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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND TO THE
EUROPEAN PARLIAMENT**

**on the general approach to enable ENP partner countries to participate in Community
agencies and Community programmes**

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Introduction:

An important chapter of the European Neighbourhood Policy (ENP) is the possibility for ENP partner countries to participate in certain Community policies and programmes or to establish closer cooperation with them. Such involvement can take two forms:

- ENP country participation, or observer status in, or cooperation with specific agencies or other bodies that are involved in the management of Community policies (e.g., the European Maritime Safety Agency, European Environment Agency, European Monitoring Centre on Racism and Xenophobia, the Galileo Supervisory Authority etc.);
- inclusion of ENP partners in the implementation of Community policies (e.g., research & development, consumer protection, information society, competitiveness and innovation, etc.). It will need to be decided for each programme whether funding for the participation of ENP partner countries should come from the countries themselves (as with members of the European Economic Area) or from the EU Budget (either from the relevant internal programme resources, where foreseen in the respective legal basis, or through dedicated funding under the European Neighbourhood and Partnership Instrument – ENPI).

The Commission has undertaken a comprehensive review of existing agencies and programmes to assess the opportunities for progress in these areas. On this basis, this Communication puts forward two distinct approaches, one for the participation in Community agencies, another for the participation in Community programmes.

Regarding the first, individual agreements will need to be negotiated between each ENP partner and each agency. Regarding the latter, and in order to avoid the cumbersome process of establishing a multitude of decisions by Cooperation or Association Councils to lay down detailed technical terms and conditions for participation of each country in each programme case by case, this Communication instead envisages a two-stage approach inspired by past experience with pre-accession countries. As a first step, the Commission will seek a mandate to negotiate a general enabling protocol to each of the Partnership and Cooperation Agreements or Association Agreements, starting with those ENP partner countries that have already agreed ENP Action Plans. Once ratified, these protocols will provide a sound legal basis for a much simpler process of programme-specific memoranda of understanding with ENP partners that settle the details of participation in programmes of interest to both sides. A case-by-case approach would still remain possible, but be reserved for priority cases.

The Commission intends to present recommendations for specific mandates for additional protocols to the Partnership and Cooperation Agreements or Association Agreements in spring 2007.

Background

The Strategy Paper on the European Neighbourhood Policy of 12 May 2004¹ spelled out the policy objective of enabling the 16 ENP partners (Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Lebanon, Libya, Israel, Jordan, Moldova, Morocco, Syria, the Palestinian Authority, Tunisia, and Ukraine) to take part in relevant Community programmes. The Strategy Paper indicated that the Commission was “conducting a survey of EU programmes and agencies where the participation of neighbouring countries may be in the interests of the enlarged EU and of neighbouring countries”. It explained that “the European Neighbourhood Policy envisages the gradual opening of certain Community programmes, based on mutual interests and available resources”. It also stated that “certain partners have shown interest in participating, possibly as observers, in certain cooperative or rule-making Community fora”. On 14 June 2004, the Council endorsed this Strategy.

ENP Action Plans so far agreed and in force with ten ENP partners (Armenia, Azerbaijan, Georgia, Israel, Jordan, Moldova, Morocco, the Palestinian Authority, Tunisia, and Ukraine) or currently in the process of adoption (Egypt, Lebanon) contain standard wording to the effect that the ENP opens up new Partnership Perspectives including “possibilities of gradual opening of or reinforced cooperation in relevant Community programmes”. One ENP Action Plan also contains specific wording that commits the European Community to “undertake an overall examination of all Community programmes and bodies, with the objective of opening them to [the ENP partner’s] participation”.

The concrete choice of specific programmes and agencies in which individual ENP partners might participate depends on the identification of corresponding interests between the European Community, ENP partners and respective agencies as well as the outcome of programme-, agency- and country-specific negotiations.

This Communication provides summary information on agencies and programmes available for potential ENP partner participation and aims to establish a general approach towards achieving the above-mentioned policy aim.

Rationale

The participation of ENP partner countries in Community agencies and programmes provides major opportunities for further strengthening the European Neighbourhood Policy.

Some agencies may themselves be interested in the expertise of ENP partners, while for others, the European Union’s goal of encouraging and supporting regulatory and administrative reform and institution building in neighbouring countries through the ENP will represent the overarching Community interest. Fulfilling the prerequisites for participating in activities of Community agencies – such as approximation with the Community *acquis* or the establishment of relevant national institutions with sufficient capacities – will, in many cases, act as a catalyst for and avenue towards reform and modernisation in relevant sectors. Often, this will also constitute an effective means for promoting the convergence of ENP partners with EU norms, standards, best practices, and legal requirements. Thus, an element of positive conditionality is automatically inherent in the approach. Participation is in line with the ENP’s

¹ Communication COM(2004) 373.

aim of projecting internal EU policies externally to help promote prosperity, stability, and security in the neighbourhood.

Some Community programmes, where the legal bases so allow, have already been selectively opened up to enable candidate and pre-candidate as well as EEA countries and Switzerland to participate. Past experience with non-member countries has shown that participation in Community programmes can have very positive effects. At the policy and regulatory levels, such participation has promoted the development and adoption of strategies in a range of policy areas relevant to reform and transition. It has encouraged partner countries to adopt new models of consultation and involvement of the private sector. It has allowed increased access by third country policymakers to specialised networks and exposed them to practical aspects of EU policymaking. In some cases, it has led to the establishment of new institutions, in others to the strengthening of the administrative capacity and legal authority of existing ones. It has been instrumental in the transfer of best practices. Finally, such participation has also provided the European Union with greater visibility in third countries.

Legal prerequisites

The founding regulations (statutes) of agencies often include the possibility of third country participation.

The legal bases of Community programmes frequently provide for the possibility of third country participation (i.e. contain an “opening clause”).

Additionally, binding agreements under international law need to be established, determining the general terms and conditions for ENP partner participation.

Participation in European Community agencies

The European Community and the European Union have to date established 21 non-executive agencies in respective fields of competence, under diverse legal bases of the first pillar. Three more are on the verge of being created. These agencies are often financed from the Community budget. Some of them are self-financed. Three other such bodies are based on second pillar provisions, and operate under the control of the Council, with a budget exclusively funded through national contributions from the EU Member States. Three further such bodies are established under third pillar provisions. This amounts to a total of 30 different bodies and agencies (see Annex A).

A European regulatory agency may be defined as an independent legal entity created by the legislator in order to help regulate a particular sector at European level and help implement a particular Community policy. By performing its tasks, it helps to improve the way in which rules are applied throughout the EU.

In many cases, their founding regulations contain the standard provision that the “agency shall be open to the participation of third countries which have concluded agreements with the European Community which provide for the adoption and application by these countries of Community law in the area covered by the basic act. Under these agreements, arrangements shall be made specifying, in particular, the nature and the manner in which these countries will participate in the agency’s work, including provisions on participation in certain internal

bodies, financial contributions and employment of staff”². This will, however, always mean participation without voting rights in their decision-making bodies. Also, participation in the activities of an agency will not automatically lead to membership of that agency.

As the European legislator creates each agency through respective secondary legislation, establishing specific provisions for each agency, the legislator has laid down varying conditions for the participation of third countries, depending on the sector in which each such agency is active (see Annex B).

Establishing a policy on the participation of ENP partners

Concrete arrangements for the participation of individual ENP partner countries in specific agencies will need to be negotiated, identifying and weighing the interests of the Community and of the individual ENP partner. Including ENP partners in agencies in which their participation is possible will need to be done gradually and selectively, taking into account the mutual benefits of such participation as well as the prerequisites for taking part in their activities. The absorption capacity of an agency is to be considered as a prerequisite. The Commission will intensify its contacts with all ENP partners to identify their potential for selectively participating in Community agencies, based on the priority given to the issue by each partner country and its long-term commitment to support participation. Making use of the regular dialogue in various bodies established under the Partnership and Cooperation or Association Agreements (i.e. Cooperation and Association Councils, Committees, and Sub-Committees), ENP partner countries will be encouraged to identify and present their concrete interests and capacity to participate in the work of Community agencies.

In parallel to preparing formal agreements that will allow ENP partners to participate in Community agencies, other avenues for progressively intensifying the agencies’ technical cooperation with neighbouring countries and for preparing these for possible participation may also need to be explored and promoted. This exercise will need to duly involve the management boards of the respective agencies.

Without prejudice to the outcome of more concrete consultations, the Commission judges the following activities of Community agencies to be of most immediate relevance to ENP partners:

- Participation in the European Network and Information Security Agency (ENISA) will necessitate the adoption and application of Community legislation in the field of network and information security, but will be possible for all interested partners. European ENP partners that are signatory to the Chicago Convention³ and agree to adopt and apply Community law in the respective field can participate in the European Aviation Safety Agency (EASA). To those third countries having concluded sector agreements with the European Community, special observer status in EASA may be granted. Some of these third countries already enjoy a level of cooperation as members of the JAA (Joint Aviation Authorities), as EASA is also a member of the JAA since 2003. Furthermore, European ENP partners not members of the JAA as well as non-European countries can cooperate with EASA by means of working arrangements concluded as administrative arrangements

² This standard clause is also reflected in Article 24 of the Commission proposal for an Interinstitutional Agreement on the operating framework for European regulatory agencies - COM(2005) 59, 25.2.2005.

³ Convention on International Civil Aviation (Chicago Convention) of 7 December 1944.

between their civil aviation authorities and the Agency to allow for more effective verification procedures and facilitate the certification of aeronautical products. Finally, ENP partners with significant aeronautical production can conclude mutual recognition agreements with the European Community concerning their respective certification findings and thus enjoy a high level of regulatory and administrative cooperation with EASA. On condition that they have entered into agreements with the Community on adopting and applying Community law, provision could be made for the participation of ENP partners in the European Maritime Safety Agency (EMSA) and of European ENP partners in the European Railway Agency (ERA). Similarly, participation of the ENP partners in the activities of the European Food Safety Agency is conditional on adoption and application of the body of EU legislation related to food and feed safety⁴. The European Environment Agency (EEA) – a Community agency now numbering 32 members since the accession of Switzerland – is currently exploring possibilities for participation of selected ENP countries in certain EEA activities. Already, it is giving priority to cooperating with ENP partners in regional cooperation processes (such as the UNECE-led Environment for Europe Process, environment-related activities under the Euro-Mediterranean Process or the Black Sea Commission).

- As of now, ENP partner participation is not possible in some Community agencies restricted to supporting EC Member States in applying certain internal Community policies, such as, for instance, the European Centre for the Development of Vocational Training (Cedefop), the Office for Harmonisation in the Internal Market (OHIM), or the Community Plant Variety Office (CPVO).

The main purpose of other agencies is precisely cooperation with third countries, including ENP partners, such as in the case of the European Training Foundation (ETF). As ENP partners are evidently counterparts of such EC agencies, they cannot participate in them as observers or the like.

Some other agencies currently only envisage cooperating selectively with third countries as external partners in specific activities. The details of such cooperation are decided by the management board of the relevant agency. For instance, ad hoc participation of ENP partners in various activities, such as expert committees, seminars and surveys, of the European Foundation for the Improvement of Living and Working Conditions (Eurofound) seems desirable and feasible. Participation in information activities and national information networks of the European Agency for Safety and Health at Work (EU-OSHA) can also be envisaged. Once such agencies as the European Centre for Disease Prevention and Control (ECDC) that now collaborate informally with ENP partners on selective issues, such as avian influenza, complete their current start-up phase, they will be in a position to enable more far-reaching participation of ENP partners. The regulation establishing the Community Fisheries Control Agency (CFCA) allows cooperation with third countries on fisheries control and inspection.

The situation of and potential for ENP partner countries'⁵ participation thus varies between the agencies.

⁴ 375 directives on food and feed safety, 95 directives on animal health, 84 directives on plant health as well as approx. 400 regulations and numerous decisions and recommendations.

⁵ The expression “partner countries”, as used in this Communication, also includes the Palestinian Authority.

In a number of cases, a gradual approach will be needed starting with the launching of cooperation programmes to familiarise ENP partner countries with the agencies' work. Their aim would be to carry out the requisite preparations in terms of adoption of Community *acquis* and upgrading administrative capacity where this is a pre-condition of participation. Only then, with the benefit of experience gathered during the cooperation programmes would it be appropriate to consider whether to conclude an agreement on involvement in the work of respective agencies.

Although not open to membership of ENP partner countries, the European Police Office (Europol), the European Judicial Cooperation Unit (Eurojust) and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU (Frontex) are offering interesting possibilities for cooperation with them. Cooperation agreements exist with a number of third countries, including the Russian Federation, while others such as the USA and Croatia have operational agreements. Both the priorities of external relations policies of the European Union and the priorities based on operational needs are taken into consideration when choosing the partner countries.

Participation in European Community programmes

The Commission manages a number of sector-specific Community programmes (e.g. Aeneas, Tempus, Erasmus Mundus) specifically designed to support third countries, in particular ENP partners. These external programmes are not the subject of this Communication.

This Communication solely refers to internal Community programmes that were established for the benefit of EU Member States and to support the European Community's internal policies. These programmes are an integrated set of actions adopted by the European Community in order to promote cooperation between its Member States in different specific fields, and over several years, to achieve objectives set by the Community. In principle, they are conceived exclusively for Member States, on the basis of a specific allocation from the EU's general budget. However, the Regulations establishing such programmes allow in many cases for the possibility of third country participation, provided that certain terms and conditions are met. Furthermore, depending on their subject matter, some internal programmes have an external dimension.

The European institutions are currently establishing new Community programmes that will be funded under the Financial Perspective 2007-2013. These programmes are partly listed in the Commission Communication of 22 May 2006⁶, which summarises a package of legislative proposals submitted for decision. However, that Communication does not include legislative proposals on which a political agreement was only reached after 17 May 2006. A fuller picture is currently evolving, as the legislative process for a number of these new programmes is still ongoing. Therefore, it is only possible to draw up a preliminary list of respective legal bases (Annex C) that may still change.

In many cases, these new Community programmes will replace ongoing programmes due to expire at the end of 2006. The present Communication therefore focuses only on programmes having effect beyond the end of this year.

⁶ SEC(2006) 665.

Many of these legal bases stipulate that a programme may be “open to the participation of third countries, when agreements so allow”. Some such “opening clauses” specifically formulate the eligibility of third countries (in particular countries covered by the ENP) to participate “in accordance with conditions laid down in respective agreements establishing the general principles for their participation in Community programmes”.

The existing Partnership and Cooperation Agreements or Association Agreements with ENP partners do not contain provisions relating to Community programmes. It therefore appears necessary to conclude protocols to these Agreements in accordance, in particular, with Article 300 of the Treaty establishing the European Community and with reference to the internal legal bases for the various Community programmes concerned. These protocols would contain framework agreements laying down the general terms and conditions for ENP partner participation and would serve as a basis for memoranda of understanding that would spell out specific technical, financial and administrative arrangements for individual ENP partner participation in specific programmes.

Establishing a consistent policy on the inclusion of ENP partners

Participation in the various Community programmes will be of differing interest and utility to ENP partner countries and the Community. A short survey of the policy fields suggests the following:

- The Competitiveness and Innovation Framework Programme (CIP), together with its Entrepreneurship and Innovation component, represents a marked change in supporting entrepreneurship within the European Community. Participation of ENP partner countries will be feasible, subject to bilateral agreements.
- Once management of its further new sub-programme, the Intelligent Energy-Europe programme, is consolidated, participation can also be subject to specific agreements.
- The same applies to the third element of the CIP, namely the ICT Policy Support programme.
- Different modalities of involvement in the MEDIA 2007 programme are available to European ENP partner countries that have ratified the Council of Europe Convention on Trans-Frontier Television. Compatibility of their relevant legislation in the media and audiovisual sector with the Community acquis, including its external dimension (e.g. ratification of the UNESCO Convention on Cultural Diversity), is a general prerequisite for participation in this programme. All modalities of participation require supplementary appropriations and specific arrangements to be agreed upon as well as an agreement of the financial contribution of the participating country.
- The Marco Polo programme on transport provides for the participation of neighbouring countries on the basis of supplementary appropriations in accordance with procedures to be agreed with those respective countries.
- The widest possible involvement of ENP partner countries is desirable in the SESAR programme, which represents the technological component of the Single European Sky. Once third countries sign a horizontal agreement on air transport – the ENP partner countries Azerbaijan, Georgia, Lebanon, Moldova, Morocco, and Ukraine have signed or

are in the process of doing so – they are eligible to become members of the SESAR Joint Undertaking.

- The 2007-2013 public health programme envisages potential participation by third countries, in particular ENP partner countries.
- The same applies to the consumer policy programme 2007-2013. The specific content of ENP partner country participation will need to be determined according to their progress in approximating with the Community *acquis* in this field.
- The Commission proposals concerning the Customs 2013 and Fiscalis 2013 programmes foresee the participation of those ENP partner countries having reached a sufficient level of approximation of their relevant legislation and administrative methods to those of the Community, subject to the establishment of a framework agreement.
- Pericles, the Community programme for exchange, assistance and training in the protection of the Euro against counterfeiting, foresees that it shall be open to non-member countries in so far as appropriations are available in the Community budget, under conditions and in accordance with arrangements to be agreed with those countries.
- The programme on Interoperable Delivery of European e-Government Services to Administration, Business and Citizens (IADBC) foresees international cooperation with third countries including ENP partner countries in line with the provisions of Article 14(2) of Decision 2004/387/EC adopting this programme without prejudice to any other clause of this Decision. Costs related to such participation shall not be covered by the programme.

Apart from these strictly internal programmes that are conditionally open to the participation of ENP partner countries, some Community programmes are already designed to allow for specific forms of ENP partner participation. They offer designated avenues for involving individuals and bodies from ENP partner countries without requiring general terms and conditions to be laid down in framework agreements adopted in protocols to the Association or Partnership and Cooperation Agreements:

- The Seventh Framework Programme for Research already foresees possibilities of funding for ENP partner organisations.
- The Life-Long Learning programme envisages the possibility of funding for partners from third countries participating in partnership, project and network actions up to 1% of the programme's budget.
- The Culture programme on promoting cultural cooperation between creative artists, cultural players and cultural institutions is open to cooperation with (and not participation of) third countries which have concluded Association or Cooperation Agreements with the European Community (such as the ENP partner countries) which include cultural clauses, on the basis of supplementary appropriations and specific procedures.
- The Youth in Action programme for the period 2007-2013 foresees cooperation with third countries that have signed Agreements with the European Community relevant to the youth field (so called "partner countries"). The cooperation modality thus allows the involvement of participants from ENP partner countries in most of the activities supported by the programme.

- The Hercule II programme allows expenditure for the protection of the Community's financial interests to be incurred in connection with the participation of countries covered by the ENP.
- Projects under various programmes in the field of justice, freedom and security funded under the Framework Programme on Fundamental Rights and Justice may associate third countries such as ENP partners where the latter's involvement serves their objective. The Framework Programme on Security and Safeguarding Liberties also allows third countries to participate in individual projects.
- Finally, the European Regional Development Fund (ERDF) can finance some actions outside the territory of the European Community in the framework of cross-border, trans-national or interregional cooperation.

Finally, there are some Community programmes that do not appear suitable for participation by ENP partners, such as the Europe for Citizens programme which promotes active European citizenship. Other programmes like e-Content Plus, Safer Internet Plus, or Solidarity and the Management of Migration Flows are not open to any form of participation by or cooperation with ENP partner countries. This is also the case of the Community Programme for Employment and Social Solidarity (Progress) which aims at supporting the implementation of objectives of the European Union in the employment and social area as set out in the Social Agenda.

Methodology

The methodology to allow the participation of ENP partners differs between Community agencies and Community programmes.

The participation of ENP partners in agencies will require bilateral agreements to be drawn up on a case-by-case basis, for each ENP partner and agency, individually and separately. Agreements of this nature will address issues such as fulfilling legislative or administrative prerequisites for participation (e.g. full alignment with the relevant *acquis*), privileges and immunities for officials of agencies during their missions to ENP partner countries, work permits and social security provisions and other status questions in relation to ENP partner countries' citizens assigned to work in agencies, the delegation of sovereign rights linked to the respective agencies, the right of agencies to apply Community law in their relations with ENP partner countries, and provisions regarding financial control.

With regard to Community programmes, the Commission proposes to follow, *mutatis mutandis*, the practice already established in relation to candidate and pre-candidate countries⁷ (the so-called "framework approach" used since 2002). This methodology comprises two main steps:

The legal bases of the relevant programmes regularly require terms and conditions for third country participation to be determined through agreements between the Community and the respective countries. Currently, Partnership and Cooperation Agreements or Association Agreements are in force with all ENP partners except three (the Partnership and Cooperation

⁷ See, for instance, the Communication from the Commission to the Council and the European Parliament of 3 December 2003 on "preparing for the participation of the Western Balkan countries in Community programmes and agencies" - COM(2003) 748.

Agreement with Belarus is currently “frozen”; the Association Agreement with Syria has not yet been signed; and no Association Agreement has yet been negotiated with Libya), but do not contain any provisions to this end. Thus, an additional protocol on a framework agreement⁸ setting out general principles for participation should preferably be established with each of the ENP partners to allow such participation in the programmes whose legal basis includes the provision of “opening up” to the ENP countries (see Annex C).

It seems appropriate to start negotiating such protocols with those ENP partner countries with which ENP Action Plans have been concluded. Since its Association Agreement entered into force in September 2005, a protocol could also be established with Algeria, enabling the consultation of memoranda of understanding once an ENP Action Plan will have been agreed with this partner country, too.

Such protocols would also stipulate that more detailed terms and conditions for participation are to be established in specific memoranda of understanding for each programme, giving due consideration to the concrete interests of both sides in such participation. They will, inter alia, lay down the rules governing participation, in particular the administrative capacities and financial contribution required, the mechanisms for taking part in the management of the programme, and financial control provisions.

The “framework approach” offers the advantage of requiring ratification of only one protocol per ENP partner, establishing a framework agreement opening the way to the conclusion of programme-specific memoranda of understanding. This methodology allows the Commission, acting on behalf of the Community, to establish or later amend the technical and administrative conditions for individual ENP partners to participate in specific programmes without a cumbersome process of involving Cooperation and Association Councils in such technical detail. This general approach shall, however, in priority cases of clearly identified interest, not prevent the competent bodies from taking individual decisions to enable a particular ENP partner country to participate in a specific programme, notably in the absence of such a protocol.

These memoranda of understanding negotiated between the Commission and the ENP partner would follow a standard format already established for such understandings reached with candidate and pre-candidate countries. For those programmes managed on behalf of the Community by executive agencies (parts of the CIP as well as the Marco Polo, Intelligent Energy, Public Health, and Media programmes, and Seventh Framework Programme for Research), these will duly need to be fully associated with the negotiations.

Financial contributions and Community assistance

ENP partners interested in participating in Community agencies as well as Community programmes will be asked to contribute financially. Since their financial contributions need to be calculated on the basis of specific features of each individual agency or programme concerned, it is impossible to determine them in advance. The criteria for calculating participation fees vary from agency to agency and from programme to programme. In some cases, they depend on GDP-based formulae and in others on the tasks of the agencies and programmes. Calculations may also be affected by specificities of individual ENP partners. In

⁸ Examples of such Framework Agreements and Protocols to the Stabilisation and Association Agreements with certain Western Balkan countries can be found in OJ L 192, 22.7.2005.

general, experience with candidate countries will provide guidance on establishing the appropriate contributions to be expected from ENP partners.

As mentioned above, only rarely do Community programmes established for internal purposes provide for a budget to be used to support collaboration with third countries.

As with Community programmes, the Community agencies' budgets are, as a rule, internal budget headings. As a result, participation of non-Member States in agencies will need to be fully covered either by a full contribution of costs to the Community budget or through cooperation programmes funded through Community assistance from the ENPI or by other donors.

Blanket generic assistance to support participation in agencies and programmes, as for candidate and pre-candidate countries, is not planned for ENP partner countries at the present juncture, since the European Neighbourhood Policy is distinct from the European Union's enlargement policy. However, the ENP aims to support modernisation and reform processes, in particular institutional modernisation and capacity building in ENP partner countries.

Thus, on a case-by-case basis, such support may be included as part of the regular national programming of Community assistance from the European Neighbourhood and Partnership Instrument (ENPI) through Country Strategy Papers and National Indicative Programmes. This assistance, which could be limited to an agreed pre-determined period, would aim to facilitate the participation of an ENPI beneficiary country in specific programmes or agencies or help it prepare for participation by supporting its administrative capacity building or alignment with Community legislation, policies, and best practices. Assistance may also be useful to support beneficiaries in fully exploiting the opportunities available under such programmes.

Reporting

The Commission will report regularly to Council and Parliament on progress achieved in implementing the European Neighbourhood Policy and in promoting as well as implementing individual ENP Action Plans. These reports will also contain information on participation in agencies and programmes. The Commission is presenting the first such progress report simultaneously with this Communication.

Steps ahead

A number of ENP partner countries have already indicated their interest in participating in selected agencies and programmes. Furthermore, they point to references in the various ENP Action Plans committing both sides to explore the possibilities for such participation.

With progress being made on the adoption of the legal bases for various Community programmes that will come into effect for the Financial Perspective 2007-2013, the following prerequisite elements are now in place:

- (1) With regard to Community agencies and programmes, a general commitment within the framework of the European Neighbourhood Policy to open them up to participation by ENP partners.
- (2) With regard to agencies as well as programmes, the expression of interest of specific ENP partners in participating in their activities.

- (3) With regard to programmes, decisions on establishing Community programmes for the Financial Perspective 2007-2013 as well as on the possibility of opening them up to participation by ENP partners.
- (4) With regard to launching negotiations on concrete terms and conditions for such participation, the conclusion of ENP Action Plans with soon twelve of the sixteen ENP partner countries, and the entry into force of the Association Agreement with Algeria.

On this basis, it is now appears appropriate to open consultations:

- (1) to agree, selectively and gradually, on developing participation of individual ENP partners in the work and activities of particular Community agencies, based on identified mutual interests and meeting the necessary prerequisites;
- (2) to agree a series of protocols to the relevant Partnership and Cooperation or Association Agreements, establishing framework agreements with these thirteen ENP partners regarding their participation in Community programmes; and
- (3) to launch technical consultations with a view to establishing detailed memoranda of understanding on the basis of these framework agreements, determining the technical details of such participation in individual programmes.

The Commission's regular contacts with the respective ENP partners, in particular within the framework of Cooperation and Association Committees as well as specific Sub-Committees established under these Agreements, provide an avenue for launching focused technical consultations, which can identify the concrete mutual interests in such participation and subsequently determine its scope, terms and conditions. This can also be done through sector agreements in relevant areas.

Conclusions

The Commission invites the Council to support the approach described in the present Communication and to draw up Conclusions on the implementation of this aspect of the European Neighbourhood Policy.

On this basis, the Commission intends to submit recommendations for the authorisation to open negotiations with ENP partners to establish the said protocols.

Annex A

List of EC and EU agencies (non-executive, regulatory)

	Community agencies (1st pillar)	Seats	Founding acts
1	<p>CEDEFOP* (<i>European Centre for the Development of Vocational Training</i>)</p> <p>* Centre européen pour le Développement de la Formation Professionnelle</p>	Thessalonica/GR	Regulation (EEC) No 337/75 of the Council of 10 February 1975 establishing a European Centre for the Development of Vocational Training , <i>OJ L 39, 13.2.1975, p. 1</i>
2	<p>EUROFOUND (<i>European Foundation for the Improvement of Living and Working Conditions</i>)</p>	Dublin/IE	Regulation (EEC) No 1365/75 of the Council of 26 May 1975 on the creation of a European Foundation for the improvement of living and working conditions , <i>OJ L 139, 30.5.1975, p. 1</i>
3	<p>EEA (<i>European Environment Agency</i>)</p>	Copenhagen/DK	Council Regulation (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European Environment Information and Observation Network, <i>OJ L 120, 11.5.1990, p. 1</i>
4	<p>ETF (<i>European Training Foundation</i>)</p>	Turin/IT	Council Regulation (EEC) No 1360/90 of 7 May 1990 establishing a European Training Foundation , <i>OJ L 13, 23.5.1990, p. 1</i>
5	<p>EMCDDA (<i>European Monitoring Centre for Drugs and Drug Addiction</i>)</p>	Lisbon/PT	<p>Council Regulation (EEC) No 302/93 of 8 February 1993 on the establishment of a European Monitoring Centre for Drugs and Drug Addiction, <i>OJ L 36, 8.2.1993, p. 1</i></p> <p>Note: In July 2006, a political agreement was reached between the European Parliament and the Council on a recast of the EMCDDA regulation. This recast is expected to enter into force still in 2006 and will replace Council Regulation (EEC) No 302/93.</p>
6	<p>EMA (<i>European Agency for the Evaluation of Medicinal Products</i>)</p>	London/GB	Council Regulation (EEC) No 2309/93 of 22 July 1993 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Agency for the Evaluation of Medicinal Products , <i>OJ L 214, 24.8.1993, p. 1</i>
7	<p>OHIM (<i>Office for Harmonisation in the Internal Market</i>)</p>	Alicante/ES	Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (See Art. 2), <i>OJ L 11, 14.1.1994, p. 1</i>
8	<p>OSHA (<i>European Agency for Safety and Health at Work</i>)</p>	Bilbao/ES	Council Regulation (EC) No 2062/94 of 18 July 1994 establishing a European Agency for Safety and

			Health at Work , <i>OJ L 216, 20.8.1994, p. 1</i>
9	CPVO (<i>Community Plant Variety Office</i>)	Angers/FR	Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (see Art. 4), <i>OJ L 227, 1.9.1994, p. 1</i>
10	CdT* (<i>Translation Centre for the bodies of the EU</i>) * Centre de traduction des organes de l'UE	Luxembourg/LU	Council Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for bodies of the European Union , <i>OJ L 314, 7.12.1994, p. 1</i>
11	EUMC (<i>European Monitoring Centre on Racism and Xenophobia</i>)	Vienna/AT	Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia , <i>OJ L 151, 10.6.1997, p. 1</i> . Due to be replaced by a <i>European Agency for Fundamental Rights</i> (see infra, proposed EC agencies, No 3)
12	EAR (<i>European Agency for Reconstruction</i>)	Thessalonica/GR	Council Regulation (EC) No 2454/1999 of 15 November 1999 amending Regulation (EC) No 1628/96 relating to aid for Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia, in particular by the setting up of a European Agency for Reconstruction , <i>OJ L 299, 20.11.1999, p. 1</i>
13	EFSA (<i>European Food Safety Authority</i>)	Parma/IT	Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, <i>OJ L 31, 1.2.2002, p. 1</i>
14	EMSA (<i>European Maritime Safety Agency</i>)	Lisbon/PT	Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency , <i>OJ L 208, 5.8.2002, p. 1</i>
15	EASA (<i>European Aviation Safety Agency</i>)	Cologne/DE	Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency , <i>OJ L 240, 7.9.2002, p. 1</i>
16	ENISA (<i>European Network and Information Security Agency</i>)	Heraklion/GR	Regulation (EC) No 460/2004 of the European Parliament and of the Council of 10 March 2004 establishing the European Network and Information Security Agency , <i>OJ L 77, 13.3.2004, p. 1</i>
17	ECDC (<i>European Centre for Disease Prevention and Control</i>)	Stockholm/SE	Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for disease prevention and control , <i>OJ L 142, 30.4.2004, p. 1</i>

18	ERA (<i>European Railway Agency</i>)	Lille-Valenciennes /FR	Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European railway agency (Agency Regulation), <i>OJ L 164, 30.4.2004, p. 1</i>
19	European Supervisory Authority (GALILEO) GNSS Authority	Not decided	Council Regulation (EC) No 1321/2004 of 12 July 2004 on the establishment of structures for the management of the European satellite radio-navigation programmes (see Art. 1), <i>OJ L 246, 20.7.2004, p. 1</i>
20	FRONTEX* (<i>European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU</i>) * Frontières Extérieures	Warsaw /PL	Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union , <i>OJ L 349, 25.1.2004, p. 1</i>
21	CFCA (<i>Community Fisheries Control Agency</i>)	Vigo /ES	Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy, <i>OJ L 128, 21.5.2005, p. 1</i>

	Community agencies proposed/under inter-institutional negotiation (1st pillar)	Seats	Commission proposals
1	ECA (<i>European Chemicals Agency</i>)	Helsinki /FI	COM(2003) 644, 29.10.2003: Proposal for a Regulation of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency and amending Directive 1999/45/EC and Regulation (EC) on Persistent Organic Pollutants, <i>not published in OJ</i>
2	<i>European Gender Institute</i>	Not decided	COM(2005) 81, 8.3.2004: Proposal for a Regulation of the European Parliament and of the Council establishing a European Institute for Gender Equality , <i>not published in OJ</i>
3	EFRA (<i>European Union Agency for Fundamental Rights</i>)	Vienna /AT	COM(2005) 280, 30.6.2005: Proposal for a Council Regulation establishing a European Union Agency for Fundamental Rights , <i>not published in OJ</i>

	EU agencies (2nd and 3rd pillars)	Seats	Founding acts
1	ISS (<i>European Institute for Security Studies</i>)	Paris/FR	Council Joint Action of 20 July 2001 on the establishment of a European Union Institute for Security Studies , <i>OJ L 200, 25.7.2001, p. 1</i>
2	EUSC (<i>European Union Satellite Centre</i>)	Torrejón de Ardoz/ES	Council Joint Action of 20 July 2001 on the establishment of a European Union Satellite Centre , <i>OJ L 200, 25.7.2001, p. 5</i>
3	EDA (<i>European Defence Agency</i>)	Brussels/BE	Council Joint Action 2004/551/CFSP of 12 July 2004 on the establishment of the European Defence Agency , <i>OJ L 245, 17.7.2004, p. 17</i>
4	EUROPOL (<i>European Police Office</i>)	The Hague/NL	Council Act of 26 July 1995 drawing up the Convention on the establishment of a European Police Office (Europol Convention), <i>OJ C 316, 27.11.1995, p. 1.</i>
5	EUROJUST (<i>The European Union's Judicial Cooperation Unit</i>)	The Hague/NL	Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, <i>OJ L 63, 6.3.2002, p. 1</i>
6	CEPOL* (<i>European Police College</i>) * Collège européen de police	Bramshill/UK	Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA, <i>OJ L 256, 1.10.2005, p. 63</i>

Annex B

List of Agencies – “openness” to ENP partners

Agency	Seat	Potentially open to ENP partners	Relevant legal provisions
CEDEFOP (European Centre for the Development of Vocational Training)	Thessalonica	No	Regulation (EEC) No 2337/75 of 10 February 1975
EUROFOUND (European Foundation for the Improvement of Living and Working Conditions)	Dublin	Yes	Regulation (EEC) No 1365/75 of 26 May 1975, Article 3(2): The Foundation shall cooperate as closely as possible with specialised institutes, foundations and bodies in the Member States or at international level.
EEA (European Environment Agency)	Copenhagen	Yes	Regulation (EEC) No 1210/90 of 7 May 1990 Preamble: Whereas it is desirable to provide for the Agency to be open to other countries which share the concern of the Community and the Member States for the objectives of the Agency under agreements to be concluded between them and the Community; Article 2: For the purposes of achieving its objective, the tasks of the Agency shall be: (v) to promote the incorporation of European environmental information into international environment monitoring programmes such as those established by the United Nations and its specialised agencies; (vi) to ensure the broad dissemination of reliable environmental information. Article 19: The Agency is open to countries which are not members of the European Communities but which share the concerns of the Communities and the Member States for the objectives of the Agency under agreements concluded between them and the Community following the procedure in Article 228 of the Treaty.

			<p>Article 20: No later than two years after the entry into force of this Regulation, the Council shall decide on further tasks for the Agency in particular in the following areas: ... promoting environmentally friendly technologies and processes and their use and transfer within the Community and in third countries.</p>
ETF (European Training Foundation)	Turin	No	<p>Regulation (EEC) No 1360/90 of 7 May 1990, Article 16 - Participation of third countries:</p> <p>1. The Foundation shall be open to the participation of countries which are not members of the European Community and which share the commitment of the Community and the Member States to the provision of aid in the training field to the eligible countries defined in Article 1.</p> <p><u>Note:</u> As ENP partner countries are beneficiaries of the ETF, this provision does not apply to them.</p>
EMCDDA (European Monitoring Centre for Drugs and Drug Addiction)	Lisbon	Yes	<p>Regulation (EEC) No 302/93 of 8 February 1993, Article 13 - Non-Community countries:</p> <p>1. The Centre shall be open to the participation of those non-Community countries which share the Community's interests and those of its Member States in the Centre's objectives and work, on the basis of agreements entered into between them and the Community on the basis of Article 235 of the Treaty.</p> <p>2. The management board may take a decision on the involvement of experts proposed by non-Community countries in the ad hoc working parties provided for in Article 2(2), subject to an undertaking from the interested parties to observe the rules referred to in Article 6.</p> <p><u>Note:</u> In July 2006, a political agreement was reached between the European Parliament and the Council on a recast of the EMCDDA regulation. This recast is expected to enter</p>

			<p>into force still in 2006 and will replace Regulation (EEC) No 302/93.</p> <p>The relevant article will then read: Article 21 - Participation of third countries - The Centre shall be open to the participation of any third country that shares the interest of the Community and of its Member States in the Centre's objectives and work, on the basis of agreements entered into between such third countries and the Community on the basis of Article 300 of the Treaty.</p>
EMEA (European Agency for the Evaluation of Medicinal Products)	London	No	Regulation (EEC) No 2309/93 of 22 July 1993
OHIM (Office for Harmonisation in the Internal Market)	Alicante	No	Regulation (EC) No 40/94 of 20 December 1993 Regulation (EC) No 6/2002 of 12 December 2001
EU-OSHA (European Agency for Safety and Health at Work)	Bilbao	Yes	Regulation (EC) No 2062/94 of 18 July 1994, Article 9 - Observers: The Administrative Board may, after consulting the Commission, invite representatives of non-member countries, of Community institutions and bodies and of international organisations as observers.
CPVO (Community Plant Variety Office)	Angers	No	Regulation (EC) No 2100/94 of 27 July 1994
CDT (Translation Centre for the bodies of the EU)	Luxembourg	No	Regulation (EC) No 2965/94 of 28 November 1994

<p>EUMC (European Monitoring Centre on Racism and Xenophobia)</p>	<p>Vienna</p>	<p>Yes</p>	<p>Regulation (EC) No 1035/97 of 2 June 1997</p> <p>Article 4 - European Racism and Xenophobia Information Network (Raxen): 3. The Centre may also enter into contractual relations, on an ad hoc basis and for specific tasks, with bodies that are not part of Raxen.</p> <p>Article 7 - Cooperation with national and international organisations: 1. To help it carry out its tasks, the Centre shall cooperate with organisations in the Member States or international, governmental or non-governmental organisations competent in the field of racist and xenophobic phenomena.</p> <p>3. Should agreements with other international organisations or with third countries prove necessary for the Centre to carry out its tasks efficiently, the Community shall, following the same procedure as mentioned above, enter into such agreements, on behalf of the Centre.</p>
<p>EAR (European Agency for Reconstruction)</p>	<p>Thessalonica</p>	<p>No</p>	<p>Regulation (EC) No 2454/1999 of 15 November 1999</p>

<p>EFSA (European Food Safety Authority)</p>	<p>Parma</p>	<p>Yes</p>	<p>Regulation (EC) No 178/2002 of 28 January 2002</p> <p>Article 49 - Participation of third countries: The Authority shall be open to the participation of countries, which have concluded agreements with the European Community by virtue of which they have adopted and apply Community legislation in the field covered by this Regulation.</p> <p>Arrangements shall be made under the relevant provisions of those agreements, specifying in particular the nature, extent and manner in which these countries will participate in the Authority's work, including provisions related to participation in the networks operated by the Authority, inclusion in the list of competent organisations to which certain tasks may be entrusted by the Authority, financial contributions and staff.</p> <p>Article 50 - Rapid alert system: 6. Participation in the rapid alert system may be opened up to applicant countries, third countries or international organisations, on the basis of agreements between the Community and those countries or international organisations, in accordance with the procedures defined in those agreements. The latter shall be based on reciprocity and shall include confidentiality measures equivalent to those applicable in the Community.</p>
<p>EMSA (European Maritime Safety Agency)</p>	<p>Lisbon</p>	<p>Yes</p>	<p>Regulation (EC) No 1406/2002 of 27 June 2002, Article 17 - Participation of third countries:</p> <p>1. The Agency shall be open to the participation of third countries, which have entered into agreements with the European Community, whereby they have adopted and are applying Community law in the field of maritime safety and prevention of pollution by ships.</p> <p>2. Under the relevant provisions of these agreements, arrangements will be developed which shall, inter alia, specify the nature and the extent of the detailed rules for the participation of these countries in the work of the Agency, including provisions on financial contributions and staff.</p>

<p>EASA (European Aviation Safety Agency)</p>	<p>Cologne</p>	<p>Yes</p>	<p>Regulation (EC) No 1592/2002 of 15 July 2002, Article 18(2) - International relations:</p> <p>The Agency may cooperate with the aeronautical authorities of third countries and the international organisations competent in matters covered by this Regulation in the framework of working arrangements concluded with those bodies, in accordance with relevant provisions of the Treaty.</p> <p>The Regulation differentiates between “participation” and “cooperation”:</p> <p>Participation in EASA: Article 55 is relevant only for Ukraine and potentially, Moldova, Georgia, Armenia, and Azerbaijan (JAA membership required)</p> <p>Cooperation with EASA: Articles 9 and 18 relevant for all ENP partners save for the Palestinian Authority which is not a Contracting Party to the Chicago Convention.</p>
<p>ENISA (European Network and Information Security Agency)</p>	<p>Heraklion</p>	<p>Yes</p>	<p>Regulation (EC) No 460/2004 of 10 March 2004, Article 24 - Participation of third countries:</p> <ol style="list-style-type: none"> 1. The Agency shall be open to the participation of countries, which have concluded agreements with the European Community by virtue of which they have adopted and applied Community legislation in the field covered by this Regulation. 2. Arrangements shall be made under the relevant provisions of those arrangements, specifying in particular the nature, extent and manner in which these countries will participate in the Agency's work, including provisions related to participation in initiatives undertaken by the Agency, financial contributions and staff.

<p>ECDC (European Centre for Disease Prevention and Control)</p>	<p>Stockholm</p>	<p>Yes</p>	<p>Regulation (EC) No 851/2004 of 21 April 2004, Article 30 - Participation of third countries:</p> <p>1. The Centre shall be open to the participation of countries, which have concluded agreements with the Community by virtue of which they have adopted and apply legislation of equivalent effect to Community legislation in the field covered by this Regulation.</p> <p>2. Arrangements shall be made under the relevant provisions of those agreements, specifying in particular the nature, extent and manner in which those countries are to participate in the Centre's work, including provisions relating to participation in the networks operated by the Centre, inclusion in the list of competent organisations to which certain tasks may be entrusted by the Centre, financial contributions and staff.</p>
<p>ERA (European Railway Agency)</p>	<p>Lille-Valenciennes</p>	<p>Yes (European partners)</p>	<p>Regulation (EC) No 881/2004 of 29 April 2004, Article 36 - Participation by third countries:</p> <p>1. The Agency shall be open to participation by European countries which have concluded agreements with the Community, whereby the countries concerned have adopted and are applying Community legislation in the field covered by this Regulation.</p> <p>2. In accordance with the relevant provisions of the above-mentioned agreements, arrangements shall be made which shall specify the detailed rules for participation by these countries in the work of the Agency, in particular the nature and extent of such participation. These arrangements shall include, inter alia, provisions on financial contributions and staff. They may provide for representation, without vote, on the Administrative Board.</p>

<p>FRONTEX (European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU)</p>	<p>Warsaw</p>	<p>Yes</p>	<p>Regulation (EC) No 2007/2004 of 26 October 2004, Article 14 - Facilitation of operational cooperation with third countries and cooperation with competent authorities of third countries:</p> <p>In matters covered by its activities and to the extent required for the fulfilment of its tasks, the Agency shall facilitate the operational cooperation between Member States and third countries, in the framework of the European Union external relations policy. The Agency may cooperate with the authorities of third countries competent in matters covered by this Regulation in the framework of working arrangements concluded with these authorities, in accordance with the relevant provisions of the Treaty.</p>
<p>GALILEO-European GNSS Supervisory Authority</p>	<p>to be determined</p>	<p>Yes</p>	<p>Regulation (EC) No 1321/2004 of 12 July 2004, Article 21 - Participation of third countries:</p> <ol style="list-style-type: none"> 1. The Authority shall be open to the participation of third countries, which have entered into agreements with the European Community to this effect. 2. Under the relevant provisions of these agreements, arrangements shall be developed specifying, in particular, the nature, extent and manner in which these countries will participate in the work of the Authority, including provisions relating to participation in the initiatives undertaken by the Authority, financial contributions and staff. 3. The participation of any third country in the Authority shall be submitted for approval to the Council.
<p>CFCA (Community Fisheries Control Agency)</p>	<p>Vigo</p>	<p>Yes (cooperation as described in Article 4)</p>	<p>Council Regulation (EC) No 768/2005 of 26 April 2005</p> <p>Article 4 with provisions on tasks relating to the international obligations of the Community relating to control and inspections allows the Agency, at the request of the Commission, to assist the Community and Member States in their relations with third countries and regional international fisheries organisations of which the Community is a member. The Agency may, at the request of the Commission, cooperate with the competent authorities of third countries in matters relating to control and inspection in the framework of agreements concluded between the Community and such countries.</p>

			The Agency may, with its field of competence, carry out on behalf of Member States tasks under international fisheries agreements to which the Community is party.
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EU 2st and 3rd pillar agencies			
ISS (European Institute for Security Studies)	Paris	Yes	<p>Council Joint Action of 20 July 2001, Article 17 - Visiting researchers:</p> <p>Visiting researchers may for limited time periods be seconded to the Institute by Member States and Third States, after agreement by the Director, to participate in the activities of the Institute in accordance with Article 2.</p>
EUSC (European Union Satellite Centre)	Torrejón de Ardoz	Yes (limited eligibility)	<p>Council Joint Action of 20 July 2001, Article 21 - Association of third States:</p> <p>Non-EU European NATO members and other States which are candidates for accession to the EU shall be entitled to be involved in the Centre's activities in accordance with the Provisions set out in the Annex.</p>
EDA (European Defence Agency)	Brussels	Yes	<p>Council Joint Action 2004/551/CSFP of 12 July 2004, Article 23 - Participation of third parties:</p> <ol style="list-style-type: none"> 1. Third parties may contribute to a particular ad hoc project or programme, established in accordance with Articles 20 or 21, and to the budget associated with it. The Steering Board shall, acting by qualified majority, approve as necessary ad hoc arrangements between the Agency and third parties for each particular project or programme. 2. For projects established under Article 20, the contributing Member States meeting with the Steering Board shall approve any necessary modalities with the relevant third parties relating to their contribution. 3. For projects established under Article 21, the contributing Member States shall

			decide any necessary modalities with the relevant third parties relating to their contribution. 4. Where the Community contributes to an ad hoc project or programme, the Commission shall participate in the decisions referred to in paragraphs 2 and 3.
EUROPOL (European Police Office)	The Hague	Yes	Council Act of 26 July 1995 drawing up the Convention on the establishment of a European Police Office (Europol Convention); Council Act of 3 November 1998 laying down rules governing Europol's external relations with third States and third bodies
EUROJUST (The European Union's Judicial Cooperation Unit)	The Hague	Yes	Council Decision of 28 February 2002 Setting up Eurojust
CEPOL (European Police College)	Bramshill	Yes	Council Decision of 22 December 2000 establishing a European Police College, and Council Decision 2005/681/JHA of 20 September 2005- Article 8 paragraph 2 & 3: CEPOL may co-operate with national training institutes of non-MS of the EU, [...] The Governing Board may authorise the Director of CEPOL to negotiate co-operation agreements with [...] the above-mentioned bodies. Such co-operation agreements may be concluded only with the authorisation of the Governing Board. And [...] those with bodies of non-MS can only be concluded after the approval of the Council has been obtained.

Community agencies proposed or under inter-institutional negotiation			
ECA (European Chemicals Agency)	Helsinki		Commission proposal COM(2003) 644
European Gender Institute	to be determined		
EFRA (European Union Agency for Fundamental Rights)	Vienna		Commission proposal COM(2005) 280

Annex C

List on the potential for ENP partners to participate in Community programmes

Policy area	Title	Provisions for opening up to ENP countries	Possibilities for participation of/cooperation with ENP partners
<i>Financial control</i>	HERCULE II	Yes	<p><i>Proposal for a Decision of the European Parliament and the Council for the amendment and extension of Decision 804/2004/EC on the Hercule programme</i></p> <p>The Hercule programme finances actions aimed at improving the protection of the Community's financial interests. It finances training, seminars, dissemination of best practices, associations involved in protection of the EC's financial interests, etc.</p> <p>The programme provides that, in order to promote activities combating fraud and any other illegal activities detrimental to the Community's interests outside the territory of the European Union, including the fight against cigarette smuggling and counterfeiting, expenditure relating to the participation of certain other third countries and the countries covered by the European Neighbourhood Policy is also considered eligible.</p>
	Pericles	Yes	<p><i>Proposal for a Council Decision amending and extending Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of</i></p>

		<p><i>the Euro against counterfeiting (the “Pericles” programme)</i></p> <p>Pericles, the Community programme for exchange, assistance and training in the protection of the Euro against counterfeiting, is designed to support and supplement the measures undertaken by the Member States and in existing programmes to protect the Euro against counterfeiting. Such measures include information exchange (seminars, workshops, meetings and conferences), placements and exchanges of staff, as well as technical, scientific and operational back-up. The proposal for extension covers the period 2007-2013.</p> <p>Projects under the programme may emanate from the Member States’ competent authorities or from the Commission. In addition, the programme foresees that it shall, if necessary, be open to non-member countries in so far as appropriations are available in the Community budget, under conditions and in accordance with arrangements to be agreed with those countries.</p>
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<p><i>Trade-related, market and regulatory reform, innovation</i></p>	<p>Customs 2013, Fiscalis 2013</p>	<p>Yes</p>	<p><i>Commission proposals on the Community programmes Customs 2013 and Fiscalis 2013 - COM(2006) 201 and 202</i></p> <p>The objectives of these two programmes include:</p> <ul style="list-style-type: none"> • Customs 2013: to improve cooperation between the customs authorities of the Community and third countries, in particular the partner countries of the European Neighbourhood Policy • Fiscalis 2013: to improve cooperation with the tax authorities of third countries, in particular the partner countries of the European Neighbourhood Policy. <p>Respective Articles 3(3): The programme may also be open to the participation of certain partner countries of the European Neighbourhood Policy if these countries have reached a sufficient level of approximation of the relevant legislation and administrative methods to those of the Community and in accordance with provisions to be determined with those countries following the establishment of framework agreements concerning their participation in Community programmes.</p>
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	Competitiveness and Innovation Framework Programme	Yes	<p><i>Proposal establishing a Competitiveness and Innovation Framework Programme - COM(2005) 121</i></p> <p>The Framework Programme shall have the following objectives:</p> <p>(a) to foster the competitiveness of enterprises and in particular SMEs;</p> <p>(b) to promote innovation including eco-innovation.</p> <p>The objectives of the Framework Programme shall be pursued through the implementation of the following specific programmes established in Title II, hereinafter “the specific programmes”:</p> <p>(a) the Entrepreneurship and Innovation programme;</p> <p>(b) ...</p> <p>Article 4: The Framework Programme shall be open to the participation of:</p> <p>(d) other third countries, when agreements so allow.</p>
<i>Employment</i>	Community Programme for Employment and Social Solidarity - PROGRESS	No	<p><i>Decision No .../2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community Programme for Employment and Social Solidarity - Progress</i></p> <p>Article 16: only open to EFTA/EEA countries, candidate countries and western Balkan countries included in the stabilisation and association process</p>

<i>Consumer protection</i>	Programme of Community Action in the field of Consumer Policy	Yes	<p><i>Proposal establishing a Programme of Community Action in the field of Consumer Policy 2007-2013 - COM(2006) 235</i></p> <p>The objective of the programme is to complement and support policies of the Member States in this field.</p> <p>Article 10: The programme shall be open to the participation of third countries, in particular countries covered by the European Neighbourhood Policy, in accordance with conditions laid down in the respective bilateral or multilateral agreements establishing the general principles for their participation in Community programmes.</p>
<i>Agriculture and fisheries</i>	European Agricultural Fund for Rural Development	No	<i>Proposal on support for rural development by the European Agricultural Fund for Rural Development - COM(2005) 490</i>
	Common Agricultural Policy	No	<i>Proposal on the financing of the Common Agricultural Policy - COM(2005)489</i>
	European Fisheries Fund	No	<i>Proposal on the European Fisheries Fund - COM(2005)497</i>

	Common Fisheries Policy, Law of the Sea	No	<i>Proposal establishing Community financial measures for the implementation of the Common Fisheries Policy and in the area of the Law of the Sea</i>
<i>Justice, freedom and security</i>	Fundamental Rights and Justice	Yes (only as associate in individual projects)	<p><i>Communication and legislative proposals establishing for the period 2007-2013 a Framework Programme on Fundamental Rights and Justice - COM(2005) 122</i></p> <p>The programme comprises five specific programmes covering the following fields:</p> <ul style="list-style-type: none"> • Fight against violence (Daphne) • Drugs prevention and information • Fundamental rights and citizenship • Criminal justice • Civil justice <p>Projects may associate candidate countries not participating in this programme where this would contribute to their preparation for accession, or other third countries not participating in this programme where this serves the objectives of the projects.</p>
	Solidarity and the Management of Migration Flows	No	<i>Communication and legislative proposals establishing a Framework Programme for Solidarity and the Management of Migration Flows for the period 2007-2013 - COM(2005) 123</i>

	Security and Safeguarding Liberties	Yes (only as partner in individual projects)	<p><i>Communication and legislative proposals establishing a Framework Programme on Security and Safeguarding Liberties for the period 2007-2013 - COM(2005) 124</i></p> <p>The programme addresses two challenges:</p> <ul style="list-style-type: none"> • Prevention, preparedness and consequence management of terrorism • Prevention of and fight against crime <p>As regards trans-national projects, third countries and international organisations may participate as partners but are not permitted to submit projects.</p>
<i>Transport</i>	Marco Polo	Yes	<p><i>Proposal establishing a second “Marco Polo” programme for granting Community financial assistance to improve the environmental performance of freight transport systems (“Marco Polo II”) - COM(2004) 478</i></p> <p>The Marco Polo programme supports actions in the freight transport, logistics and other relevant markets. These actions should contribute to maintaining the distribution of freight between the various modes of transport at 1998 levels by helping to shift the expected aggregate increase in international road freight traffic to short sea shipping, rail and inland waterways or to a combination of modes of transport in which road journeys are as short as possible.</p> <p>Among the funding criteria the proposals mention “European dimension – undertakings”: An action must be submitted by at least two independent undertakings established on the territories of two different Member States, or on the territories of one Member State and a close third</p>

			country.
	TEN financing (transport)	No	<p><i>Proposal determining the general rules for the granting of Community financial aid in the field of Trans-European Transport and Energy Networks and amending Council Regulation (EC) No 2236/95 - COM(2005) 475</i></p> <p>The focus of this proposal is on funding internal EC infrastructure. It will therefore not be open to third countries. However, the High Level Group dealing with TEN issues is preparing a report on extending major Trans-European Transport Axes to the ENP partner countries and neighbouring regions.</p>
	GALILEO programme	Yes	<p><i>Proposal on the implementation of the deployment and commercial operating phases of the European Programme on Satellite Radio Navigation - COM(2005) 477</i></p> <p>The Galileo Joint Undertaking is open to the participation of ENP partners and other third countries (for instance, Matimop of Israel is a member of the Galileo Joint Undertaking).</p>
	SESAR programme and Joint Undertaking	Yes	<p><i>Proposal for a Council Regulation establishing the SESAR Joint Undertaking - COM(2005) 602</i></p> <p>SESAR aims at developing a new generation air traffic management system.</p> <p>The Joint Undertaking will have two founding members: the European Community, represented by the Commission, and Eurocontrol. Participation will also be open to any other</p>

			private or public entity, including third countries. A third country can become a member if that country has, at least, signed a horizontal agreement in the field of air transport. To date, Azerbaijan, Georgia, Lebanon, Moldova, Morocco, and Ukraine have either already signed or are in the process of signing such agreements.
<i>Energy</i>	TEN financing (energy)	No	<p><i>Proposal determining the general rules for the granting of Community financial aid in the field of Trans-European Transport and Energy Networks and amending Council Regulation (EC) No 2236/95 - COM(2005) 475</i></p> <p>Due to its focus on internal EC energy networks, no third party participation is envisaged. However, the Commission proposal includes the notion that studies may be supported on the basis of a project as a whole, including its elements outside the territory of the EC.</p>
	Intelligent Energy-Europe programme	Yes	<p><i>Proposal establishing a Competitiveness and Innovation Framework Programme - COM(2005) 121</i></p> <p>The Framework Programme shall have the following objectives:</p> <p>(d) to promote energy efficiency and new and renewable energy sources in all sectors including transport.</p> <p>The objectives of the Framework Programme shall be pursued through the implementation of the following specific programmes established in Title II, hereinafter “the specific programmes”:</p>

			<p>(c) the Intelligent Energy-Europe programme</p> <p>Article 4: The Framework Programme shall be open to the participation of:</p> <p>(d) other third countries, when agreements so allow.</p>
<i>Information society</i>	ICT Policy Support programme	Yes	<p><i>Proposal establishing a Competitiveness and Innovation Framework Programme - COM(2005) 121</i></p> <p>The Framework Programme shall have the following objectives:</p> <p>(c) to accelerate the development of a competitive, innovative and inclusive information society.</p> <p>The objectives of the Framework Programme shall be pursued through the implementation of the following specific programmes established in Title II, hereinafter “the specific programmes”:</p> <p>(b) the ICT Policy Support programme.</p> <p>Article 4: The Framework Programme shall be open to the participation of:</p> <p>(d) other third countries, when agreements so allow.</p>
	Interoperable Delivery of European eGovernment	Yes (co-operation)	<p><i>Decision 2004/387/EC of the European Parliament and of the Council of 21 April 2004 on interoperable delivery of</i></p>

	<p>services to Administrations, Businesses and Citizens (IDABC programme)</p>		<p><i>pan-European eGovernment services to public administrations, businesses and citizens (IDABC)</i></p> <p>The objective of the IDABC programme is to identify, support and promote the development and establishment of pan-European eGovernment services and the underlying interoperable telematic networks supporting the Member States and the Community in the implementation, within their respective areas of competence, of Community policies and activities, achieving substantial benefits for public administrations, businesses and citizens.</p> <p>Article 14(2) Cooperation with other third countries, in implementing projects of common interest and horizontal measures, shall be encouraged, notably with public administrations in Mediterranean countries, the Balkans and eastern European countries. Particular attention shall also be given to international cooperation in support of development and economic cooperation. Related costs shall not be covered by the IDABC programme.</p> <p>A bilateral agreement, such as a memorandum of understanding, would be necessary to ensure participation of ENP partner countries in the IDABC programme. Following this agreement, the ENP partners can participate in projects of common interest and make use of horizontal measures.</p>
	<p>LIFE +</p>	<p>No</p>	<p><i>Proposal concerning the Financial Instrument for the Environment (LIFE+) - COM(2004) 621</i></p> <p>The objective is to provide a more streamlined and</p>

			<p>simplified instrument for environment protection. LIFE+ aims to contribute to the development, implementation, monitoring, evaluation and communication of Community environment policy and legislation as a contribution to promoting sustainable development in the EU.</p> <p>Third country participation is possible for EFTA, candidate as well as Suth-East European pre-candidate countries, only.</p>
<i>Crisis response</i>	Rapid Response	Yes	<p><i>Proposal establishing a Rapid Response and Preparedness Instrument for major emergencies - COM(2005) 113</i></p> <p>The proposal aims to provide a new legal basis for granting Community assistance to civil protection actions in the contexts of preparedness and rapid response. It will supplement the efforts of Member States to protect people, the environment and property by contributing to the effectiveness of systems for responding to major emergencies and the public health effects arising from such emergencies.</p> <p>In principle, as regards funding, the proposed instrument applies to activities within the EU (leaving external crisis response activities of the Community Civil Protection Mechanism to be covered by the Stability Instrument).</p> <p>Article 8: States which are not Member States of the European Union may participate in this Instrument where agreements and procedures so allow.</p>
	European Union Solidarity	No	<i>Proposal establishing the European Union Solidarity Fund</i>

	Fund		<p>- COM(2005) 108</p> <p>The proposal is based on the current EU Solidarity Fund Regulation for providing post-disaster assistance in the aftermath of major crises. The proposal enlarges its scope to cover not only such events resulting from natural disasters but also to include industrial/technological disasters, public health threats and acts of terrorism.</p> <p>Article 1: The scope of participants is limited to Member States and countries negotiating their accession to the EU.</p>
<i>People-to-people issues</i>	Public Health	Yes	<p><i>Proposal establishing a Programme of Community Action in the field of Health 2007-2013 - COM(2006) 234</i></p> <p>The programme shall complement, support and add value to the policies of the Member States and shall contribute to protecting and promoting human health and safety and improving public health.</p> <p>The Commission proposes that the programme be open to third countries, in particular countries in the European neighbourhood in accordance with conditions laid down in the respective bilateral or multilateral agreements establishing the general principles for their participation in Community programmes.</p>
	Lifelong Learning	No	<p><i>Decision No .../2006/EC of the European Parliament and of the Council of 15 November 2006 establishing an action programme in the field of lifelong learning</i></p> <p>This programme aims to foster interchange, cooperation</p>

			<p>and mobility between education and training systems within the Community so that they become a world quality reference.</p> <p><i>Article 7(2): Key activity 1 of the Jean Monnet Programme referred to in Article 3(3)(a) shall also be open to higher education institutions in any other third country.</i></p> <p><i>Article 8: Under the Lifelong Learning Programme, and in accordance with Article 9, the Commission may cooperate with third countries and with the competent international organisations, in particular the Council of Europe, the Organisation for Economic Cooperation and Development (OECD) and the United Nations Educational, Scientific and Cultural Organisation (UNESCO).</i></p> <p>Article 14(2): Up to 1% of the allocations under the Lifelong Learning Programme may be used to support the participation in partnership, project and network actions under the Lifelong Learning Programme of partners from third countries which do not participate in the Lifelong Learning Programme under the provisions of Article 7.</p>
	Culture	No (only cooperation)	<p><i>Proposal establishing the Culture 2007 programme (2007-2013) - COM(2004) 469</i></p> <p>The programme aims to enhance the cultural area common to Europeans through the development of cultural cooperation between creative artists, cultural players and cultural institutions of the countries taking part in the programme, through inter alia trans-national mobility, circulation of works and cultural and artistic products and inter-cultural</p>

			<p>dialogue.</p> <p>Article 5(2): The programme shall also be open to cooperation with other third countries which have concluded Association and Cooperation Agreements with the European Community which include cultural clauses, on the basis of supplementary appropriations and specific procedures to be laid down.</p> <p>Special actions: Support may also be given in this context to cooperation with third countries and international organisations, as set out in Articles 5(2) and 6 of the Decision.</p>
	European Audiovisual Sector (MEDIA 2007)	Yes (subject to conditions)	<p><i>Proposal concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007) - COM(2004) 470</i></p> <p>The global objectives of the programme are to preserve and enhance European cultural diversity and its cinematographic and audiovisual heritage and promote inter-cultural dialogue, increase the circulation of European audiovisual works inside and outside the European Union and strengthen the competitiveness of the European audiovisual sector.</p> <p>Article 8(2): The programme is also open to the participation of States which are parties to the Council of Europe Convention on Trans-frontier Television ..., assuming that supplementary appropriations are received in compliance with the conditions to be agreed upon between the parties concerned.</p>

			<p>Article 8(3): Opening up of the programme to European third countries covered by paragraphs 1 and 2 may be subject to prior examination of the compatibility of their national legislation with Community legislation, including Article 6(1)(5) of Directive 89/552/EEC, as amended by Directive 97/36/EC. This provision does not apply to actions under Article 3.</p> <p>Article 8(4): The programme is also open to cooperation with other third countries which have concluded Association and Cooperation Agreements with the European Union incorporating clauses on the audiovisual sector and on the basis of supplementary appropriations and specific arrangements to be agreed upon (<i>comment: at present none of the Partnership and Cooperation Agreements between the EU and the European ENP countries</i>).</p> <p>Further comment: for southern Mediterranean ENP partners, participation in the (external) Euro-Med Audiovisual programme is better tailored to their needs.</p>
	Youth in Action	No (only cooperation)	<p><i>Decision No.../2006/EC of the European Parliament and of the Council of 15 November 2006 establishing the “Youth in Action programme” for the period 2007-2013</i></p> <p>The general objectives of the programme are to promote young people’s active citizenship, to develop solidarity and promote tolerance among young people, to foster mutual understanding between young people in different countries, to contribute to developing the quality of support systems for youth activities and the capabilities of civil society organisations as well as to promote European cooperation in</p>

			<p>the youth field.</p> <p>Article 5(2): The actions in points 2⁹ and 3¹⁰ of the Annex shall be open to cooperation with third countries that have signed agreements with the Community relevant to the youth field, hereinafter referred to as “partner countries”.</p> <p>This cooperation shall be based, where relevant, on additional appropriations from partner countries to be made available in accordance with procedures to be agreed with these countries.¹¹</p>
	Europe for Citizens	No	<p><i>Proposal creating the Citizens for Europe Programme for the period 2007-2013 - COM(2005) 116</i></p> <p>Article 5: open only to EFTA/EEA countries; candidate countries benefiting from a pre-accession strategy, in accordance with the general principles and the general terms and conditions laid down in the framework agreements concluded with these countries for their participation in Community Programmes, and the countries of the Western Balkans, in accordance with the arrangements to be established with these countries under the framework agreements on the general principles for their participation in Community programmes.</p>

⁹ Action 2 is European Voluntary Service.

¹⁰ Point 3, entitled “Youth of the world”, covers cooperation with the neighbouring countries of the enlarged Europe (ENP countries) and other third countries.

¹¹ Comment: A special scheme has been introduced for the Mediterranean countries – the Euro-Med Youth programme: projects submitted by EU organisations are funded by the programme budget (including ENP costs), whereas projects submitted by organisations from ENP countries are funded from external support instruments.

<i>Research and development</i>	Research	-	<p><i>Communication from the Commission on Science and technology, the key to Europe's future – Guidelines for future European Union policy to support research - COM(2004)353</i></p> <p>Only Communication setting out guidelines; no legislative proposal.</p>
	Knowledge for Growth	-	<p><i>Communication on building the European Research Area (ERA) of knowledge for growth - COM(2005) 118</i></p> <p>Only Communication; no legislative proposal.</p>
	Seventh Framework Programme for Research	Yes	<p><i>Proposals concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) and of the European Atomic Energy Community (Euratom) for nuclear research and training activities (2007–2011) - COM(2005) 119</i></p> <p>The Framework Programme provides for third country participation.</p>
<i>Regional policy</i>	European Regional Development Fund	Yes	<p><i>Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999</i></p> <p>Article 21(3): In the context of cross-border, trans-national and interregional cooperation, the ERDF may finance expenditure incurred in implementing operations or parts of operations on the territory of countries outside the European</p>

			Community up to a limit of 10% of the amount of its contribution to the operational programme concerned, where they are for the benefit of the regions of the Community.
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