

Standard Summary Project Fiche – IPA centralised programmes
Project Fiche: 14

1. Basic information

- 1.1 CRIS Number: 2009/021-170
- 1.2 Title: **Accession to Internal Market**
- 1.3 ELARG Statistical code: 03.08¹
- 1.4 Location: Montenegro

Implementing arrangements:

- 1.5 Contracting Authority: Delegation of the European Commission to Montenegro
- 1.6 Implementing Agency: GTZ for component 1 and 2
- 1.7 Beneficiary (including details of project manager):

Secretariat for European Integration
Project manager: Ms. Ana Vukadinović, Head of Secretariat
Address: Stanka Dragojevića 2
81 000 Podgorica, Crna Gora
Mobile 067 67 11 19
e-mail: anav@mn.yu

Ministry for Economic Development (MED)
SPO: Sector for Internal Market and Competition
Mr. Zoran Perišić
Marka Miljanova br.17
81 000 Podgorica, Crna Gora
tel. 00 382 20 232 295
fax. 00 382 20 232 042

The key target institutions are:

- Authority for Protection of Competition (APC)
- State Aid Control Commission and State Aid Control Department of the MoF (SACC and SADC)
- Consumer Council (CC), Market Inspectorate (MI)
- Working Group on market surveillance (WGMS)
- Montenegrin Intellectual Property Office (MIPO)

¹ The different components of the project refer to different codes: Component 1 refers to 03.08, Component 2 to 03.28 and component 3 – to 03.07

Financing:

- 1.8 Overall cost: 1,250,000 EUR
- 1.9 EU contribution: 1,200,000 EUR
- 1.10 Final date for contracting: Two years from the date of the conclusion of the Financing Agreement
- 1.11 Final date for execution of contracts: Two years from the final date for contracting
- 1.12 Final date for disbursements: One year from the final date for execution of contracts.

2. Overall Objective and Project Purpose

2.1 Overall Objective

Aligning of the regulatory systems of Montenegro with the Internal Market *acquis communautaire*.

2.2 Project purpose:

To enforce the policies in the sectors of competition and state aid, consumer protection and market surveillance and intellectual property rights.

2.3 Link with AP/NPAA / EP/ SAA

The **European Partnership document** points out the need to continue strengthening the relevant Internal Market authorities, aligning fully domestic legislation with the *acquis* and SAA requirements and its enforcement by all relevant authorities.

In that regard SAA sets that Montenegro shall endeavour to ensure that its existing laws and future legislation will be gradually made compatible with the Community *acquis*, implemented and enforced, where approximation will, at an early stage, focus on fundamental elements of the Internal Market *acquis* (Art 72). The priority areas such as competition, intellectual property rights and consumer protection are elaborated respectively in Art. 73, 75 and 78.

The Commission's **2008 Progress Report** concluded that there is a need for substantial strengthening of Montenegro's institutional and administrative capacity, enhancement of cooperation between the relevant State institutions (Consumer protection; Market Surveillance). Furthermore, in the area of Competition and State Aid ensuring operational independence of relevant institutions is of primary importance, while institutional and enforcement capacity and level of public awareness for IPR should significantly be increased.

National Plan for Integration (NPI), adopted in 2008, is the key document which - according to the Article 72 of SAA – guides toward the gradual implementation of compatible legislation of Montenegro with the EU *acquis*, for the period 2008 – 2012, thus in accordance with SAA, focus on fundamental elements of the here elaborated Internal Market *acquis* (p. 124-127; 190-198; 198-202; 474-477).

2.4 Link with MIPD

The MIPD, as a priority, stresses the upgrading internal market capacities by progressive introduction of EU internal market 'acquis' and developing the administrative capacity and efficiency of those public institutions dealing notably in the areas of protection of intellectual property rights, competition and consumer protection.

2.5 Link with National Development Plan

Not applicable

2.6 Link with national/ sectoral investment plans

The project responds directly to the priorities identified in the following strategic documents:

- a) Strategy for Competition Protection;
- b) Action Plan for the State Aid Control Commission;
- c) National Consumer Protection Programme (NCP), and corresponding Action Plan;
- d) Draft Strategy for Market Surveillance.

3. Description of project

3.1 Background and justification

A strategic goal of Montenegro is to become a member of the EU. Under Article 72 of the SAA (initialled in April 2007), the country committed itself to harmonise its laws with those of the European Union. A key element of any pre-accession strategy is preparing the state to adopt and apply the *acquis*. The funds, required to support this process, since 2007, have been provided by the Instrument for Pre-Accession Assistance (IPA), which is the financial tool replacing the previously existed CARDS programme.

The Government is undertaking concrete steps to put in place the required legislative mechanisms and create the institutional infrastructure that is necessary to allow the country to participate in the internal market upon the country's accession to EU.

Overall, preparations in the area of free movement of goods are moderately advanced. Still, Montenegro needs to strengthen its institutional and administrative capacity, enhance cooperation between the relevant State institutions and align the horizontal legal framework with Community legislation. Additional efforts are also needed to start transposing the product-specific *acquis* into Montenegrin legislation.

Regarding competition policy and enforcement systems the legal and institutional framework must be further improved. A strategy for competition policy was adopted by the government in June 2008. On the 8th of June 2007, the Montenegrin Parliament adopted the Law on Amendments on the Law on Protection of Competition, which introduces an appropriate national competition authority – the Authority for Protection of Competition (APC). This new body obtained the required legal status, its own budget, a director and fulfilled a very important requirement - its decisions are subject only to court review. Now, along with the operational independence, the efforts have to be focused on building the knowledge of its management and staff on the competition rules and principles, on how to communicate with the business and large public, on how to investigate, gather and process information.

The new Law on Control of State Support and Aid was adopted by the national Parliament and entered into force on the 24th of May 2007. It foresees the establishment of the Commission for the Control of State Aid (SACC) as an operationally independent body, and of a separate State Aid Monitoring Unit (SAMU) within the Ministry of Finance. Thus, in the area of state aid an effective and comprehensive system for *ex-ante* control is being slowly created. The SACC, comprising of 7 members, is authorised to approve the granting of State aid, to order recovery of unlawful State aid and to carry out *ex-post* supervision. In June 2008, the State Aid Control

Commission adopted an annual report on State aid control. Despite these first positive developments, the state aid control system needs to be further strengthened and the capacity of the SAMU and SACC upgraded.

In consumer protection area the progress is indicated by the adoption of the National Strategy for Consumer Protection (April 2008). The national consumer protection programme (NCP) represents a first of that kind comprehensive framework for an integrated consumer protection policy for the next two years. An integral part of the programme is the Action plan, which identifies specific activities for implementation of the consumer protection policy. Further on, an Arbitration Board has been established and is in charge of out-of-court settlement of disputes, which is considered as an additional instrument for enforcing the consumer law.

In market surveillance the Law transposing the General Product Safety Directive was adopted in July 2008. The drafting of by-laws, including a by-law on the exchange of information on dangerous products within Montenegrin institutions, and between Montenegro and the EU (RAPEX) is ongoing, and its adoption will not be delayed. The efficient implementation of this policy depends on the administrative capacity of the Market Inspectorate and other authorities carrying out market surveillance activities. These institutions need to be further developed, coordinated and supported.

In the area of intellectual and industrial property rights the needs for improvement of the legal framework (e.g. Law on patents, Law on Geographical Indications, and relevant bylaws) and building the institution and administrative capacity has been crystallised. Certain pieces of the IPR law of the State Union still continue to apply in Montenegro until the appropriate legislative framework is adopted. New developments of Montenegrin law have been initiated (e.g. law on trademarks, law on protection of designs, law on topographies of integrated circuits and relevant bylaws). With a view to Montenegro's accession to the WTO, series of legislative action took place. Namely, a Decree on recognition of intellectual property rights was adopted in September 2007. A further decree / regulation on amendments of the Regulation for provision of application of the rights in the intellectual property area was published in OJ 70/08. IPR-related amendments to the Law on administrative fees were adopted in April 2008. In third quarter of 2008 the Law on indications of geographical origin and the Law on patents were adopted by the parliament. Regarding the institutional capacity, the Montenegrin Intellectual Property Office (MIPO) was officially opened on 28 May 2008. A Draft Extension Agreement between the European Patent Office (EPO) and Montenegro was prepared and authorized by the EPO's administrative council. While the needs of further legislative actions are addressed by a large regional project managed by EPO, the upgrading of the administrative capacity of the MIPO, the Ministry of economic development and the other stakeholders to ensure effective IP policy needs to be reinforced. Efforts are also required for raising the awareness of the large public on IPR.

The current project is conceived as a support to the ongoing reform in the key sectors related to internal market. It addresses both needs of improving the legislative mechanisms and of ensuring the required administrative and institutional capacities to sustain the reforms. The project builds upon the results of the previous CARDS 2006-funded project ("EU approximation in trade and single market policies") and extends further the activities related to competition and state aid, Consumer Protection and Market Surveillance and IPR.

3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact

The project invests in gradual preparation of the Montenegrin regulatory systems of competition and state aid, consumer protection and market surveillance and intellectual property rights for the challenges of joining the internal market. It combines activities related to improvement of both the legislative systems and the administrative capacity in both horizontal and vertical perspective. A focus is put also on raising the public awareness on key issues

related to the normal functioning of the market economy. This integral approach will ensure the progress in enforcing the internal market-related policies of Montenegro. Thus, the project will impact positively the national economy by enlarging the space for competition and restricting unfair business and administrative practices. Stronger competition will ensure innovation, benefits for consumers, economic growth for the country.

The project will have also a positive impact on the capacity of the public administration to sustain long-term reforms. By creating a pool of Montenegrin officials well acquainted with the key issues related to the internal market – the core of the EU integration - the project will enlarge the resources of the country, thus allowing smooth cooperation and coordination with the respective EU bodies.

The catalytic effect of the project is reflected on speeding up of the reforms in all areas related to the internal market. The adoption of new legislative instruments in the sectors of competition, state aid, consumer protection, market surveillance and IPR will enhance the need for further legal harmonization to ensure the free movement of goods, services, people and capitals and favourable business environment. In the end, the catalytic effect of the enforced internal market fundamental policies will be illustrated through increased competitiveness of the Montenegrin industry, better level playing field for foreign (e.g. regional) investors, and better and efficient trade regimes with the EU, CEFTA, and WTO.

The sustainability of the project results will be addressed through the adoption of legislative texts and strengthened administrative capacity, which create the framework needed for successful further progress in introducing the EU internal market principles. Tools for achieving sustainability are training of the officials and decision-makers, strong awareness-raising measures at all levels (public and private partners and general public), established links between Montenegrin and EU institutions. More efficient and transparent Internal Market institutions operating in compliance with the EU standards (e.g. IPR, competition and state aid) will ensure stable investment environment, which in its turn will attract investors and will enhance the country's economic development.

The internal market legislative and institutional enforcement will foster regional integration processes of Montenegro as well. The market surveillance component will help Montenegrin authorities play their role in implementing regional trade agreements (CEFTA) and those of the larger scale (SAA and WTO). Exchange of the information of dangerous products, is of great importance in the light of regional trade improvement, and in turn guarantees higher consumer protection standards. For Montenegro, being the tourist destination, efficient consumer protection is of vital importance as the majority of the tourists (consumers) are coming from the countries in the region.

3.3 Results and measurable indicators

The expected results and measurable indicators for the activities are:

Result 1: Strengthened capacity for conducting effective competition and state aid control policy

The achievement of this result will be indicated by:

- No of legislative texts on competition protection and state aid control adopted;
- No of people and bodies trained on competition and state aid control issues;
- No of cases treated by the competition authorities on own initiative;
- Decisions and annual report are publicly available;
- State Aid inventory established;

- State aid granting bodies reporting to the state aid authority.
- A variety of information channels in use concerning competition protection and state aid control issues.

Result 2: Strengthened capacity for protection of consumers

The achievement of this result will be indicated by:

- No of legislative texts on consumer protection adopted;
- No of consumers' claims submitted to the relevant inspections (primarily Market Inspection), Arbitration Board and civil sector (e.g. CEZAP) ;
- No of investigations carried out by the relevant Inspections (primarily Market Inspection);
- No of decisions issued by Arbitration Board and opinions issued by the Consumer council;
- No of NGOs working on consumer protection issues (increasing);
- No of people and bodies trained on consumer protection and/or market surveillance issues;
- A variety of information channels in use concerning consumer protection and/or market surveillance issues.

Result 3: Strengthened capacity for protection of intellectual property

The achievement of this result will be indicated by:

- No of people and bodies trained on IPR;
- No of administrative procedures created for the administration of IP rights by MIPO staff
- No of instructions and communiqués published by MIPO
- No of databases and electronic tools installed at MIPO, including website
- Statistics on utilization of MIPO information services by enforcing agencies and private sector;
- Evolution of staff productivity and administrative backlog at MIPO

3.4 Activities

Project activities are organised in 3 components:

Component 1 – Competition and State Aid

- Provision of ongoing support and hands-on training to the newly established Authority for Protection of Competition (APC);
- Support for the implementation of the strategic development plan and the action plan.

- Development of a comprehensive training programme and delivery of trainings on all competition issues (legal and economic) including restrictive agreements, abuse of dominant position, concentrations and relevant case law for APC staff and other stakeholders.
- Preparation of a list of existing state aid schemes (state aid measures which were implemented before the SAA), analysis of the schemes and preparation of opinion on their compliance with the State aid regulations and obligations set in the SAA (deadline: 01.01.2010.; set in the Draft of the New State Aid Control Law)
- Preparing the State Aid Control Authorities to be able to conduct autonomously complex assessment of notified state aid cases according to the standards established by DG Competition.
- Preparation of Annual Report on State Aid granted in Montenegro.
- Implementation of awareness raising activities on competition and state aid policies (conducting Competition Advocacy - strengthening competition culture). Target groups: Government and administration in general; Sector regulators; Judiciary; Business society; General public.

Component 2 – Consumer protection and Market Surveillance

- Preparation of selected tables of concordance based upon analysis of the current consumer protection legislation of Montenegro with view to compliance with the EU acquis;
- Preparing of a 2nd National Plan for Consumer Protection and corresponding action plan (2010 – 2012);
- Introducing (drafting, promoting) amendments to Consumer Protection Law to create legal base for establishing Consumer Council and to reinforce legislatively the consumer protection policy.
- Organisation of information and training sessions for NGOs to improve their understanding and capacity to sensibilise consumers on their rights and mechanisms for protection.
- Organisation of a public awareness campaign on consumer protection and/or market surveillance issues.
- Assessment of the current capacity for market surveillance in key areas and recommendations for improving the market surveillance system;
- Finalization of the Market Surveillance Strategy and drafting of corresponding Action Plan for its implementation.
- Elaboration of a training programme for market surveillance bodies on the EU standards and organisation of training on market surveillance
- Ongoing support to the newly created Working Group acting as a governmental coordinating body for all market surveillance institutions. This activity will entail specification of specific targets, measures and exchange of information mechanisms in order to avoid duplication of activities but also omissions in investigating cases of marketing unsafe products.

Component 3 - IPR

- Drafting, in a participatory mode together with MIPO and MED, of the multi-annual National IPR Strategy;
- Assessment of IPR training needs of MIPO / MED staff in place, designing of a complete training programme and preparation of training materials; training on basic IP matters: patentability, absolute and relative grounds, institutional development of an IP office;
- Coaching of MIPO management: on-going consultancy, hands-on training (on internal and external responsibilities, management of human resources, etc), study visit (benchmarking exercise) to a national IP Office of similar size;
- Drafting administrative guidelines for the internal procedures and training of the staff to carry out the administrative tasks according to instructions and guidelines; corresponding administrative information of the external MIPO's stakeholders on the procedures in place;
- Training of the MIPO / MED staff to use of the tools installed at the MIPO (IPR management software) or accessible by a larger public from MIPO (internet databases);
- Assistance in automation of the granting procedure and in the electronic publication of the IP gazette and of IP rights; Creation of a service oriented website for the MIPO;
- Assistance in the creation of the annual report;
- On-the-job training for patent examiners, distinctive signs examiners and the staff of the Authors and related rights division;
- Organisation of study visits: for patent examiners to National Patent Offices (NPO) of EPO member states, for Distinctive signs examiners to National Patent Offices (NPO) of EPO member states and for staff of the Authors and related rights division.

The activities under Components 1 and 2 will be implemented through Contract 1 signed under indirect centralised management scheme with GTZ. Contract 2 will cover all activities described in Component 3 and will be implemented through direct grant agreement with EPO. More details on the contracts are presented in annex 5.

3.5 Conditionality and sequencing

The successful implementation of this project will make a clear contribution to good governance in Montenegro, and to the functioning of its democracy. Nevertheless, further political support and commitment at central governmental and parliamentary level is needed. This support is indicated by ensuring the required financial, human and material resources for the smooth operation of the targeted internal market institutions.

Other important conditions that may reflect on achievement of the project objectives include:

- Motivation of the civil servants in the targeted institutions to participate in the project activities;
- Minimum turnover of staff;
- Efficient co-ordination among the direct project beneficiaries and pro-active support on their behalf for the project activities;
- Sufficient absorption capacity at the MED, SEI, MI, MIPO, SA Commission and other stakeholders for the planned activities;

- Continued commitment to the implementation of the principles of internal market on behalf of all stakeholders involved (administrative bodies, investigation bodies, court, business, NGOs, consumers)

There is no particular requirement regarding the sequencing of the contracts.

3.6 Linked activities

The current project builds upon previous CARDS-funded actions. The Policy and Legal Advice Centre (PLAC) provided technical advice on legal harmonisation and focussed mainly on internal market. This project was followed by the EU approximation in trade and single market policies (TRIM MNE) Project which contributed to a serious improvement of the legislative framework (adoption of 7 Laws, 11 Decrees, 3 Regulations) and provided support in the area of WTO-accession. This project will be focused more on creating administrative capacities and establishing an efficient system for coordinating the entire approximation process related to the internal market acquis.

This project will be running in parallel to a number of interventions that have to be taken into account as their impact on the internal market policies will be considerable:

- MNE-IPA 2007 – Development of Quality Infrastructure Project
- MNE-IPA 2007 – Further development and strengthening of the public procurement system in the Republic of Montenegro Project
- MNE-IPA 2007 – Legal Harmonisation Project
- IPA 2007 - Regional IPR Project
- IPA 2008 – Regional Quality Infrastructure Project
- IPA 2008 – Regional Trade Support-Project (Support to the CEFTA-Secretariat)

So far, UNDP and Open Society have provided assistance for a Capacity Development Programme (approximately €200,000, with a further € 300,000 planned for 2007) for supporting the coordination role of the Secretariat and the Deputy Prime Minister Office on EU integration, and strengthening institutional capacities related to SAA implementation. NDI has also been active in past years in supporting the work of the Parliament and strengthening the capacity of both administrative staff and parliamentarians.

3.7 Lessons learned

The lessons learnt through previous assistance outline a number of challenges that have to be addressed properly:

- *Conditionality*: Often project implementation is hampered by both insufficient staff or/and high turnover of staff, and resources allocated to (newly established) institutions is sometimes inadequate to them to properly exercise their mandate. The availability of the needed human resources has to be considered as a pre-condition for the project start. No clear commitment on behalf of the targeted institutions has to lead to delay/cancellation of the project implementation.
- *Coordination within the government*: Further improvements in the regulatory systems are dependant on the stronger government leadership in the inter-institutional coordination, and on finding working operational mechanisms for coordination and harmonisation of policies. The project has to facilitate the coordination amongst stakeholders.

- *Project methodology:* The most effective style of work requires a pragmatic and participatory approach. The public administration is relatively small and under considerable pressure. Policy advice is most likely to be welcome and constructive if it contributes directly to finding comprehensive solutions to pressing issues. Exchange of experience is more successful when based on small group discussions on particular issues of current concern to the involved officials. Cross-disciplinary and cross-ministerial discussions could be constructive where the subject requires inter-institutional co-ordination and high-decision makers' involvement.

4. Indicative Budget (amounts in €)

			SOURCES OF FUNDING									
TOTAL EXP. RE			IPA COMMUNITY CONTRIBUTION		NATIONAL CONTRIBUTION					PRIVATE CONTRIBUTION		
	IB	INV	EUR (a)=(b)+(c)+(d)	EUR (b)	%	Total EUR (c)=(x)+(y)+(z)	%	Central EUR (x)	Regional/ Local EUR (y)	IFIs EUR (z)	EUR (d)	%
ACTIVITIES												
Contract 1	x		800,000	800,000	100.00%							
Contract 2	x		450,000	400,000	88.89%						50,000	11.11%
TOTAL IB			1,250,000	1,200,000	96.00%	0	0	0	0	0	50,000	4.00%
TOTAL INV												
TOTAL PROJECT			1,250,000	1,200,000	96%	0	0	0	0	0	50,000	4%

Amounts net of VAT

For Contract 1 the IPA contribution will be no more than 800.000 EUR. GTZ will have to cover all costs, related to the implementation of the project, in excess of the 800.000 EUR provided by the IPA.

5. Indicative Implementation Schedule (periods broken down per quarter)

Contracts	Start of Tendering	Signature of contract	Project Completion
Contract 1	NA	Q4 2009	Q2 2011
Contract 2	NA	Q4 2009	Q2 2011

6. Cross cutting issues

6.1 Equal Opportunity

There is extensive equal opportunity legislation in Montenegro. The proposed project will ensure that the internal policies, structure or operating procedures of the beneficiary institutions conform with and promote equal opportunity. In supporting legislative harmonisation, gender needs will be taken into consideration and provisions that enhance equal opportunities will be introduced. All project activities will respect the principles of equal treatment and opportunities for women.

6.2 Environment

Environment protection legislation in Montenegro is comprehensive and is going through a process of harmonisation with the EU acquis. The proposed project will give due cognisance to environmental issues. Generally, introducing effective policies for consumer protection and market surveillance, industrial and intellectual property rights, and competition, has impact on nature protection as the increased awareness and demand on behalf of the consumers and the legislative requirements force business to invest into environmentally-friendly technologies. More specifically, education and training activities will also address the growing presence of environmental challenges to the internal market.

6.3 Minorities

The project will assist beneficiaries in implementing mechanisms to ensure that in the legislative process, the internal policies, structure or operating procedures of the beneficiary institutions the principle of equitable representation of ethnic minorities and the protection of minority rights is taken into consideration.

ANNEXES

Annex 1- Log frame in Standard Format

Annex 2- Amounts contracted and Disbursed per Quarter over the full duration of Programme

Annex 3 - Reference to laws, regulations and strategic documents:

Annex 4- Description of the Institutional framework

Annex 5- Details per EU funded contract

Annex 1- Log frame in Standard Format

LOGFRAME		Programme name and number: Accession to Internal Market (2009/021-170)		Disbursement period expires one year from the final date for execution of contracts	
		Contracting period expires two years from the date of the conclusion of the Financing Agreement		IPA budget: 1,200,000 EUR	
Total budget: 1,250,000 EUR					
Overall objective	Objectively verifiable indicators	Sources of Verification			
Aligning of Montenegro regulatory systems with the Internal Market <i>acquis communautaire</i>	<ul style="list-style-type: none"> Economic growth (raising trend); Raising intensity of competition; Improved business environment, created level-playing field for business; Increasing benefits for the consumers in the country (prices, choice, innovations - Consumer protection analysis); Increase (constant positive trend) in the trade between Montenegro and the EU; Increased investment in innovations; Completion of the negotiations of the internal-market related chapters by 2015. 	<ul style="list-style-type: none"> Regular progress reports MONSTAT/EUROSTAT data Standard competition policy analysis Standard business development survey Price index Consumers protection survey (indexes) 			
Project purpose	Objectively verifiable indicators	Sources of Verification		Assumptions	
To enforce the policies in the sectors of competition and state aid, consumer protection and market surveillance and intellectual property rights.	<ul style="list-style-type: none"> No of decisions, bans and penalties against anti-competitive acts by enterprises; No of assessment of the notified state aid cases (ex-ante control) No of sales bans and penalties imposed on business for unsafe products being marketed (initial raising trend); No of IPR-infringement cases decreasing 	Annual reports of the targeted institutions Independent reports (NGOs, international bodies)		<ul style="list-style-type: none"> Further political support and commitment at central governmental and parliamentary level for the reforms and adoption of the acquis Development of the other sectors related to internal market (quality infrastructure, public procurement, financial services, etc.), as well as judicial system Mitigation of the consequences of the financial crises 	

Results	Objectively verifiable indicators	Sources of Verification	Assumptions
Result 1: Strengthened capacity for conducting effective competition and state aid control policy	<ul style="list-style-type: none"> - No of legislative texts on competition protection and state aid control adopted; - No of people and bodies trained on competition and state aid control issues; - No of cases treated by the competition authorities on own initiative; - Decisions and annual report are publicly available; - State Aid inventory established; - State aid granting bodies reporting to the state aid authority. - A variety of information channels in use concerning competition protection and state aid control issues. 	Project reports Annual reports of the targeted institutions	Continued commitment to the implementation of the principles of internal market on behalf of all stakeholders involved (administrative bodies, investigation bodies, court, business, NGOs, consumers)
Result 2: Strengthened capacity for protection of consumers	<ul style="list-style-type: none"> - No of legislative texts on consumer protection adopted; - No of consumers' claims submitted to the relevant inspections (primarily Market Inspection), Arbitration Board and civil sector (e.g. CEZAP); - No of investigations carried out by the relevant inspections (primarily Market Inspection); - No of decisions issued by Arbitration Board and opinions issued by the Consumer council; - No of NGOs working on consumer protection issues (increasing); - No of people and bodies trained on consumer protection and/or market surveillance issues. - A variety of information channels in use concerning consumer protection and/or market surveillance issues. 		
Result 3: Strengthened capacity for protection of intellectual property	<ul style="list-style-type: none"> - No of people and bodies trained on IPR; - No of administrative procedures created for the administration of IP rights by MIPO staff - No of instructions and communiqués published by MIPO - No of databases and electronic tools installed at MIPO, (+ website) - Statistics on utilization of MIPO information services by enforcing agencies and private sector; - Evolution of staff productivity and administrative backlog at MIPO 		

Activities	Means	Costs	Assumptions
Component 1 – Competition and State Aid <ul style="list-style-type: none"> Ongoing support and hands-on training to the newly established Authority for Protection of Competition (APC) Implementation of the strategic development plan and the action plan. Training on competition issues. Analysis of the existing state aid schemes regarding compliance with the State aid regulations and obligations set in the SAA Preparation of the State Aid Control Authorities for autonomous assessment of notified state aid cases according to the standards established by DG Competition. Preparation of Annual Report on State Aid granted in Montenegro. Implementation of awareness rising on competition and state aid policies (conducting Competition Advocacy - strengthening competition culture). 	2 contracts: 1 delegation agreement to GTZ (IPA funding 800.000 EUR) 1 direct contribution agreement with EPO (IPA funding: 400.000 EUR)	1.250.000 EUR IPA 2009 funding: 1.200.000 EUR EPO co-funding: 50.000 EUR Human resources Financial resources to cover events, training materials, possibly hardware under contract 2	<ul style="list-style-type: none"> Motivation of the civil servants in the targeted institutions to participate in the project activities; Minimum turnover of staff; Efficient co-ordination among the direct project beneficiaries and pro-active support on their behalf for the project activities; Sufficient absorption capacity at the MED, SEI, MI, MIPO, SA Commission and other stakeholders for the planned activities;
Component 2 – Consumer protection and Market Surveillance <ul style="list-style-type: none"> Analysis of selected consumer protection legislation of Montenegro with view to compliance with the EU acquis; Preparing of a 2nd MNE National Plan for Consumer Protection and corresponding action plan (2010 – 2012); Introducing amendments to Consumer Protection Law. Organisation of information and training sessions for NGOs on consumer protection. Organisation of a public awareness campaign on consumer protection and/or market surveillance issues. Assessment of the current capacity for market surveillance; Finalization of the Market Surveillance Strategy and Action Plan. Ongoing support to the newly created Working Group for all market surveillance institutions. Training on EU requirements and standards in market surveillance. 			

<p>Component 3 - IPR</p> <ul style="list-style-type: none"> • Drafting of the multi-annual National IPR Strategy; • Assessment of IPR training needs of MIPO / MED staff and training on basic IP matters; • Coaching of MIPO management: on-going consultancy, hands-on training, study visit (benchmarking exercise) to a national IP Office of similar size; • Drafting administrative guidelines for the internal procedures and training of the staff; • Training of the MIPO / MED staff to use of the tools installed at the MIPO (IPR management software) or accessible by a larger public from MIPO (internet databases); • Assistance in automation of the granting procedure and in the electronic publication of the IP gazette and of IP rights; Creation of a service oriented website for the MIPO; • Assistance in the creation of the annual report; • On-the-job training for patent examiners, distinctive signs examiners and the staff of the Authors and related rights division; • Organisation of study visits: for patent examiners to National Patent Offices (NPO) of EPO member states, for Distinctive signs examiners to National Patent Offices (NPO) of EPO member states and for staff of the Authors and related rights division. 	
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Annex 2- Amounts in EUR contracted and Disbursed per Quarter over the full duration of Programme

Amounts in EUR

Contracted	Q4 2009	Q1 2010	Q2 2010	Q3 2010	Q4 2010	Q1 2011	Q2 2011
Contract 1	800,000						
Contract 2	400,000						
Cumulated	1,200,000						
Disbursed	Q4 2009	Q1 2010	Q2 2010	Q3 2010	Q4 2010	Q1 2011	Q2 2011
Contract 1	150,000	150,000	150,000	150,000	150,000	30,000	20,000
Contract 2	150,000		150,000	90,000			10,000
Cumulated	300,000	450,000	750,000	990,000	1,140,000	1,170,000	1,200,000

Annex 3 - Reference to laws, regulations and strategic documents:

Laws

- Law on Competition protection and Guideline for implementation of Competition Law
- Rulebook on Internal Organisation and Systematisation of the Directorate for Competition Protection
- Rulebook on Contents of Application of Agreement and Way of Record Keeping
- Rulebook on Contents of a Request for Individual Exemptions
- Rulebook on Form and Contents of Application for Registration of Approved Concentrations and Form of Register and Way of Keeping It
- Rulebook on the Form and Contents of the Request for Instituting Proceedings
- Decree on detailed conditions for exemption of agreements by type and for determining types of agreements that could be exempted from law
- Law on State Aid
- Decree on closer criteria, purpose and conditions for allocation of state aid and assistance
- Decree on manner and procedure of submitting the necessary documentation and its contents for prior and subsequent control of state aid and assistance
- Rulebook on contents of annual report on control over state aid and assistance
- Budget Law
- Decree on closer criteria, manner and procedure for providing financial assistance to consumer organisations
- Decree on closer criteria for the amount of compensation for members of the Arbitrage Board for settlement of consumer disputes
- Decree on closer criteria for undertaking the operations defined in the National Programme for Consumer Protection
- Rulebook on Arbitrage Board for Settlement of Consumer Disputes
- Decree on funding NGO's and NGO participation in implementation of NCPP
- Law on Urgent Medical Aid
- Rulebook on manner and procedure for exercising the right to medical-technical aids
- Decree on method of exchange of information on dangerous products within Montenegrin institutions, and information between Montenegro and EU (RAPEX)
- Law on Amendments to the Law on Medicines
- Law on General Product Safety
- Law on Transport of Hazardous Substances

- Regulation on Content of Information on Dangerous Products
- Rulebook on manner and principles of classifying, packaging and labelling of chemicals
- Rulebook on restriction and prohibition of chemicals in the market
- Rulebook on manner of work of authorised person, implementation of internal control, keeping and protecting data, manner of registers' keeping and training of employees
- Patent Law, OJ of Montenegro, no. 66/08, from 31.10.2008
- Law on geographical indications of origin, OJ of Montenegro, no. 48/08, 11.08.2008
- Law on trademarks, OJ of State Union of Serbia and Montenegro (S&M), no. 07/05, 18.02.2008
- Law on topographies of integrated circuits, OJ of S&M, no. 01/04, 24.12.2004
- Law on design, OJ of S&M, no. 61/04, 24.12.2004
- Regulation on the amendments of the Regulations on provision of application of rights in the area of IP, OJ of Montenegro, no 70/08
- Amendments to the Law on Administrative Fees
- Decision on fees for reimbursement of expenses incurred by the Intellectual Property Bureau's procedures and expenses for provision of its information services

Strategic documents

- Competition Policy Strategy
- National Plan for Consumer Protection (NPCP) and Action Plan for Implementation of NPCP
- Market Surveillance Strategy

Annex 4- Description of the Institutional framework

The main project counterpart is the Secretariat for European Integration (SEI). The SEI is in charge for coordination and oversight of the process of accession and joining the EU and for providing opinions on the level of harmonisation of national legislation with the EU Acquis Communautaire. But the further institutions described below will be the major beneficiaries of the action and are relevant stakeholders of all planned activities

4 Re: Competition and State Aid activities

Ministry for Economic Development - Department for Competition

Concerning competition, the main target department within the Ministry for Economic Development will be the Sector for Internal Market and Competition and its Department for Competition. It is chaired by the Deputy Minister, and in addition it counts 2 senior advisors. Some of the main tasks are to propose the competition protection and development policy; monitor its implementation and to adopt implementing regulations.

Authority for the Protection of Competition (APC)

The Authority for the Protection of Competition is a newly established body, according to the Law on Amendments on Law on Protection of Competition, established with the purpose to meet the EC requirement for an operationally independent body. It is chaired by a Director, who is supported by the deputy Director (position still not occupied) and currently employing nine advisors, whereas the systematization envisages two more positions. It is organized to have three organizational units: Sector for monitoring concentrations, restrictive agreements, abuse of dominant position; and international cooperation; Department for misdemeanour procedures; and Service for general and financial matters. It is tasked to monitor competition at the general market as well as at markets of particular economic sectors; approve exceptions from ban on certain agreements and approve the concentration of undertakings, decide on the procedure of determining violation of competition provided for under this Law; take measures towards undertakings and associations of undertakings for violation of competition, or for its prevention.

Ministry of Finance, Budget sector and State Aid Monitoring Unit

The Ministry of Finance is the institution in charge for developing and implementing the regulatory and institutional framework for the control of the State Aid in Montenegro. Within the Ministry the assistance should be targeted to the former State Aid Monitoring Unit, now Department for Control of State Aid which is under the direct competence of the General Secretary of the Ministry of Finance. It is led by the Head of Department, and it employs 3 advisors, whereas the systematization envisages two more positions. It is responsible to perform all competent, administrative and technical tasks for the State Aid Control Commission, namely: collect and monitor data on state aid; prepare opinions for preliminary and subsequent state aid control, which will be performed by the Commission; keep the records on state aid and to prepare annual reports on granted state aid.

State Aid Control Commission

The State Aid Commission is a body appointed by the Government, which consists of a President and six representatives from various ministries and other bodies - authorised to supervise and control the granting and utilisation procedures, as well as the possible return of state aid in case of irregularities.

It is also empowered with the evaluation of the state aid programmes and individual state assistances as well as with the initiation of proceedings necessary for the return of state aid which was illegally approved.

4 Re Consumer protection /market surveillance activities

Ministry for Economic Development, Department for Consumer Protection

The responsibilities of the Department for Consumer Protection are to develop and implement consumer protection policies; to propose and implement the National consumer protection programme (NCP); to cooperate with NGOs for consumer protection and keep the registry of NGOs for consumer protection, and to harmonise national legislation with the EU Acquis in the area of consumer protection.

It is under the auspices of the Deputy Minister for Internal Market and Competition, and employing two advisors, whereas two posts are currently vacant and advertising is on-going.

Arbitration Board

The new Law on Consumer Protection provides legal base for the establishment of an Arbitration Board (AB) which will provide faster, cheaper and more appropriate means to redress consumer complaints. It is an autonomous body, founded in November 2008 consisting of 20 members: 10 of each appointed by Consumer NGOs and the Montenegrin Chamber of Commerce. The AB is seated in the Montenegrin Chamber of Commerce, which implements expert and administrative tasks for the AB, as well as other technical support for the proper functioning of the AB, a Secretary of the AB has been already appointed.

Market Inspectorate

The Market Inspectorate of Montenegro is placed within the MED, and it is under its direct administrative supervision. At the same time the functional independency of the Market Inspectorate is defined in the Law on Inspection Supervision. The Market Inspectorate is led by a Chief Market Inspector, having four Deputies. Organizational structure is divided in two main departments Department for Administrative support (staffed with 5 persons), and the Department for Market Control (staffed with 61 persons, whereas two posts are currently vacant, and advertising is on-going). It is key institution in charge for most of the consumer protection/market surveillance tasks (under legal acts on consumer protection, IPR, general product safety etc.) and it is future national contact point for the RAPEX system.

NGOs

The role of consumer NGOs is critical for a successful consumer protection system. The new Law underlines the role of the non-governmental sector in promoting the interests and main principles on which consumer protection activities should be based. In this regard, one Montenegrin NGO deserves special focus and is currently the main player as consumer's representative that is CEZAP (Centre for Consumer Protection) founded already in 1999, with 75 registered members. It has been the implementer and beneficiary of different EU funded and other donors (bilateral and international) projects. It is led by President, and currently having two permanent staff and 5 long term ad-hoc advisors for different issues (telecommunications, traffic, public services etc).

4 Re: IPR-related activities

Montenegrin Intellectual Property Office (MIPO)

The Montenegrin Intellectual Property Office stated to operate on 28 May 2008. Its main tasks are the registration, granting and administration of IP rights. The MIPO, when fully operational, should also play a major role in the promotion of the IP system in Montenegro and in the definition of the legal IP framework. The Ministry in charge is the MED, which comprises a division for industrial property and internal trade.

The MIPO is headed by a Director and one adviser. It is organised in technical departments for each IP right and in one general / legal affairs. It comprises at the end of 2008 10 staff members, each technical department being composed by one person. The plan is that MIPO should be fully staffed in 2010 with 31 staff members. 80% of the staff should be hired by the end of 2009. During the 6 months after its operational start, MIPO has registered 875 patents, mainly through the PCT and 1178 trademarks.

Annex 5- Details per EU funded contract

The project will be implemented through 2 contracts:

✦ Contract 1: indirect centralised management (delegation agreement to GTZ)

The selection of the method of implementation and the delegatee body is based on the following justifications:

- Article 54(2)(c) of the Financial regulation authorises and regulates the indirect centralised management as a legitimate instrument for project/funds management. The main principles are described in the Code of Conduct adopted on 15 May 2007 to enhance complementarity and the division of labour amongst EU donors (<http://europa.eu/scadplus/leg/en/lvb/r13003.htm>)
- Only 2 of the accredited agency are active in Montenegro: ADA and GTZ. The donor cooperation dialogue in Montenegro (meetings held on 08/04/08, on 04/06/09 and on 17/11/08) has not so far resulted into the identification of another member state that has been interested in taking active measures in the project sector.
- GTZ has exclusive experience in Montenegro in introducing the EU internal market policies in Montenegro and in contributing to the approximation of the legislation in the key project fields (competition and state aid, consumer protection and market surveillance and IPR). Currently GTZ is implementing TRIM MNE Project to the full satisfaction of the beneficiaries.
- There is a need to sustain the reforms in the targeted sectors (competition and state aid, consumer protection and market surveillance) without a delay and using the momentum gained through the TRIM MNE project. This requires a very quick launch of the current project after the signing of the Financing Agreement as the current TRIM MNE project expires in May 2009
- GTZ will continue providing financial support at bilateral level in parallel to this IPA project. The amount of 3 MEUR for the period 2009 – 2010 is dedicated to GTZ target-orientated "Economic development and employment promotion" measure, which correlates with the proposed project. Thus the two principles of concentration of funds and complementarity of actions and funds will be applied, GTZ has been commissioned by the German Ministry for Economic Cooperation and Development (Bundesministerium für Wirtschaftliche Zusammenarbeit und Entwicklung -BMZ) with the Programme "Economic Development and Employment Promotion in Montenegro", of which this project will form part. Thus, the IPA 2009 project will contribute financially to the GTZ/BMZ Programme.
- GTZ has already adopted required procedures and standards in compliance with the regulations of the European Commission. Thus the implementation of all planned activities and the achievement of the project goals, along with the technical organisation of the work and reporting, will be ensured.
- The capacity of the EC Delegation as a contracting authority is limited view the number of projects funded under IPA (2007, 2008 and 2009) as well as the fact that the introduction of DIS in managing the EU funds will not be achieved before 2010.

✦ Contract 2: direct contribution agreement to the European Patent Office (EPO)

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Direct contribution agreement with EPO will be concluded based on the provisions of Article 168 (c) of the Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/ 2002 on the Financial Regulation applicable to the general budget of the European Communities.

This approach takes into account the high degree of specialization of EPO in Intellectual Property (IP) sector and its ongoing activities in the Western Balkans. This contract (of national scope) will be complemented by the regional EPO activities focused on improving the legislative environment and the IT tools for protection of the intellectual properties in all Western Balkan countries. Thus a synergy between the regional and national policies in the IP field will be achieved.

Each contract will be managed by a separate project manager, whose tasks include:

- Overall project supervision and coordination to ensure high quality outputs and results;
- Mobilising short- and medium term experts and approval of their performance;
- Executing administrative tasks (i.e. preparation of reports, side letters etc.)
- Communication with the beneficiaries and the Contracting authority;
- Participation in the regular Steering Committee meetings.

The profiles of the two Project managers have to meet the following criteria:

Contract 1:

- Master degree in economics, business administration or related discipline;
- Excellent knowledge of all processes in the area of internal market legislation and administrative capacity building (at least 10 years of professional experience in the field)
- Previous management experience (at least 7 years) and proven record in project management, mobilisation of expertise, reporting (manager of at least one project);
- Excellent understanding of the specific sub-sector (at least 5 years of experience in competition, state aid, consumer protection or market surveillance)
- Good leadership skills;
- Excellent command of English.

Contract 2:

- An EPO staff member with an academic degree in engineering and a sound experience in both patent examination and tools and methods at the EPO;
- Excellent understanding of the specific sub-sector (at least 5 years of experience in IPR)
- Excellent knowledge on technical and administrative capacity building in a small size IP office (previous 3-year management experience in an IP office);
- Previous management experience (at least 7 years) and proven record in project management, mobilisation of expertise, reporting (manager of at least one project);
- Good leadership skills;
- Excellent command of English.

The human resources to be ensured for the implementation of the two contracts include at least the following senior experts: For Contract 1: a Competition expert, a State Aid Expert, a Consumer protection expert, a Market surveillance expert; for Contract 2: an IPR expert, a training expert and HR expert. Junior experts will be appointed upon the discretion of the contractors. The input from the Project managers and the senior experts will be provided in the beneficiary country and in the place of residence ensuring however expertise on site. Junior experts are expected to work mostly in the beneficiary country.

One Steering committee (SC) will be established to review the project progress. It will comprise of representatives of all beneficiary institutions. The SC may invite other organisations to attend meetings where this will bring added value to discussion, direction and outcomes of the Project. Its main functions are to:

- assess Project progress and guide it strategically;
- jointly discuss any critical points or bottlenecks for further project implementation;
- propose and discuss remedy actions to be taken in order to tackle problems;
- issue recommendations affecting timing, cost or Project contents;
- assess the performance of the contractors and to comment and/or discuss the contractors' reports.

The SC will meet at least every six months; the first meeting will be held upon the submission of the Inception Reports by both contractors. Upon the decision of the contractors, sub-meetings of the Steering committee to discuss the advancement of each of the two contracts will be held quarterly with the participation of the corresponding beneficiaries and the Contracting authority.

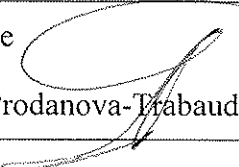
Note to the file

Subject	Modification of Project Fiche 14 – IPA 2009
Title of the project:	Accession to Internal market: Component I and II
Programme code / budget line:	<i>IPA 2009 – Component I</i>
Contractor/beneficiary	GTZ
Budget (€)	800,000

Purpose of the contract	The purpose of the project is to support the capacity of Montenegro to provide consistent and effective policy in the sectors of competition and state aid and market surveillance and consumer protection.
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Background information	<p>There is a need for adjusting the project fiche as follows:</p> <ul style="list-style-type: none"> ▪ The current project fiche does not include co-financing by GTZ. However, GTZ, which is the Delegatee body for this contract, will provide 37.383 EUR to cover their administrative costs, related to the implementation of the project. This amount has to be considered as co-financing, provided by GTZ through the BMZ-supported Programme "Economic Development and Employment Promotion in Montenegro". <p>The amount of 37.383 EUR, to be provided by GTZ as their contribution, will cover a part of the administrative costs of GTZ, related to the implementation of the project. The GTZ internal standards and agreement with the Bundesministerium für Wirtschaftliche Zusammenarbeit und Entwicklung – BMZ, involves administrative costs of 12% of the direct costs of the approved programmes. Further to the EU standards, no more than 7% of the total direct costs can be covered by the IPA Contribution. Thus, the difference of 5% will be covered by GTZ, which have to be considered as their contribution to the project.</p> <ul style="list-style-type: none"> ▪ For taxation purposes GTZ has to include this IPA project in the framework of the BMZ-supported Programme "Economic Development and Employment Promotion in Montenegro". Otherwise the IPA contribution will be considered as taxable revenues according to German law. <p>This approach, based on concerted actions in one sector, is already reflected in the Project fiche (Annex 5) as being one of the reasons for selecting indirect centralised management as an implementation mode. The fact that the IPA project and GTZ/BMZ programme have common and inter-related</p>
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Explanatory note

	<p>objectives help improve the efficiency and effectiveness of both actions and is in the line of Paris Declaration of Aid effectiveness.</p> <p>Further on, the following sections have been changed to adjust</p> <ul style="list-style-type: none"> ▪ Section 4. Indicative Budget – a separate paragraph is added "For Contract 1 the IPA contribution will be no more than 800.000 EUR. GTZ will have to cover all costs, related to the implementation of the project, in excess of the 800.000 EUR provided by the IPA." ▪ Annex 5- Details per EU funded contract - a new paragraph is included "GTZ has been commissioned by the German Ministry for Economic Cooperation and Development (Bundesministerium für Wirtschaftliche Zusammenarbeit und Entwicklung -BMZ) with the Programme "Economic Development and Employment Promotion in Montenegro", of which this project will form part. Thus, the IPA 2009 project will contribute financially to the GTZ/BMZ Programme." <p>All proposed modifications are visible in track changes in the amended Project fiche.</p>	
Action required and deadline (with explanation)	<p><u>By the EC Delegation</u></p> <ol style="list-style-type: none"> 1. Approval of this Explanatory Note and the amended Project Fiche by the AOSD 2. Letter, signed by the Head of the Delegation, has to be sent to Prof. Dr Gordana Djurovic, NIPAC, proposing the above amendments to the Project fiche. A draft is prepared to this EN. 3. After NIPAC's approval, Standard Explanatory Note and the amended Project Fiche, along with the exchanged correspondence between the Head of the Delegation and NIPAC, has to be sent to the Montenegro Desk in DG Elarg <p><u>By the Montenegro Desk (ELARG C2)</u></p> <ol style="list-style-type: none"> 4. Transmission of the amended project fiche to ELARG/D1 and ELARG/E3. 3. Uploading of the amended project fiche in CRIS and on Europa (Unit A2) 	
Signature of Project Manager	<p>Signature</p>  <p>Donka Prodanova-Trabaud</p>	<p>Date</p> <p>26/02/2010</p>