirements for safety security and environmental protection standards.

Unlike for the Black Sea, there is no regional Memorandum of Understanding on Port State Control in the Caspian Sea.

UKRAINE

Under the responsibility of the Ministry of Transport and Communication, the State Department of Maritime and River Transport (Ukrmorrchflot) supervises the activities of the Inspectorate of Training and Certification, the Shipping Safety Inspectorate, the State Enterprise "Marine rescue service", The State Enterprise Maritime Security Agency and the State Enterprise Maritime Communication.

The Ministry of Transport and Communication in Ukraine includes Ukrmorrchflot which carries out the control of the Maritime State Enterprises and is responsible for the safety and security of the Ukrainian maritime transport. They also provide the measures of implementing State policy and strategy for all water transport.

The State Department of Maritime and River Transport (Ukrmorrichflot) is the government body which carries out control of the maritime and inland water transport industry. The Inspectorate of Training and Certification of Seafarers is responsible for and examination of seafarers and the issue of certificates and diplomas of compliance. The Shipping Safety Inspectorate provides main inspection and control of the maritime safety (port state control inspections). The State Enterprise "Maritime Security Agency" is responsible for the measures aimed to enhance the security according to the ISPS code. It provides the regulations on the anti-terror issues for the maritime and inland water transport. The State Enterprise "Maritime Rescue Service" is a State rescue service which is responsible for the rescue operations in Ukraine national waters. The State Enterprise of Maritime Telecommunications is responsible for providing the communication measures at sea.

Ukraine has ratified some IMO Conventions such as MARPOL (except Protocol 97), STCW, SOLAS (including ISPS code) and started the assessment of the EU legislation, which could be implemented as part of national legal system in the framework of the on-going EU technical assistance project "Accession of and Implementation by Ukraine of International Agreements and Conventions in Transport". In addition, the system with operational and practical guidelines appears to be weak. Ukraine is also part of the Black Sea Memorandum of Understanding. However, its membership has been contested in the last two years due to being blacklisted/greylisted by the Paris Memorandum. Therefore, there is a need to support Ukraine in joining IMO conventions, introducing and implementing international and EU requirements for safety, security and environmental protection.

1.4 Related programmes and other donor activities

The EU is the key actor in the transport sector in the region, thanks to its continuous support to the regional transport programme in the last years. The technical assistance provided mainly through the programme TRACECA has helped attract large investments from the IFIs, that include the European Bank for Reconstruction and Development (EBRD) which have made a number of commitments for capital projects on ports, railways and roads along the TRACECA corridor totalling over €700 million, the World Bank (WB) which has made commitments for new capital projects on roads in the Caucasus totalling over USD 80 million, and the Asian Development Bank (ADB) which has committed substantial funds to road and railway improvements. In addition, EU private investors are engaging in joint ventures with transport companies in the TRACECA region.

The project will underline the technical, economic and legal efforts made by previous Tacis projects, strengthening the maritime and ecological safety and security components. Particular attention will be paid to coordination and complementarities with previous, on-going and new projects of the TRACECA programme such as:

- Improvement of Maritime Links between TRACECA Corridors and TENs Corridors, Bulgaria, Georgia, Romania, Turkey, Ukraine.

The project has been running from April 2007 and to April 2009. The objective of the project is to analyse and address existing safety and security management systems in order to achieve proper interoperation and to comply with IMO International Code for ships and ports (ISPS). The project provided an assessment of the Black Sea countries, and in particular on the following issues:

- International regulations for safety of ships are known and officially implemented in all 5 countries, and Port State Control (PSC) is effective. Management of shipping control exits (Flag State Control – FSC), but the quality of inspections on ships needs to be improved;
- Romania and Bulgaria, both new EU members, are enforcing the most recent EU regulations (2004 to 2007);
- Safety of port operations is under national labour laws and is extremely basic in some ports;
- Security of shipping and port facilities is adequate in the majority of the ports visited. Yet, some port facilities need improvement of their security plans (even though they were nationally assessed as ISPS compliant);
- Common rules defining a basic organization in connection with Vessel Traffic Systems are advisable;
- Inspections on safety and security of shipping and port operations should be improved in all countries;
- The concept of "Port authority" is different in the beneficiary countries and does not allow the development of efficient organisational structures or Port Community Systems.

The project also initiated a Framework for a Common Safety & Security Management System – CSMS -, covering ports and fleets, based on IMO-SOLAS-ISPS and EU regulations of 2004-2005, aimed at reducing risk levels and protecting port facilities, ships, environment and people. Finally, the Maritime links project also developed a framework for identification of PPP opportunities for the port and maritime transport sector. This includes an assessment of the PPP potential as well as a number of identified bankable projects. Since this activity is very much in line with activities in

this project it is recommended to liaison closely with the results from the Maritime links project in order to utilise the experience regarding PPP and to coordinate regarding bankable projects.

- Maritime Training in Ukraine, Georgia, Azerbaijan, Kazakhstan

This project was completed in December 2007 and contributed to shipping safety, prevention of marine pollution, environmental awareness through training and capacity building of institutions in the maritime sector in the TRACECA regions. The Maritime training project provided assistance to the maritime training institutions and centres to strengthen their management and performance, facilitate regional cooperation, develop curricula, train lecturers and upgrade the existing training programmes. Thus it is essential that the follow up project on the maritime security management take into account the achievements of its predecessor in the respect of the activities field. It is strongly recommended to consider during the inception phase all documents and outputs of this project's seminars and workshops.

- Motorways of the Seas for Black Sea and Caspian Sea

The overall objective of the project is to promote and raise awareness on the concept of "Motorways of the Sea" in order to facilitate trade and transport through improving logistics capabilities, interoperability and multi-modal transport between CIS Countries, Europe and the world market.

The project is going to be launched in 2008. Strong coordination is required in terms of a) ensuring traffic security, cargo safety and environmental protection; b) harmonisation of transport policy and legal structure in the field of transport.

- Ukraine Port Development Feasibility Study

Under this project the feasibility study(ies) for Ukrainian sea and land ports relevant to TRACECA/TEN-T corridors (Ilyichevsk, Odessa, Juzhniy, and a "dry port") modernization/development shall be elaborated, especially as regards logistic capabilities, interoperability and multimodal transport in view of it's (their) financing by domestic and/or international financial institutions and organisations.

The Implementation of the project shall start in August 2008. Strong coordination is required mainly in terms of identification and preparation of maritime projects and financing schemes

2. Contract Objectives and Expected Results

2.1 Overall objective

The overall objective of the project is to facilitate international maritime transport of passengers and goods, and to support maritime safety, security and environmental protection in both the Black Sea and the Caspian Sea regions.

2.2 Purpose - Specific Objectives

The specific objective of the project is to support the efficient implementation of international legislative framework and international conventions for maritime safety, security and environmental protection in the Black Sea and Caspian Sea countries.

In particular, the project will target the following priorities:

- Promote the integration of International conventions rules into national legislation and regulations;
- Support the development of technical and personnel prerequisites in order to meet IMO requirements in safety of navigation, security of transport, including passengers and crews, and the requirements on environmental protection;
- Develop and adapt of technical and personnel prerequisites in order to set up efficient Port State Control in the Black Sea as well as in the Caspian Sea;
- Support national and regional institutions in charge of performing relevant tasks such as safety, security and environmental supervision and advise on implementation of international conventions;
- Establish best practice models regarding safety, security and environmental protection from ships in selected ports in involved TRACECA countries utilising European experience;
- Support priority projects identification and promote financing schemes for private sector participation and development of PPP platforms.

2.3 Results to be achieved

The results to be achieved by the Consultant are the following:

Result 1: Support compliance with provisions of International Conventions and European legislations regarding maritime safety, security and environmental protection from ships;

Result 2: Support implementation of the relevant maritime legislative framework and international conventions, as well as the use of VTS systems in Maritime Administrations and Port Authorities.

Result 3: Prepare and implement training modules on relevant maritime issues such as PSC, PWM, ISPS and management of VTS systems.

Result 4: Identification of model ports and best practices, awareness raising and training in Port State Control activities, MARPOL implementation (reception facilities), ISPS Code implementation.

Result 5: Regional cooperation is established to ensure coordination, supervision and follow up regarding maritime issues of regional interest;

Result 6: Support to identification and preparation of maritime projects and financing schemes involving the private sector e.g. through BOO arrangements and Public, Private Partnerships (PPP).

Result 7: Communication and awareness raising activities on maritime safety, security and environmental protection are developed

3. Assumptions and Risks

3.1 Assumptions underlying the project intervention

The following assumptions are considered to be basic prerequisites for the project implementation:

- Sufficient level of commitment of the beneficiary countries to transpose and implement effectively the international conventions and legislation; Existence of continuity at the decision making level in the beneficiary countries;
- Sustainability in common regional priorities in the maritime safety, security and environmental protection;
- Technical support from the Maritime Authorities and Port Authorities and the short-term local experts. Stability in the Administrations and low personnel turn over, or in case of high personnel turn over, need for a system of transfer of know how;
- Co-ordination, involvement and participation of the Ministries, maritime administrations and port authorities of the ENP partners;
- Political willingness to support the regional cooperation. Sustainability in common regional priorities in the maritime safety, security and environmental protection;
- Sufficient level of cooperation among different ministries (e.g. Ministry of Environment, Ministry of Transport, Ministry of Economic Development) and private sector within the individual Countries; Sufficient level of understanding between authorities responsible in the maritime sector to facilitate the introduction and application of the project recommendations and practical guidelines.
- During the project, differentiation at sub-regional level per regional Sea might become necessary.
- Involvement of all riparian States of the Black Sea, including the Russian Federation, would be beneficial.

3.2 Risks

The following risks have been identified:

- political instability in some of the beneficiary countries or in the region;
- frequent administrative changes in some beneficiary countries which cause a loss of the know-how and dispersion of the professionals;
- lack of cooperation between the beneficiary countries at the regional level;
- different legal and organisational bases of the beneficiaries' authorities involved ;
- international rules and regulations are subject to national variations and interpretations.

These risks have to be minimised by the use of already functioning mechanisms (such as e.g. Traceca) for cooperation between the transport key stakeholders of the neighbouring States and with the EU. The EU Traceca members

(Bulgaria, Romania) and candidate country (Turkey) shall undertake a leading role in raising the awareness among the Black Sea and Caspian Sea Countries on the need and importance of a harmonised safety, security and environmental protection system for the area.

The following measures and considerations shall contribute in minimising the risks:

On risk 1: Reinforcing the administrative capacity in order to build professionalism in the institutions, independent from the political system

On risk 2: Establishing an efficient and effective transfer of know-how system, providing simple guidelines and practical implementation tools

On risk 3: Reinforcing the coordination role and advisory functions of Traceca structure

On risk 4: Harmonising the legal systems according to the International and EU standards

On risk 5: Reinforcing the common awareness of maritime safety, security and environmental protection aiming to the effective achievement of the project's objective

The above considerations should be taken while implementing all project activities. An analysis and consultation with other EU funded projects is also needed in order to avoid overlapping.

4. Scope of Work

4.1 Project Description

The project will concentrate on three key issues and the implementation will focus on the related relevant conventions namely

- Security (ISPS)
- Safety (SOLAS, Black Sea and Paris MoU on Port State Control) and management of VTS systems
- Environmental protection of the sea from ships (MARPOL)(port waste management)

The beneficiary countries are at different level when it comes to maritime safety, security and environmental protection (compliance with international conventions). Therefore it is important to distinguish between the countries when the detailed planning is done e.g. when it comes to capacity building of institutions and staff. Experience has shown that although ratification takes place at national level, the real implementation of provisions of international conventions shall be improved at port level. The project will therefore have an operational and practical approach where a major part of the work is done in close cooperation with maritime administrations and the identified ports. The results will involve concrete national improvements and long term regional impact.

The project consists of three levels i.e.

1. Have the legislative platform in compliance with international conventions, have the necessary guidelines and procedures established and have qualified staff trained and available.
2. Establish model ports regarding PSC, MARPOL and ISPS operating as “best practice ports”.
3. Establish a regional cooperation addressing issues of regional interest.

The project's budget does not allow targeting all ports in the region; therefore one “best practice port” should be selected in each beneficiary country, on the basis of assessments made and in close cooperation with national authorities and priorities. Such “best practice ports” can act as model for other national or regional ports.

The operational approach means that the contractor will work closely with the Maritime Administrations, Port Management and other relevant Administrations and to the extent possible participate in the implementation of the various plans developed and agreed upon. This requires a “hands on” approach for the consultants involved and a good understanding of the ports' functioning on these issues (Results 4 and 5).

Since the security, safety and environmental issues have a regional impact due to the fact that vessels move across borders, regional cooperation and coordination are important. Other regions around the world have established such regional cooperation, but at present there does not seem to be a regional body specifically suited for this purpose and covering both the countries around the Black Sea as well as the Caspian Sea.

HELCOM (countries surrounding the Baltic Sea) is a good example of an institution which cooperates and coordinates activities on issues like e.g. safety, security and environmental protection of the sea and provide recommendations (not

legally binding) to the participating countries. On the basis of the Baku Initiative working group on maritime safety, it is proposed to adapt a similar approach among beneficiary countries in close coordination with the TRACECA Secretariat. The regional working group shall consist of technical competent persons at high level from each country. Although Russia is not included in the project as such, it is recommended to involve them in the Regional Working Group. Meeting regularly the group shall coordinate and cooperate on issues of regional interest regarding maritime security, safety and environmental protection. The group should also coordinate with the activity of the Black Sea MoU Secretariat. It has been proposed by the TRACECA expert group to consider two sub-regional working groups (one per each sea) instead of only one. This has to be evaluated further during the inception phase of the project.

4.1.2 Geographical area to be covered

The project should cover the 5 TRACECA maritime countries Azerbaijan, Georgia, Kazakhstan, Turkmenistan and Ukraine. Bulgaria, Romania and Turkey should be associated to the project activities such as regional workshops and seminars. The geographical area corresponds to the Black Sea and the Caspian Sea and the surrounding countries. Although not involved in TRACECA, Russia should be associated to the project and invited to the Regional Working Group to be established.

4.1.3 Target Groups

The project's main stakeholders will be the Maritime Departments of Ministries of Transport, Maritime administrations and relevant ports of the beneficiary countries.

4.2 Specific activities

RESULT 1: Support compliance with provisions of International Conventions and European legislation regarding maritime safety, security and environmental protection.

Activity 1.1 Review the level of transposition of international conventions and regulations into national legislations regarding MARPOL, SOLAS/ISPS and PSC MoU's.

This preliminary activity is to complete the preliminary analysis provided during the preparatory phase and previous projects on the level of transposition of internal conventions into national legislation. During the review, it should also be assessed to which extent national legislation is reflected in to port regulations and other guidelines. National legal experts input are probably required for this activity. In particular, the IMO "Self Assessment Form" (SAF) can be an adequate model to assess on a voluntary basis, the compliance with the international instruments by the maritime administrations.

Activity 1.2 If needed, prepare and implement a plan for transposition of above-mentioned international conventions and regulations into national legislation

The above review shall be the basis for drafting a plan for those countries which still need transposition of international conventions into national legislation and port regulations. The plan should also address whether real compliance takes place in ports and to which extent guidelines have been prepared for staff in maritime- and ports administrations. The plan shall be drafted in close cooperation with the respective Maritime Administrations. The level of assistance with the implementation of the prepared plans will vary from country to country.

Activity 1.3 Discuss and plan accession to the "Voluntary IMO Member State Audit Scheme".

The voluntary IMO Member State Audit Scheme is intended to provide an audited Member State with comprehensive and objective assessment on how efficiently it administers and implements those mandatory IMO instruments which are covered by the scheme. The audit scheme will bring benefits, such as identifying where capacity building activities would have the greatest effect. The member States themselves would receive valuable feedback intended to assist them in improving their own capacity to put the applicable instruments into practice. In this context it is advisable to promote the application of the audit scheme among involved countries as a contribution to reduce the existing gap on the implementation of international legislation between EU Member States and the other countries. The contractor shall promote the opportunity for the countries to enter into this voluntary audit process .

- The operational framework for the application of the voluntary IMO Member State Audit Scheme shall be developed.

- A workshop on the implementation of the audit scheme shall be organised
- Technical expertise shall be provided if needed

RESULT 2. Support implementation of the relevant maritime legislative framework and international conventions, as well as the use of VTS systems in Maritime Administrations and Port Authorities.

Activity 2.1 Assess and support the rationalization of national maritime organisations, structure and procedures to implement relevant regulations (MARPOL, SOLAS/ISPS and PSC MoU's).

Efficient compliance with international conventions and obligations would require setting up relevant institutions (maritime and port administrations), prescriptive guidelines and technical capacity (staff training). Some beneficiary countries would need support in clarifying and rationalizing the network of bodies dealing with maritime issues, with clear definition of responsibilities. The assessment shall therefore focus on the operational parts of the administrations i.e. organisation, structure, staff and procedures.

As a result, a plan of action will be developed and implemented to support reform and development of appropriate and modern maritime administrations. The plan has to be developed in close cooperation with the relevant administrations taking into account the existing situation and capacity. The plan must be thoroughly discussed and an agreement shall be obtained in order to secure the needed commitment and sustainable implementation. The level of assistance with the implementation of the prepared plans will vary from country to country. Moreover, operational procedures (when not in place) shall be developed in order to provide efficient PSC, waste handling and security.

Activity 2.2 Assess needs and priorities for the use and operation of VTS systems in major national ports

Many ports have VTS systems available but there are still ports operating without and others where the use of such systems can be improved. It is therefore important to identify relevant equipment, training and support needs for an efficient use and management of VTS systems.

Guidelines in developing efficient procedures can be obtained from IMO.

RESULT 3. Prepare and implement training modules on relevant maritime issues such as PSC, PWM, ISPS and management of VTS systems.

Activity 3.1 Prepare a Training Plan based on relevant issues for training and capacity building, and in coordination with relevant training institutes in beneficiary countries.

Training has been carried out during some previous projects in areas relevant for this project also. However, it is important that all maritime administrations in the involved countries have staff with the necessary knowledge regarding notably - Port Waste Management (incl. experience from Europe), ISPS code, Port State Control and management of VTS systems in order to implement relevant procedures and to bring all countries up to a regional minimum level of compliance. The identification of relevant issues for training and capacity building shall be built upon the review and assessment under activity 1 and 2, and taking into account the different level of knowledge and expertise among beneficiaries. The training plan should be finalised and agreed with the Contracting authority and the beneficiary countries. A study tour to preliminary identified European countries and European Maritime Administrations could be proposed.

Activity 3.2 Conduct relevant training courses (either at national or regional levels) and support efficient transfer of know-how

Awareness raising, on-the-job training and capacity building sessions shall be seen as parallel activities to achieve Results 1 and 2. Officials within Maritime Administrations and Port authorities should be identified for training, as well as port operators whenever relevant. Participants to training sessions shall be selected on the basis of their competencies and professional commitment, and the final list should be approved by the European Commission.

The training could be anchored in identified national training centres. Training modules could be implemented by these institutes, with an objective of sustainability (Training of Trainers). Results of previous projects (e.g. TRACECA Maritime Training) should be taken into account. Evaluation of the impact of the training sessions should be provided after their implementation.

Whenever international courses are available (World Maritime University, Sweden, International Maritime Law Institute, Malta, IMO or others), it should be investigated to what extent these can be used instead of developing new courses. For the areas identified, fully developed training materials should be prepared, and possibly developed in an e-learning environment.

RESULT 4. Identification of model ports and best practices, awareness raising and training in Port State Control activities, MARPOL implementation (reception facilities), ISPS Code implementation.

Activity 4.1. Support the development of relevant inspection procedures and identify best practice ports ensuring efficient PSC in each country.

The project will assess the level of implementation of the Black Sea MOU in the beneficiary countries of the Black Sea. For the beneficiary countries of the Caspian Sea, the project will provide assistance and promote the harmonisation and compliance of Port State Control procedures according to international standards.

In each country, one port shall be identified as a “best practice port” and a model for other national ports. It is important that the selected port is interested, with relevant back-up from the national maritime administration, and that the port management show the necessary commitment to develop and implement the measures needed. The responsible staff in national administrations and ports shall be able to carry out efficient PSC. If needed efficient procedures shall be implemented and the staff trained further regarding the practical and operational aspects of the inspection procedures.

Activity 4.2. Assessment of waste handling systems in major national ports (compliance with MARPOL 73/78 and EC 2000/59 Directive) and development of Port Waste Management Plans;

In each country, one port shall be identified having the potential to become a “best practice port” and a model for other national ports in terms of waste management. The experts will assess the situation in selected ports with reference to the EU Directive, EC 2000/59, regarding

- available facilities
- cost recovery systems
- responsibilities
- organisation
- notification procedures
- waste, money and paper flow
- incentives for delivery

On this basis, a Traffic and Waste analysis will be provided to serve as a basis for further awareness raising and training sessions on the issue of having ship generated waste collected in ports rather than discharged illegally into the sea.

A Port Waste Management Plan (PWMP) should then be developed in a process oriented approach involving all stakeholders in the port onto the work (possibly through workshops). The PWMP should show how the ship waste handling takes place in a port and how the port plan to implement the activities needed to fulfil its objectives. Most often a PWMP consists of two documents i.e.

- a Procedures Manual (defining procedures and other issues relevant for the port users)
- an Implementation Plan (showing how the port plans to implement the various activities).

The EU Directive, EC 2000/59 on “Port Reception Facilities for Ship Generated Waste and Cargo Residues” request all ports in the EU to prepare a PWMP in order to ensure efficient and environmental sustainable waste handling in the port. The European experience has shown that such PWMP improves their waste handling situation in ports. However, the evaluation of the Directive (EMSA-2006) also shows that other factors are important e.g.

- the role of the “port authority”
- the cost recovery principle (direct or indirect charge)
- request for waste notification before arrival
- clear and transparent contractual framework if private waste operators are involved.

During the preparation of the PWMP, some activities can be implemented right away whereas others have a longer time perspective. An important point is to start implementing procedures as soon as possible and not wait until the e.g. final

facility is ready. Some ports have an already existing relationship with external waste operators; others want to involve the private sector in order to avoid any huge investments themselves. Regardless of who is selected to carry out the waste handling (collection, treatment and final disposal) there should be a transparent contractual framework in place, defining the various responsibilities and procedures. If the waste handling is to be tendered out, support to the preparation of tender specifications and service contract documents should be provided.

Activity 4.3. Further assessment, identification of best practice ports and support to the implementation of ISPS Code.

On the basis of previous studies on ISPS activities in the region, the experts will review and update the level of implementation of the ISPS Code in the beneficiary countries. This assessment shall be the basis for planning further activities to reach full compliance with the ISPS Code.

The ISPS Code is part of SOLAS and full compliance is mandatory for the Contracting Parties to SOLAS. There is no IMO "black list" of any kind and therefore no list of ports or flag States which are not in compliance. The ISPS Code database contains the information required by SOLAS regulation XI-2/13 as supplied by Contracting Governments. Lack of inclusion in the database should not be perceived automatically as a failure to comply with the SOLAS requirements.

In each country, one port shall be identified having the potential to become a "best practice port" and a model for other national ports in terms of implementation of ISPS Code.

According to the ISPS Code, Governments must assess the threat and evaluate the risk of a potential unlawful act. It may take some time before someone may be able to argue and convince that a deep rooted comprehensive and effective security net is in place. Although a ship or a port facility may operate in accordance with an approved security plan, unless all Contracting Governments put in place and maintain the necessary arrangements to address all the objectives and the functional requirements of the ISPS Code, the actual level of security will not be enhanced.

Some of the selected ports in the region are probably in almost compliance whereas others still have room for improvements. It is therefore important that this activity ensures that appropriate security measures and procedures are in place in the port facilities and waterways located within their territory and the necessary plans and procedures prepared and well implemented.

RESULT 5. Support to regional cooperation in the field of maritime safety and security

Activity 5.1 Support regional Working Groups on maritime safety and security (TRACECA/Baku initiative)

The objective is to establish a dialogue where the countries can discuss and learn from each other having in mind that maritime risks do not respect borders. Other regions around the world have established regional cooperation varying from formalised and institutionalised cooperation to a more informal cooperation. The REFAC Group under HELCOM can be used as a model. This regional group also consisted of participants with very different background and came from countries at different level. The conclusions from the group, were later formulated into "Recommendations" (not legally binding) to be implemented by each participating country.

Together with the TRACECA Secretariat, the project should help defining:

- Objective of the Working Group meetings
- Organisation and logistics, procedures, schedules
- Participants
- Drafting of recommendations and related Action Plan

Preferably there should only be one group for the Black Sea and Caspian Sea. One or two experts per country should be invited. It is also recommended to involve Russia in the Working Group. The Working Group should gather approximately twice a year.

Activity 5.2 Develop a regional Action Plan on maritime safety, security and environmental protection in line with international conventions and regulations

The purpose of the regional Working Groups is to meet and discuss maritime issues of common interest to the countries e.g. maritime safety, security and environment protection from ships. Although individual countries are at different level they all have an interest in the compliance of neighbouring countries of relevant Conventions to ensure highest

level of safety, security and environmental protection. The Working Groups should allow the development of a regional Action Plan focusing on implementation of the relevant conventions in the region.

Following national discussions, background analyses, alignment with the TRACECA strategy and recommendations of Working Groups, the Action Plan it shall be presented and discussed further at regional level. This Action Plan should support already existing initiatives, and enhance regional coordination and communication. The implementation of the Action Plan should be the responsibility of the parties, with possible support from the project.

RESULT 6. Support to identification and preparation of maritime projects and financing schemes involving the private sector e.g. through BOO arrangements and Public, Private Partnerships (PPP).

On the basis of the PPP background analysis provided by the “Maritime Links” project, the experts will review the relevant information to promote PPP models and BOO arrangements for financing relevant maritime projects in the region.

Projects having a regional impact on the corridor should be identified with the relevant authorities and investors. Identification of relevant maritime projects which are suitable for financing through PPP or BOO models should result in a preliminary project list. It is important to have in mind the pre-conditions identified for using the mentioned models e.g. the legislative framework in place and the possibility to establish profitable operation.

The project will support the identification and preparation of the most relevant and prioritised maritime projects along the TRACECA corridor. The objective is to result in project fiches or specifications for relevant feasibility or pre-feasibility studies. Such document shall include among others

- Description of the project
- Size of investment
- Partners
- Contract elements
- Return of investment

RESULT 7. Communication and awareness raising activities on maritime safety, security and environmental protection are developed

During the inception phase, the project will analyse the possibility to support the existing TRACECA website or to create a new website dedicated to maritime safety and security. The website should provide relevant documentation, status of relevant activities and plans for future activities. This website should be developed with a sustainable purpose, since it should be further developed and maintained after the end of this project.

Finally, a Communication Plan should be developed and implemented, including press releases, press conferences, leaflets and newsletters, websites, banners and promotional items related to the project activities. In particular, regular update on the project should be sent to the TRACECA Permanent Secretariat for their quarterly newsletter. EC templates and guidelines should be respected for any communication action.

4.3 Project Management

4.3.1 Responsible body

The project will be managed by the EuropeAid Co-operation office. The Team Leader will be responsible for managing the contract.

4.3.2 Management structure

The project is to be managed via one regional project office to be established by the Contractor and which serve as the main contact point for all project activities. The location of the project office is to the decision of the Contractor. The Contractor's Team Leader takes overall responsibility for high level performance and quality control and reporting of the project.

The TRACECA Permanent Secretariat - in liaison with the European Commission - shall ensure the role of coordination, monitoring and follow-up of the project; guaranteeing programming and project cycle management. The TRACECA Secretariat will also render technical advisory services, provide information and will be responsible for dissemination. The TRACECA Secretariat shall facilitate the meetings of the project steering committee as well as of the regional sub-working group.

Moreover, the National TRACECA Secretaries have an important role to play for the coordination and liaison with the project beneficiaries and all the stakeholders at national level. National Secretaries shall also be invited to participate in regional working group meetings.

The Contractor should bear in mind the regional emphasis of the project in planning its travel and staffing requirements and a draft schedule of visits shall accompany its proposal. It is appreciated that this may need to be adjusted at inception report stage or later with the agreement of the EC Project Manager. The expected ratio of working time spent in the Contractor's home office, at the regional offices and on mission in the region should be clearly visible in the Contractor's proposal.

5. Logistics and Timing

5.1 Location

A regional project office is to be established in one of the beneficiary countries. A second project office may be possibly established in another beneficiary country in order to cover better the second regional sea. Changes in the location of the offices could be considered during the inception phase in close coordination with the project stakeholders and with prior approval of the Contracting Authority.

The location of regional events should be proposed by the Contractor and should be balanced among the different TRACECA regions or take place in EU member states. The Consultant is requested to clearly describe the intended activities, which might be adjusted within the inception phase of the project.

It has also to be noted that in the course of the project implementation, frequent travelling will be required to all TRACECA countries, Brussels and other locations as appropriate and agreed with the Project Manager, based on the project needs.

5.2 Commencement date and period of execution

The intended commencement date is May 2009 and the period of execution of the contract will be 24 months from this date. Please refer to Articles 4 and 5 of the Special Conditions for the actual commencement date and period of execution.

6. Requirements

6.1 Personnel

6.1.1 Key experts and short term experts

All experts who have a crucial role in implementing the contract are referred to as key experts. The profiles of the key experts for this contract are as follows:

Key expert 1 : Team leader - Maritime safety expert (minimum 450 working days)

Qualifications and skills

- Advanced academic degree or equivalent in transport/ maritime studies (Master mariner, Marine Engineer, Naval architect, etc) or equivalent
- Fluency and ability to draft report in English
- Knowledge of Russian would be an advantage

General professional experience

- At least 7 years experience in maritime safety in areas relevant to the assignment

- At least 5 years experience as Team leader of international transport projects, managing a team composed of expatriate and local technical specialists;

Specific professional experience

- At least 7 years experience in the sector of maritime safety (managerial position for a national or international maritime administration, or related experience in maritime safety international projects).
- Specific experience in international projects and knowledge of international (UN, IMO) and EU regulations in maritime transport and in particular maritime safety.
- Experience in the Black and Caspian Seas maritime transport sector would be an advantage.
- Excellent drafting and communication skills
- Experience in multicultural environment, in supervising all aspects of projects' technical work, reporting and administrative and logistic support.

Key expert 2 : Maritime safety and security expert (minimum 400 working days)

Qualifications and skills

- Advanced academic degree or equivalent in the field of transport, maritime studies or equivalent
- Fluency and ability to draft report in English
- Knowledge of Russian would be an advantage

General professional experience

- At least 7 years experience in maritime safety and security in areas relevant to the assignment

Specific professional experience

- At least 5 years experience in the sector of maritime safety and security (managerial position for a national or international maritime administration, or related experience in maritime security international projects).
- Specific experience in international projects, and knowledge of international (UN, IMO, ISPS) and EU legislation in maritime security.
- Experience in the Black and Caspian Seas maritime transport sector would be an advantage.
- Excellent drafting and communication skills
- Experience of work in multicultural environment.

Key expert 3: Maritime policy and training expert (minimum 400 working days)

Qualifications and skills

- Advanced academic degree or equivalent in the field of transport, maritime studies or equivalent
- Fluency and ability to draft report in English
- Knowledge of Russian would be an advantage

General professional experience

- At least 7 years experience in maritime port administration/maritime policy and international law
- Experience in training/capacity building/communication in areas relevant to the assignment

Specific professional experience

- At least 5 years experience with developing international maritime policies and projects, training and capacity-building, communication and awareness-raising strategy, project development and investment appraisal
- Experience in the Black and Caspian Seas maritime transport sector would be an advantage.
- Excellent drafting and communication skills
- Experience of work in multicultural environment.

6.1.2 Other experts

Short-term international and local experts

CVs for experts other than the key experts are not examined prior to the signature of the contract. They should not be included in the tender.

The Consultant shall select and hire other experts as required according to the profiles identified in the Organisation & Methodology and/or these Terms of Reference. These profiles must indicate whether they are to be regarded as long-term/short-term and senior/junior so that it is clear which fee rate in the budget breakdown will apply to each profile. All experts must be independent and free from conflicts of interest in the responsibilities accorded to them.

The selection procedures used by the Consultant to select these other experts shall be transparent, and shall be based on pre-defined criteria, including professional qualifications, language skills and work experience. The findings of the selection panel shall be recorded. The selection of experts shall be subject to approval by the Contracting Authority.

Note that civil servants and other staff of the public administration of the beneficiary country cannot be recruited as experts, unless prior written approval has been obtained from the European Commission.

Their profiles will be adapted to the expertise required for the specific task. The following general profile for the short-term experts is suggested:

Qualifications and skills

An advanced academic degree or equivalent in the specific field for which the expert is contracted.

General professional experience

At least 5 years of relevant professional experience in the field for which the expert is contracted.

Specific professional experience

- Good knowledge of international (UN and IMO) and European Union legislation and its practical/effective implementation on maritime transport, in particular those related to the specific field for which the expert is contracted.
- Experience in the specific sector for which the expert is contracted.
- Literacy in information and communication technologies.
- Proficiency in English. Knowledge of Russian will be considered an asset.
- Experience of work in multicultural environment.

6.1.3 Support staff & backstopping

It is mandatory to have a backstopping available for this contract. Backstopping costs are considered to be included in the fee rates.

The costs of support staff must be included in the fee rates of the experts.

6.2. Office accommodation

Office accommodation of a reasonable standard and of approximately 10 square metres for each expert working on the contract is to be provided by the beneficiary country.

The costs of office accommodation are to be covered by the provision for incidental expenditure. The cost per square metre must be in line with the prevailing local market rate for office accommodation of a reasonable standard.

6.3 Facilities to be provided by the Consultant

The Consultant shall ensure that experts are adequately supported and equipped. In particular it shall ensure that there is sufficient administrative, secretarial and interpreting provision to enable experts to concentrate on their primary responsibilities. It must also transfer funds as necessary to support its activities under the contract and to ensure that its employees are paid regularly and in a timely fashion.

Furthermore, it shall be ensured, that basic office equipment (laptops including suitable software, mobile phones, printers etc.) and basic presentation material (overhead, beamer, white boards etc.) is at the disposal of his experts.

These costs must be included in the fee rates.

If the Consultant is a consortium, the arrangements should allow for the maximum flexibility in project implementation. Arrangements offering each consortium member a fixed percentage of the work to be undertaken under the contract should be avoided.

6.4 Equipment

No equipment is to be purchased on behalf of the Contracting Authority / beneficiary country as part of this service contract or transferred to the Contracting Authority / beneficiary country at the end of this contract. Any equipment related to this contract which is to be acquired by the beneficiary country must be purchased by means of a separate supply tender procedure.

6.5 Incidental expenditures

The Provision for incidental expenditure covers the eligible incidental expenditure incurred under this contract. It cannot be used for costs which should be covered by the Consultant as part of its fee rates, as defined above. Its use is governed by the provisions in the General Conditions and the notes in Annex V of the contract. It covers:

- 1) Travel costs and subsistence allowances for missions to be undertaken as part of this contract from the basis of operations in the beneficiary countries.
- 2) Any other mission approved by the Project Manager.
- 3) Office renting
- 4) Translation of training materials and other relevant documents.
- 5) All costs directly related to the implementation of the training events (workshops, symposia, seminars).
- 6) Communication costs and related publication material upon agreement of the Contracting authority.

The Provision for incidental expenditure for this contract is **1,200,000 EUR**. This amount must be included without modification in the Budget breakdown.

The Consultant will need prior written approval from the Contracting Authority before spending the funds related to components 2, 3, 5, 6 of the Incidental Expenditure. No written approval from the Contracting Authority will be needed for spending funds related to the rest components 1 and 4, however all supporting documents must be kept by the Consultant as indicated in art.24 of the General Conditions for Service Contracts financed by the European Commission.

Any subsistence allowances to be paid for missions undertaken as part of this contract from the base of operations in the beneficiary country must not exceed the per diem rates published on the Web site http://europa.eu.int/comm/europeaid/index_en.htm at the start of each such mission.

6.6 Expenditure verification

The Provision for expenditure verification relates to the fees of the auditor who has been charged with the expenditure verification of this contract in order to proceed with the payment of pre-financing instalments if any and/or interim payments if any.

The Provision for expenditure verification for this contract is EUR 20.000. This amount must be included without modification in the Budget Breakdown.

7. REPORTS

7.1 Reporting requirements

Please refer to Article 26 of the General Conditions. Interim reports must be prepared every six months during the period of execution of the contract. They must be provided along with the corresponding invoice, the financial report and an expenditure verification report defined in Article 28 of the General Conditions. There must be a final report, a final invoice and the financial report accompanied by an expenditure verification report at the end of the period of execution. The draft final report must be submitted at least one month before the end of the period of execution of the contract. Note that these interim and final reports are additional to any required in Section 4.2 of these Terms of Reference.

Each report shall consist of a narrative section and a financial section. The financial section must contain details of the time inputs of the experts, of the incidental expenditure and of the provision for expenditure verification. The final report must be accompanied by the final invoice, the financial report and an expenditure verification report.

Project Inception report: An Inception Report will be issued within 3 months of the start of the project. It shall summarise initial findings, propose any modifications to the methodology and present a detailed work plan with milestones.

Further Deliverables: In addition to the above formal reports, the Contractor shall provide such information on project progress as is reasonably required by the Methodology and/or the Project Manager, and shall regularly inform the Task Manager of political, economic or institutional developments of relevance to the project. The Contractor shall in particular provide electronic and hard copies of the following deliverables:

- complete documentation of the regional training events;
- complete documentation on national “dissemination measures”;
- all training material, curricula and course designs prepared under this project;
- other recommendations elaborated;
- any other document which requires prior approval as stated in the description above.

No report or document shall be distributed to third parties prior to the approval by the Project Manager. 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 progress reports

Two copies of the progress reports referred to above must be submitted to the EC Project Manager in the contract. The progress reports must be written in English. The Project Manager is responsible for approving the progress reports.

In addition, all formal reports are to be delivered in the numbers, languages and locations as follows:

	Bound		Loose leaf		CD
	English	Russian	English	Russian	English+Russian
EC Project Manager Brussels	2				1
TRACECA National Secretaries	1 per country	1 per country			
TRACECA Permanent Secretariat Baku	2	2	1	1	1
TACIS Coordinating Unit (Beneficiary countries)	1 per country	1 per country			1 per country
EC Delegations in the beneficiary countries	1 per country	1 per country			
Tacis Monitoring Team (Regional Office)	1	1			1

The contractor is to provide reports directly to key beneficiaries, which may substitute for some of the reports to be distributed other than according to the table above. Lists of addressees for each issue of the reports are to be provided to the Programme Manager.

Copies of the Delivery Notes to the recipient(s) are to be provided by fax or mail to the Programme Manager.

In order to implement the reports on the TRACECA web site and to allow further data processing, reports must be provided by the contractor under an electronic file “.doc” (Word) or “.pdf” (Adobe Acrobat).

In any case, all texts must be composed with common and scannable fonts, including for tables, maps, diagrams, drawings, etc.

Only photographs, logos and facsimiles of original documents will be accepted under a bitmap graphic format (inside the ".doc" or ".pdf" file) though in this case they cannot be used in the document data processing. The resolution of bitmap files must be 150 dpi or less. Each report must correspond to one single Word document (".doc") or Adobe Acrobat (".pdf") file. Reports transmitted in multiple files and of different kind will be refused. Contractors are invited to contact the Webmaster of the PS IGC TRACECA before any file transfer.

The Contractor is to compose and provide in his Technical Proposal a schedule of separate deliverables appropriate to specific technical and commercial components of the project. Formal draft versions are not required, but the contractor should carefully discuss the proposed contents with, and provide draft extracts upon request to the EC Programme Manager in Brussels, before issuing deliverables.

8. MONITORING AND EVALUATION

8.1 Definition of indicators

The contractor shall incorporate monitoring mechanisms for periodic assessment of the progress of the project work components. Specific performance measures can be selected because they provide valid, useful, practical and comparable measures of progress towards achieving expected results. Such measures can be quantitative: measures of quantity, including statistical statements; or qualitative: judgements and perception derived from subjective analysis of progress made.

The essential points to be monitored inter-alia, include:

- Deviations of progress against previously agreed project milestones;
- Adherence to the work plan in terms of the project activities and results;
- Deviations in effort and resources needed to complete an activity as compared to plan;
- Introduction of new work activities not included in the original plan;
- Appearance of obstacles, constraints and other issue which prevent or impact adversely on project completion and which require project escalation.

8.2 Special requirements

None