

DCI-ASIE/2013/024-544

**Financing Agreement
between
the European Union
and
the Association of Southeast Asian Nations (ASEAN)**

"EU-ASEAN Migration and Border Management Programme II"



FINANCING AGREEMENT

Special Conditions

The European Union, hereinafter referred to as "**the EU**", represented by the European Commission, hereinafter referred to as "**the Commission**",

of the one part, and

The Association of South East Asian Nations (ASEAN), hereinafter referred to as "**the Beneficiary**",

of the other part,

have agreed as follows:

ARTICLE 1 - NATURE AND PURPOSE OF THE OPERATION

1.1. The EU shall contribute to the financing of the following project:

CRIS decision number: DCI-ASIE/2013/024544

Title: **EU-ASEAN Migration and Border Management Programme II**

hereinafter referred to as "the project", which is described in the Technical and Administrative Provisions.

1.2 This project shall be implemented in accordance with this Financing Agreement and the annexes thereto.

ARTICLE 2 - TOTAL ESTIMATED COST AND THE EU'S FINANCIAL CONTRIBUTION

2.1 The total cost of the project is estimated at 3,400,000 euro.

2.2 The EU undertakes to finance a maximum of 3,400,000 euro. The breakdown of the EU's financial contribution into budget headings is shown in the budget included in the Technical and Administrative Provisions.

ARTICLE 3 - THE BENEFICIARY'S CONTRIBUTION

3.1 The Beneficiary undertakes to co-finance the project with zero euro. The breakdown of the Beneficiary's financial contribution into budget headings is shown in the budget included in the Technical and Administrative Provisions.

3.2 Where there is a non-financial contribution by the Beneficiary, detailed arrangements for the delivery of such contribution shall be set out in the Technical and Administrative Provisions.

ARTICLE 4 - IMPLEMENTATION

4.1 By derogation to Article 3 of the General Conditions, the project shall be implemented by the Commission acting for and on behalf of the Beneficiary.

4.2 The following clauses of the General Conditions shall not be applicable: Articles 1.3, 5, 6, 7, 8.2, 8.3, 11, 16.2, 17, 19.4, 20.6, 22.3, 22.4 and 22.6.

4.3 The following clauses of the General Conditions shall be replaced by the following:

4.3.1 Article 2.2: Wherever there is a risk of overrunning the global amount set in the Financing Agreement, the Commission may either scale down the project/programme or draw on the Beneficiary's own resources, after its approval, or on other non-EU resources.

4.3.2 Article 2.3: If the project/programme cannot be scaled down, or if the overrun cannot be covered by other resources including those of the Beneficiary, the Commission may decide to grant additional EU financing. Should it take such a decision, the excess costs shall be financed, without prejudice to the relevant EU rules and procedures, by the release of an additional financial contribution to be set by the Commission.

4.3.3 Article 18.1: Every project/programme financed by the EU shall be subject to the appropriate communication and information operations. These operations shall be defined with the approval of the Commission.

4.3.4 Article 19.1: The Beneficiary shall take appropriate measures to prevent irregularities and fraud and, on request of the Commission, bring prosecutions to recover funds wrongly paid. The Beneficiary shall inform the Commission of any measure taken.

4.3.5 Article 19.3: The Beneficiary shall immediately inform the Commission of any element brought to its attention which arouses suspicions of irregularities or fraud.

ARTICLE 5 - PERIOD OF EXECUTION

5.1 The period of execution of the Financing Agreement as defined in Article 4 of the General Conditions shall commence on the entry into force of the Financing Agreement and end 72 months after this date.

5.2 The duration of the operational implementation phase is fixed at 48 months.

5.3 The duration of the closure phase is fixed at 24 months.

sc

2
9.9.13

ARTICLE 6 - ADDRESSES

All communications concerning the implementation of this Financing Agreement shall be in writing, refer expressly to the project and be sent to the following addresses:

a) for the Commission

EU Delegation to Indonesia, Brunei Darussalam and ASEAN
Intilan Tower, 16th floor
Jl. Jend. Sudirman 32
Jakarta 10220
Indonesia
Tel: +62 21 2554 6200
Fax: +62 21 2554 6201

b) for the Beneficiary

C/O the Principal Director
Bureau for External Relation and Coordination
ASEAN Secretariat
70A Jalan Sisingamangaraja
Jakarta, 12110, Indonesia

ARTICLE 7 - ANNEXES

7.1 The following documents shall be annexed to this Financing Agreement and form an integral part thereof:

Annex I: General Conditions

Annex II: Technical and Administrative Provisions

7.2 In the event of a conflict between the provisions of the Annexes and those of the Special Conditions of the Financing Agreement, the provisions of the Special Conditions shall take precedence. In the event of a conflict between the provisions of Annex I and those of Annex II, the provisions of Annex I shall take precedence.

ARTICLE 8 - OTHER SPECIAL CONDITIONS APPLYING TO THE PROJECT:

8.1 The General Conditions are supplemented by the following:

8.1.1 Article 8.1 shall be supplemented by the following paragraph:

For the components of this Financial Agreement implemented under Joint Management the procedures of the delegated body will apply with the exception of the procurement rules, for which the Commission procedures will apply until the Interpol procurement manual is assessed by the European Commission as compliant with internationally accepted standards.

ARTICLE 9 - ENTRY INTO FORCE OF THE FINANCING AGREEMENT

The Financing Agreement shall enter into force on the date on which it is signed by the last party.

Done in three original copies, two copies being handed to the Commission and one to the Beneficiary.

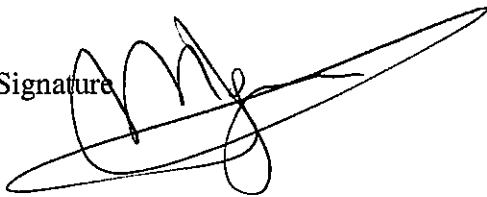
FOR THE COMMISSION

FOR THE BENEFICIARY

Dirk Meganck
Director for Asia, Central Asia, Middle
East/Gulf and Pacific
Directorate General for Development and
Cooperation – EuropeAid

Le Luong Minh
Secretary General of ASEAN

Signature



Date

9.9.2013

Signature



Date

27-10-2014



KE

ANNEX I - GENERAL CONDITIONS

TITLE I - PROJECT/PROGRAMME FINANCING

ARTICLE 1 – GENERAL PRINCIPLE

- 1.1 The EU's financial contribution shall be limited to the amount specified in the Financing Agreement.
- 1.2 The provision of the EU financing shall be subject to fulfilment of the Beneficiary's obligations under this Financing Agreement.
- 1.3. The expenditure incurred by the Beneficiary before the entry into force of the Financing Agreement is not eligible for the EU financing.

ARTICLE 2 - COST OVERRUNS AND COVERING THEM

- 2.1 Individual overruns of the budget headings of the Financing Agreement shall be dealt with by reallocating funds within the overall budget, in accordance with Article 22 of these General Conditions.
- 2.2 Wherever there is a risk of overrunning the global amount set in the Financing Agreement, the Beneficiary shall immediately inform the Commission and seek its prior approval for the corrective measures planned to cover the overrun, proposing either to scale down the project/programme or to draw on its own or other non-EU resources.
- 2.3 If the project/programme cannot be scaled down, or if the overrun cannot be covered either by the Beneficiary's own resources or other resources, the Commission may, at the Beneficiary's duly substantiated request, decide to grant additional EU financing. Should the Commission take such a decision, the excess costs shall be financed, without prejudice to the relevant EU rules and procedures, by the release of an additional financial contribution to be set by the Commission.

TITLE II - IMPLEMENTATION

ARTICLE 3 – GENERAL PRINCIPLE

The project/programme shall be implemented under the responsibility of the Beneficiary with the approval of the Commission.

ARTICLE 4 - PERIOD OF EXECUTION

4.1 The period of execution of the Financing Agreement shall comprise two phases:

- an operational implementation phase, in which the principal activities are carried out. This phase shall commence on the entry into force of the Financing Agreement and end with the opening of the closure phase;
- a closure phase, during which final audits and evaluation are carried out and contracts and programme estimates for the implementation of the Financing Agreement are technically and financially closed. This phase shall end at the latest 24 months after the end of the operational implementation phase.

4.2 Costs related to the principal activities shall be eligible for EU financing only if they have been incurred during the operational implementation phase. Costs related to final audits and evaluation and closure activities shall be eligible up to the end of the closure phase.

4.3 Any balance remaining from the EU contribution will be automatically decommitted no later than six months after the end of the period of execution.

4.4 In exceptional and duly substantiated cases, a request may be made for the extension of the operational implementation phase and correlatively of the period of execution. If the extension is requested by the Beneficiary, the request must be made at least three months before the end of the operational implementation phase and approved by the Commission before that latter date.

4.5 In exceptional and duly substantiated cases, and after the end of the operational implementation phase, a request may be made for the extension of the closure phase and correlatively of the period of execution. If the extension is requested by the Beneficiary, the request must be made at least three months before the end of the closure phase and approved by the Commission before that latter date.

TITLE III – PAYMENTS TO BE MADE BY THE COMMISSION TO THIRD PARTIES

ARTICLE 5 – DEADLINE FOR PAYMENTS TO BE MADE BY THE COMMISSION TO THIRD PARTIES

- 5.1 When the Commission is making payments related to contracts implementing the Financing Agreement and awarded by the Beneficiary, the Beneficiary shall undertake to provide the Commission with the payment requests or invoice no later than 15 calendar days before the payment deadline for the initial pre-financings specified in the contract. In case of further pre-financing for grants, and interim and final payments, the Beneficiary shall undertake to provide the Commission with the payment request or invoice not later than 30 calendar days before the expiry of the payment deadline specified in the contract. The Beneficiary shall notify the Commission of the date of registration of this request. The payment request is not admissible if at least one essential requirement is not met. The time limit for payments may be suspended at any time by the Commission by informing the Beneficiary, that the payment request can not be met, either because the amount is not due or because the appropriate supporting documents have not been produced. If information which puts in doubt the eligibility of expenditure appearing in a payment request, comes to the notice of the Commission the Commission may suspend the time limit for payment for the purpose of further verification, including an on-spot check, in order to ascertain, prior to payment, that the expenditure is indeed eligible. The suspension should be communicated to the Beneficiary as soon as possible. The time limit for payment shall resume once the payment request becomes admissible.
- 5.2 The deadline referred to in paragraph 1 shall also apply when payment is conditional on approval of a report. The approval of any report is included in the payment deadline specified in the contract. To this end, the Beneficiary has to approve the report and provide the Commission with the payment request or invoice within the deadline set above in article 5.1. When the Beneficiary does not approve the report he shall send, as soon as possible, to the contractor or grant beneficiary a document formally suspending the deadline for payment and explaining the reasons for suspension. Suspension is effective from the sending of the notification. The contractor or grant beneficiary must provide clarifications, modifications or further information within 30 days of the notification. The time limit for payment begins to run again from the date on which the clarifications are registered.
- 5.3 In the event of any delay in forwarding payment requests attributable to the Beneficiary, the Commission shall not be obliged to pay the contractor the late-payment interest provided for in contracts, which will be payable by the Beneficiary. The contractor is entitled to payment of late-payment interest, unless he is a government department or public body in an EU Member State.

TITLE IV – PAYMENTS TO BE MADE BY THE BENEFICIARY TO THIRD PARTIES AND DISBURSEMENT TO BE MADE BY THE COMMISSION THROUGH PROGRAMME ESTIMATES

ARTICLE 6 – GENERAL PRINCIPLE

- 6.1 When the Beneficiary is making payments to third parties, programme estimates must be drawn up and adopted beforehand.
- 6.2 The programme estimate is a document laying down the programme of measures to be carried out and the human and material resources required, the corresponding budget and the detailed technical and administrative implementing arrangements for decentralised execution of a project/programme over a specified period by direct labour and/or by means of public procurement and/or the award of grants.
- 6.3. All programme estimates implementing the Financing Agreement must respect the procedures and standard documents laid down by the Commission, in force at the time of the adoption of the programme estimates in question.

ARTICLE 7 - DISBURSEMENT

- 7.1 The Commission shall transfer funds no later than 45 calendar days after the date on which it registers an admissible payment request from the Beneficiary. The payment request is not admissible if at least one essential requirement is not met. The time limit for payments may be suspended by the Commission by informing the Beneficiary, at any time during the period referred to above, that the payment request can not be met, either because the amount is not due or because the appropriate supporting documents have not been produced. If information which puts in doubt the eligibility of expenditure appearing in a payment request comes to the notice of the Commission, the Commission may suspend the time limit for payment for the purpose of further verification, including an on-spot check, in order to ascertain, prior to payment, that the expenditure is indeed eligible. The suspension should be communicated to the Beneficiary as soon as possible. The time limit for payment shall resume once the payment request becomes admissible.
- 7.2 The Commission shall make payments to a bank account denominated in euro and opened at a financial institution accepted by the Commission.
- 7.3 The Beneficiary shall guarantee that funds paid by the Commission by way of pre-financing can be identified in this bank account.

- 7.4 Transfers in euro shall, if necessary, be converted into the Beneficiary's national currency as and when payments have to be made by the Beneficiary, at the bank rate in force on the day of payment by the Beneficiary.
- 7.5 The funds paid by the Commission to this bank account shall yield interest or equivalent benefits. The Beneficiary shall notify the Commission of interest or equivalent benefits yielded by those funds at least once a year.
- 7.6 Interest or equivalent benefits yielded by the funds paid of more than two hundred fifty thousand euro shall be repaid to the Commission within 45 days of receipt of the Commission's request.
- 7.7 For a programme estimate which has not given rise to any transfer of funds within three years of its signature, the corresponding committed amount shall be decommitted.

TITLE V - AWARD OF PROCUREMENT AND GRANT CONTRACTS

ARTICLE 8 – GENERAL PRINCIPLES.

- 8.1 All contracts implementing the Financing Agreement must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the award of procurement and grant contracts , in force at the time of the launch of the procedure in question.
- 8.2 The Beneficiary shall use the language of this Financing Agreement for the award of procurement and grant contracts ,
- 8.3 In cases of decentralised contracts, the Beneficiary will inform the Commission when a candidate, tenderer or applicant is in a situation of exclusion from participation in award procedures according to the relevant provisions of the Financial Regulation applicable to the general budget of the European Union or when a contractor has been guilty of making false declarations or has made substantial errors or committed irregularities and fraud, or has been found in serious breach of its contractual obligations.

In such cases, without prejudice to the power of the Commission to exclude an entity from future procurement and grant contracts financed by the EU according to the Financial Regulation applicable to the general budget of the European Union, financial penalties to contractors mentioned in the provision on "Administrative and Financial Penalties" of the General Conditions of

decentralised contracts may be imposed to the contractors by the Beneficiary if this is allowed by its national law. Such financial penalties shall be imposed following an adversarial procedure and ensuring the right of defence of the contractor.

- 8.4 The Beneficiary undertakes to take every appropriate measure to remedy any practices of active or passive corruption whatsoever at any stage of the procedure for the award of contracts or grants. "Passive corruption" shall mean the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such an advantage, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties, which has, or would have, the effect of harming the EU's financial interests. "Active corruption" shall mean the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official, for himself or for a third party, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties, which has, or would have, the effect of harming the EU's financial interests.

ARTICLE 9 - DEADLINE FOR THE SIGNATURE OF THE CONTRACTS IMPLEMENTING THE FINANCING AGREEMENT

- 9.1 Except for those components of this Financial Agreement implemented under Joint Management or Indirect Centralised Management, the contracts implementing the Financing Agreement shall be signed by both parties within three years of the entry into force of the Financing Agreement. That deadline may not be extended.
- 9.2 The above provision shall not apply to:
- audit and evaluation contracts, which may be signed later;
 - addenda to contracts already signed;
 - contracts concluded after early termination of an existing contract and
 - cases of change of entity charged with budget execution tasks
- 9.3 At the end of the three years of the entry into force of the Financing Agreement, any balance for which contracts have not been signed, except those referred to in Article 9.2 here above, will be decommitted
- 9.4 The above provision shall not apply to any balance of the contingency reserve.
- 9.5 A contract which has not given rise to any payment within three years of its signature shall be automatically terminated and its funding shall be decommitted.



ARTICLE 10 - ELIGIBILITY

- 10.1 Participation in invitations to tender for works, supply or service contracts and in calls for proposals shall be open on equal terms to all natural and legal persons of the Member States of the EU and, in accordance with the specific provisions in the basic acts governing the cooperation sector concerned, to all natural and legal persons of the beneficiary third countries or of any other third country expressly mentioned in those acts.
- 10.2 It may be decided, on the basis of the specific conditions laid down in the basic acts governing the cooperation sector concerned, to allow third-country nationals other than those referred to in paragraph 1 to tender for contracts.
- 10.3 Goods and supplies financed by the EU and necessary for the performance of works, supply and service contracts and procurement procedures launched by the grant beneficiaries for the execution of the action financed must originate in countries eligible to participate in the terms laid down in the previous two paragraphs, except when it is provided otherwise in the basic act.

ARTICLE 11 – PUBLICATION OF INFORMATION

- 11.1 The Beneficiary undertakes to publish each year in a dedicated and easily accessible place of its internet site the title of each contract financed by the Financing Agreement, the name and nationality of the grant beneficiary or successful tenderer as well as the amount of the corresponding grant or contract.
- 11.2 If such internet publication is impossible, the information shall be published by any other appropriate means, including the official journal of the Beneficiary. Publication shall take place during the first half of the year following the closure of the year in respect of which the contracts and grants were awarded by the Beneficiary. The Beneficiary shall communicate to the Commission the address of the place of publication and reference shall be made to this address in the dedicated place of the internet site of EuropeAid . If the information is published otherwise, the Beneficiary shall give the Commission full details of the means used.

TITLE VI - RULES APPLICABLE TO THE PERFORMANCE OF CONTRACTS

ARTICLE 12 - ESTABLISHMENT AND RIGHT OF RESIDENCE

- 12.1 Where justified by the nature of the contract the Beneficiary shall entitle natural and legal persons participating in invitations to tender for works, supply or service contracts with a provisional right of establishment and residence in the Beneficiary's territory(ies). This right shall remain valid for one month after the contract is awarded.
- 12.2 The Beneficiary shall also entitle contractors (procurement and grant contracts) and natural persons whose services are required for the performance of the contract and members of their family with similar rights during the implementation of the project/programme.

ARTICLE 13 - TAX AND CUSTOMS PROVISIONS

- 13.1 The Beneficiary shall apply to procurement contracts and grants financed by the EU the most favoured tax and customs arrangements applied to States or international development organisations with which it has relations.
- 13.2 Where a Framework Agreement is applicable, which includes more detailed provisions on this subject, these provisions shall apply as well.

ARTICLE 14 - FOREIGN EXCHANGE ARRANGEMENTS

- 14.1 The Beneficiary undertakes to authorise the import or purchase of the foreign currency necessary for the implementation of the project. It also undertakes to apply its national foreign exchange regulations in a non-discriminatory manner to the contractors allowed to participate referred to in Article 10 of these General Conditions.
- 14.2 Where a Framework Agreement is applicable, which includes more detailed provisions on this subject, these provisions shall apply as well.

ARTICLE 15 – USE OF DATA FROM STUDIES

Where the Financing Agreement involves the financing of a study, the contract related to this study, signed for the implementation of the Financing Agreement, shall govern the



ownership of that study and shall include the right for the Beneficiary and the Commission to use data in the study, to publish it or to disclose it to third parties.

ARTICLE 16 - ALLOCATIONS OF AMOUNTS RECOVERED UNDER CONTRACTS

- 16.1 Without prejudice to the responsibilities of the Beneficiary, the Commission may, in accordance with the relevant provisions of the Financial Regulation applicable to the general budget of the European Union formally establish an amount as being wrongly paid under a contract financed under this Financing Agreement and proceed to its recovery by any means.
- 16.2 Amounts recovered by the Beneficiary from payments wrongly effected, from financial guarantees lodged on the basis of procedures of award of contracts or under a contract financed under this Financing Agreement, as well as from financial penalties imposed by the Beneficiary on candidate, tenderer, contractor or grant beneficiary, shall be returned to the Commission. The damages granted to the Beneficiary shall also be returned to the Commission.

ARTICLE 17 - FINANCIAL CLAIMS UNDER CONTRACTS

The Beneficiary undertakes to confer with the Commission before taking any decision concerning a request for compensation made by a contractor and considered by the Beneficiary to be justified in whole or in part. The financial consequences may be borne by the EU only where the Commission has given its prior approval. Such prior approval is also required for any use of funds committed under the present Financing Agreement to cover costs arising from disputes relating to contracts.

TITLE VII - GENERAL AND FINAL PROVISIONS

ARTICLE 18 – VISIBILITY

- 18.1 Every project/programme financed by the EU shall be subject to the appropriate communication and information measures. Unless otherwise agreed, the Beneficiary shall take the necessary measures to ensure the visibility of the EU funding for the project/programme. These measures shall be defined under the responsibility of the Beneficiary with the approval of the Commission.
- 18.2 These communication and information measures shall follow the rules in the Communications and Visibility Manual for EU External Actions laid down and published by the Commission, in force at the time of the measures.

ARTICLE 19 – PREVENTION OF IRREGULARITIES, FRAUD AND CORRUPTION

19.1 The Beneficiary undertakes to check regularly that the operations financed with the EU funds have been properly implemented. It shall take appropriate measures to prevent irregularities and fraud and, if necessary, bring prosecutions to recover funds wrongly paid.

19.2 "Irregularity" shall mean any infringement of the Financing Agreement, implementing contracts and programme estimates or of EU law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the EU, either by reducing or losing revenue accruing from own resources collected directly on behalf of the EU, or by an unjustified item of expenditure.

"Fraud" shall mean any intentional act or omission concerning:

- the use or presentation of false, incorrect or incomplete, statements or documents which has as its effect the misappropriation or wrongful retention of funds from the general budget of the EU;
- non-disclosure of information in violation of a specific obligation, with the same effect;
- the misapplication of such funds for purposes other than those for which they are originally granted.

19.3 The Beneficiary shall immediately inform the Commission of any element brought to its attention which arouses suspicions of irregularities or fraud and of any measure taken to deal with them.

19.4 As stated in Article 8.3, in cases of decentralised contracts, the Beneficiary will inform the Commission when a contractor has been guilty of making false declarations or has made substantial errors or committed irregularities and fraud, or has been found in serious breach of its contractual obligations.

Without prejudice to the power of the Commission to exclude a natural or legal person from future procurement and grant contracts financed by the EU according to the Financial Regulation applicable to the general budget of the European Union financial penalties to contractors mentioned in the provision on "Administrative and Financial Penalties" of the General Conditions of decentralised contracts may be imposed to contractors by the Beneficiary if this is allowed by its national law. Such financial penalties shall be imposed, following an adversarial procedure and ensuring the right of defence of the contractor.

- 19.5 The Beneficiary shall immediately inform the Commission of the name of the economic operators whom have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the EU's financial interests.
- 19.6 The Beneficiary undertakes to take every appropriate measure to remedy any practices of active or passive corruption whatsoever in the implementation of the related contracts. Definitions in Article 8.3 apply herein.

If the Beneficiary does not take the appropriate measures to remedy any practices of corruption or fraud mentioned under this article, the Commission may adopt itself such measures including the recovery of the EU funding by any means.

ARTICLE 20 - VERIFICATIONS AND CHECKS BY THE COMMISSION, THE EUROPEAN ANTI-FRAUD OFFICE (OLAF) AND THE EUROPEAN COURT OF AUDITORS

- 20.1 The Beneficiary agrees to the Commission, OLAF and the European Court of Auditors conducting documentary and on-the-spot checks on the use made of EU funding under the Financing Agreement (including procedures for the award of contracts and grants) and carrying out a full audit, if necessary, on the basis of supporting documents of accounts and accounting documents and any other documents relating to the financing of the project/programme, throughout the duration of the agreement and for seven years after the date of the last payment.
- 20.2 The Beneficiary also agrees that OLAF may carry out on-the-spot checks and verifications in accordance with the procedures laid down by EU law for the protection of the EU's financial interests against fraud and other irregularities.
- 20.3 To that end, the Beneficiary undertakes to grant officials of the Commission, OLAF and the European Court of Auditors and their authorised agents access to sites and premises at which operations financed under the Financing Agreement are carried out, including their computer systems, and to any documents and computerised data concerning the technical and financial management of those operations, and to take every appropriate measure to facilitate their work. Access by authorised agents of the Commission, OLAF and the European Court of Auditors shall be granted on conditions of strict confidentiality with regard to third parties, without prejudice to public law obligations to which they are subject. Documents must be accessible and filed in a manner permitting easy inspection, the Beneficiary being bound to inform the Commission, OLAF or the European Court of Auditors of the exact location at which they are kept.
- 20.4 The checks and audits described above shall also apply to contractors and subcontractors who have received EU funding.

20.5 The Beneficiary shall be notified of on-the-spot missions by agents appointed by the Commission, OLAF or the European Court of Auditors.

20.6 The Beneficiary shall keep the following financial and contractual supporting documents

Procurement procedures:

- Forecast notice with proof of publication of the procurement notice and any corrigenda
- Nomination of shortlist panel
- Shortlist report (incl. annexes) and applications
- Proof of publication of the shortlist notice
- Letters to non-shortlisted candidates
- Invitation to tender or equivalent
- Tender dossier including annexes, clarifications, minutes of the meetings, proof of publication
- Nomination of the evaluation committee
- Tender opening report, including annexes
- Evaluation / negotiation report, including annexes and bids received¹
- Notification letter
- Supporting documents
- Cover letter for submission of contract
- Letters to unsuccessful candidates
- Award / cancellation notice, including proof of publication
- Signed contract, amendments, riders and relevant correspondence

Calls for proposals and direct award of grants:

- Nomination of the evaluation committee
- Opening and administrative report including annexes and applications received²
- Letters to successful and unsuccessful applicants
- Concept note evaluation report
- Letters to successful and unsuccessful applicants
- Evaluation report of the full application or negotiation report with relevant annexes
- Eligibility check and supporting documents
- Letters to successful and unsuccessful applicant with approved reserve list
- Cover letter for submission of contract
- Award/cancellation notice with proof of publication
- Signed contract, amendments, riders and relevant correspondence

In case of decentralised operations:

- In addition to all of the above –mentioned supporting documents also all relevant documentation relating to payments and recovery orders.

¹ Elimination of unsuccessful bids five years after the closure of the procurement procedure.

² Elimination of unsuccessful applications three years after the closure of the grant procedure.

ARTICLE 21 – CONSULTATION BETWEEN THE COMMISSION AND THE BENEFICIARY

- 21.1 The Beneficiary and the Commission shall consult each other before taking any dispute relating to the implementation or interpretation of this Financing Agreement further.
- 21.2 Where the Commission becomes aware of problems in carrying out procedures relating to management of this Financing Agreement, it shall establish all necessary contacts with the Beneficiary to remedy the situation and, take any steps that are necessary, including, where the Beneficiary does not, or is unable to, perform the duties incumbent on it, temporarily taking the Beneficiary's place
- 21.3 The consultation may lead to the amendment, suspension or termination of the Financing Agreement.

ARTICLE 22 – AMENDMENT OF THE FINANCING AGREEMENT

- 22.1 Any amendment to the Special Conditions, Annex II and Annex III to the Financing Agreement shall be made in writing and be the subject of an addendum.
- 22.2 If the request for an amendment comes from the Beneficiary, the latter shall submit that request to the Commission at least three months before the amendment is intended to enter into force, except in cases which are duly substantiated by the Beneficiary and accepted by the Commission.
- 22.3 For technical adjustments which do not affect the objectives and results of the project/programme and alterations in matters of detail which do not affect the technical solution adopted, and with no reallocation of funds, the Beneficiary shall inform the Commission of the amendment and its justification in writing as soon as possible and apply that amendment.
- 22.4 The use of contingency reserve shall be subject to the Commission's prior written approval.
- 22.5 The specific cases of the extension of the operational implementation phase or closure phase are governed by Article 4 (4) and (5) of these General Conditions.
- 22.6 Where the Commission considers that the Beneficiary ceases to satisfy the decentralisation criteria and without prejudice to Articles 23 and 24 of these General Conditions, the Commission may decide to retake the financial implementation tasks entrusted to the Beneficiary in order to continue the implementation of the project/programme on behalf, and for the account, of the Beneficiary after informing the latter in written form

ARTICLE 23. SUSPENSION OF THE FINANCING AGREEMENT

23.1 The Financing Agreement may be suspended in the following cases:

- The Commission may suspend the implementation of the Financing Agreement if the Beneficiary breaches an obligation under the Financing Agreement, and notably if it ceases to satisfy the decentralisation criteria laid down, where relevant, in the Special Conditions
- The Commission may suspend the implementation of the Financing Agreement if the Beneficiary breaches any obligation set under the procedures and standard documents laid down and published by the Commission for the award and implementation of contracts and grants.
- The Commission may suspend the Financing Agreement if the Beneficiary breaches an obligation relating to respect for human rights, democratic principles and the rule of law and in serious cases of corruption.
- The Financing Agreement may be suspended in cases of force majeure, as defined below. "Force majeure" shall mean any unforeseeable and exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations, not attributable to error or negligence on their part (or the part of their contractors, agents or employees) and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as force majeure. A party shall not be held in breach of its obligations if it is prevented from fulfilling them by a case of force majeure of which the other party is duly informed. A party faced with force majeure shall inform the other party without delay, stating the nature, probable duration and foreseeable effects of the problem, and take any measure to minimise possible damage.

23.2 No prior notice shall be given of the suspension decision.

23.3 The Commission may take any appropriate precautionary measure before suspension takes place.

23.4 When the suspension is notified, the consequences on the ongoing contracts and programme estimates or contracts and programme estimates to be signed will be indicated.

23.5 A suspension of the Financing Agreement is without prejudice to the suspension of payments by the Commission for the sake of ensuring sound financial management or protecting the EU's financial interests.

ARTICLE 24 – TERMINATION OF THE FINANCING AGREEMENT

- 24.1. If the issues which led to the suspension of the Financing Agreement have not been resolved within a maximum period of 180 days, either party may terminate the Financing Agreement at 30 days' notice.
- 24.2. Where a Financing Agreement has not given rise to any payment within three years of its signature or no implementing contract has been signed within this period, that Financing Agreement will be terminated.
- 24.3. When the termination is notified, the consequences on the ongoing contracts and programme estimates or contracts and programme estimates to be signed will be indicated.

ARTICLE 25 - DISPUTE-SETTLEMENT ARRANGEMENTS

- 25.1 Any dispute concerning the Financing Agreement which cannot be settled within a six-month period by the consultations between the parties provided for in Article 21 of these General Conditions may be settled by arbitration at one of the parties' request.
- 25.2 In this case the parties shall each designate an arbitrator within 30 days of the request for arbitration. Failing that, either party may ask the Secretary-General of the Permanent Court of Arbitration (The Hague) to designate a second arbitrator. The two arbitrators shall in their turn designate a third arbitrator within 30 days. Failing that, either party may ask the Secretary-General of the Permanent Court of Arbitration to designate the third arbitrator.
- 25.3 Unless the arbitrators decide otherwise, the procedure laid down in the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States shall apply. The arbitrators' decisions shall be taken by a majority within a period of three months.
- 25.4 Each party shall be bound to take the measures necessary for the application of the arbitrators' decision.



12

ANNEX II TO FINANCING AGREEMENT N°DCI-ASIE/2013/024-544

TECHNICAL AND ADMINISTRATIVE PROVISIONS

BENEFICIARY COUNTRY / REGION	Asia Region		
REQUESTING AUTHORITY	Association of South-East Asian Nations (ASEAN)		
BUDGET HEADING	BGUE-B2013-19.100101		
TITLE	"EU-ASEAN Migration and Border Management Programme II"		
TOTAL COST	Total cost: EUR 3 400 000 EU contribution: EUR 3 400 000		
AID METHOD/ MANAGEMENT MODE	Project approach Non-Decentralised management (joint management)		
DAC-CODE	15210	SECTOR	Security System Management and Reform

TABLE OF CONTENT

1. DESCRIPTION

- 1.1 Objectives
- 1.2 Expected results
- 1.3 Activities and implementation timetable

2. LOCATION AND DURATION

- 2.1 Location
- 2.2 Duration

3 IMPLEMENTATION

- 3.1 Organisational set up and responsibilities
- 3.2 Reporting
- 3.3 Budget

4. MONITORING AND EVALUATION

- 4.1 Monitoring
- 4.2 Evaluation

5. INFORMATION AND VISIBILITY

6. PRE-CONDITIONS

7. APPENDICES

1. DESCRIPTION

ASEAN economic development and regional integration has led to increased migration flows within ASEAN especially of migrant workers from less developed countries seeking a better life in the more developed ones. As trade and people movements accelerate, so does the spread of transnational crime. According to the UN Global Initiative to Fight Human Trafficking (GIFT), 56% of the world trafficked people are in the Asia Pacific, with the majority of them being between 18 and 24 years of age and mainly victims of forced labour or sexual exploitation. The vast majority of trafficked or smuggled persons travel with counterfeit documents which are difficult to detect if national immigration officers are not properly trained and equipped. And the reality is that the financial and human resources necessary to effectively monitor and manage these migratory flows are currently poor. Transnational organised crime groups take advantage of the lack of coordination between police forces and other immigration control agencies, and continue to exploit the long and porous borders between ASEAN States.

At the same time, South East Asia is seen by more and more people around the world as an attractive place to visit, invest in and live. Because of this, ASEAN is interested in exploring ways to ease visa requirements for ASEAN Nationals and foreign tourists. Both aspects mentioned above are priority areas for ASEAN to address and for which the EU can provide a clear added value - notably the EU's experience in the regional integration process. In the programme will support the implementation of the Master Plan on ASEAN Connectivity, especially in its institutional and people to people aspects.

An initial logical framework is attached. It may be updated or adapted without an amendment to the financing agreement as long as these modifications do not change the objectives of the project.

1.1. Objectives

The proposed programme aims to support ASEAN in its integration process through the implementation of the Master Plan on ASEAN Connectivity, in particular its people to people connectivity (**overall objective**), by strengthening law enforcement agencies' networks and cooperation at main regional transit hubs as well as work on easing visa requirements for ASEAN and non-ASEAN nationals within ASEAN (**specific objective**).

1.2. Expected results

Building on the successful pilot project implemented in Cambodia and Vietnam¹, this programme will support the ASEAN Secretariat and selected ASEAN Member States in achieving the results presented below, directly linked to the Master plan for ASEAN Connectivity.

Result 1 - Capacity Building: Strengthened law enforcement agencies' networks and cooperation at main regional transit hubs.

Results 2 - Further research and related work on easing visa requirements for ASEAN and Non-ASEAN Nationals within ASEAN.

¹ In June 2012 Interpol and the EU have successfully completed the implementation of a pilot programme in Cambodia and Vietnam connecting 8 Border Crossing Points in each of the two countries. Statistics show that between 2011 and 2012, Vietnam conducted an increased number of searches on all Interpol databases, representing an increase of 126% since the implementation of I-24/7 beyond the National Central Bureau.

1.3. Activities and implementation timetable

The indicative list of main activities is as follows²:

Result 1 - Capacity Building: Strengthened law enforcement agencies' networks and cooperation at main regional transit hubs. This will be achieved through:

Activity 1: Provision of technical and operational roll out of the I-24/7 INTERPOL Global Secure Communication system and border data systems to selected key transport hubs, notably airports throughout participating countries.

Activity 2: Provision of capacity building and training sessions to enhance the awareness and usage of the I-24/7 secure network and data systems available to participating transport hubs, as well as trainings on human rights aspects of people smuggling and human trafficking, international protection and asylum.

Activity 3: Provision of operational activities within the key transport hubs including Border Management campaigns & IMEST (Interpol Major Event Support Teams) deployments.

Result 2 – Further research and related work on easing visa requirements for ASEAN and Non-ASEAN Nationals within ASEAN.

The activities under this result area will take into account related work that has already been done by ASEAN.

Activity 1: Organisation of a stakeholders' workshop to set the framework for further research and related work.

Activity 2: Further analysis related to the simplification of Visa procedures for ASEAN and Non-ASEAN Nationals throughout the ASEAN region, based on the parameters set during the workshop.

Activity 3: Organisation of a conference to disseminate the results.

It is anticipated that the contribution agreement with Interpol (see section 3.1) will be signed during the fourth quarter of 2013. The indicative timing for the activities is as follows:

Activities for results 1 and 2 will start during the first half of 2014. Procurement for result 1 is expected to be carried out mostly during 2015 and training mostly during 2016. For result 2 the stakeholder's workshop is foreseen during the second quarter of 2014; most of the analysis is expected to be done during the second half of 2014 and the first half of 2015 and the conference on results is envisaged during 2016.

2. LOCATION AND DURATION

2.1. Location

² Activities will be re-confirmed in the inception phase and in the annual work plans approved by Project Steering Committee.

The Programme will be implemented in ASEAN countries. The TA Team will be based in Singapore at the Interpol Global Centre for Innovation (IGCI). The experts will also work with the INTERPOL General Secretariat based in Lyon France and Border Management Agencies in selected ASEAN Member Countries and the ASEAN Secretariat.

2.2. Duration

The execution period of the Agreement will be as specified in Article 5 of the Special Conditions.

3. IMPLEMENTATION

3.1 Organisational set-up and responsibilities

The project will be implemented by the international organisation Interpol. To this effect the Commission will sign a Contribution Agreement with Interpol.

The international organisation will implement the action through an Integrated Border Management Task Force (IBMTF) based at the INTERPOL General Secretariat in Lyon, France. A Project Manager will be selected to work from the Interpol Global Centre for Innovation (IGCI) in Singapore in close cooperation with the INTERPOL General Secretariat. The project team will also be located at the IGCI in order to benefit from regional-based staff support and to develop closer relations with beneficiary countries and entities involved. The work on visa simplification will draw on expertise available within the EU possibly through Member States, and relevant agencies or organisations.

A project team will be designated following the present structure under the umbrella of IBMTF in Lyon:

- 1 Project Manager will be designated to ensure the overall management responsibility of the project;
- 1 Subject Matter Expert;
- 1 IT Technical Project Manager/Technical Advisor;
- Administration Support.

A steering committee shall be set up to (i) oversee and validate the overall direction and policy of the project, (ii) provide strategic and policy guidance on project implementation, (iii) review and endorse annual work plans, (iv) monitoring of project outputs and achievements, (v) address obstacles and challenges identified in the project implementation. The project steering committee shall in principle meet twice a year.

The project steering committee shall be made up of:

- representative(s) of the ASEAN Secretariat,
- representative(s) of INTERPOL,
- representatives of the EU Delegation,
- representatives of the Senior Official Meeting on Transnational Crime (SOMTC), ASEAN Directors-Generals of Immigration and Consular Affairs and the Committee of Permanent Representatives.

The Project Steering Committee will be chaired by the ASEAN Secretariat. This committee may be organised back to back with relevant ASEAN working groups, such as a SOMTC or meetings of the ASEAN Director-Generals of Immigration Departments and Heads of Consular Affairs Divisions of the Ministries of Foreign Affairs. Decisions will be taken by consensus.

The international organisation will make contracts, payments and recoveries to implement the activities described in section 1.3, with the exception of activities related to audit, evaluation, communication and visibility, which will be implemented by the European Commission.

European Commission procurement procedures shall apply for contracts to be awarded under the Contribution Agreement signed with Interpol, until the INTERPOL procurement manual will be assessed by the European Commission as compliant with internationally accepted standards.

The Contribution Agreement will be subject to an external financial verification contracted directly by the Commission at the end of the implementation period.

In due consideration of the principle of ownership, the European Commission reserves its right to change the organisation indicated above or the scope of the delegation, without this necessarily requiring an amendment to the financing agreement. In that case, it shall consult the Beneficiary on this change and notify to it the name of the new organisation and/or the scope of the task(s) delegated to it.

3.2 Reporting

Work Plans and reports will be drafted by the implementing partner in accordance with the agreed standard formats. They will include:

1. An Inception report;
2. An Overall Work Plan and Budget;
3. A Monitoring Plan, including objectively verifiable indicators in line with ASEAN relevant policy documents, to be submitted together with the Overall Work Plan;
4. Successive Annual Work Plans and Budgets;
5. Six-monthly technical and financial reports, together with any event report taking place during the period;
6. Any special reports related to priority issues;
7. A Final Report at the end of implementation.

Activities that are not foreseen in an approved Annual Work Plan may only be implemented following prior written authorisation by the EU Delegation in consultation with the ASEAN Secretariat and concerned ASEAN Member States. Such authorisations will be identified as an amendment to the approved Annual Work Plan and will be annexed thereto.

3.3 Budget

The total project cost is estimated at EUR 3.4 million, covered in full by the EU contribution.

In-kind contribution of the ASEAN Secretariat will cover all costs related to the normal functioning of the public service, e.g. salaries of officials involved in project activities, office space or working facilities as needed, such as the provision of meeting rooms.

The indicative budget breakdown is as follows:

Category Breakdown	EU Contribution (in EUR)	Contracting Authority/ Paying Authority
Contribution Agreement with Interpol ³	3,200,000	European Commission
Audit and Evaluation	100,000	European Commission
Communication and Visibility	100,000	European Commission
TOTAL COST	3,400,000	

For the implementation of the components Audit, Evaluation, Communication and Visibility the Commission will use Framework Contracts.

4. MONITORING AND EVALUATION

4.1 Monitoring

The Commission may carry out Results Oriented Monitoring (ROM) via independent consultants, starting from the sixth month of project activities, which will be finalised at the latest 6 months before the end of the operational implementation phase.

A two-layer approach will be applied to monitor the implementation of the programme:

(1) Six-monthly monitoring reports will be compiled and presented by Interpol at Project Steering Committee meetings on the basis of indicators and other established criteria in the Logical Framework and Annual Work Plans. Indicators will need to be in line with those reported in the above-mentioned ASEAN policy documents.

(2) Results Oriented Monitoring will be carried out as part of the overall Commission's efforts to monitoring projects.

4.2 Evaluation

a) The Commission may carry out external evaluations via independent consultants, as follows:

- a mid-term evaluation;
- a final evaluation, at the beginning of the closing phase;
- possibly, an ex-post evaluation.

b) The Beneficiary and the Commission shall analyse the conclusions and recommendations of the mid-term evaluation and jointly decide on the follow-up action to be taken and any adjustments necessary, including, if indicated, the reorientation of the project. The reports of the other evaluation and monitoring missions will be given to the Beneficiary, in order to take into account any recommendations that may result from such missions.

³ This allocation includes the purchase of IT equipment as needed.

- c) The ASEAN Secretariat and concerned ASEAN Member States shall collaborate efficiently and effectively with the monitoring and/or evaluation of this programme, and inter alia provide the monitors and/or evaluators with all necessary information and documentation, as well as access to the project premises and activities.
- d) The Commission shall inform the Beneficiary at least 1 month in advance of the dates foreseen for the external missions.

The Contribution Agreement with Interpol will be subject to an external financial verification contracted directly by the Commission at the end of the implementation period.

5. COMMUNICATION AND VISIBILITY

In addition to the visibility activities carried out by Interpol, specific visibility activities will be implemented through the signature of a specific Visibility Framework Contract, which will be contracted by the EU Delegation to ensure impact and coherence. All visibility activities will be in line with the priority areas set out in the Regional Strategy Paper and Guidelines for EU Visibility Actions. The activities will primarily be linked to this Programme, but also, when relevant, include activities within other EU focal areas in ASEAN.

EU Delegations in ASEAN countries will be kept informed about project implementation activities and progress. These regular contacts will also serve as a channel for the EU Delegation to be involved in country-specific visibility activities and to strengthen the policy dialogue with relevant agencies.

6. PRE-CONDITIONS

- The experts from ASEAN Member States and Secretariat receiving the assistance and training shall be those closely associated with the policy-drafting process and implementation in the relevant sectors and have a long-standing involvement.
- ASEAN Secretariat will engage in a continuous dialogue with the relevant Senior Officials Meetings in order to secure the necessary political and logistical support for the objectives of the programme.
- ASEAN Secretariat will appoint and assign, at an appropriate professional level, the counterpart staff required for the implementation of the project. The ASEAN Secretariat will seek to maintain line staff in their posts where the Project has invested training and other resources in them.
- ASEAN Member States will appoint and assign, at an appropriate professional level and closely associated with the regional integration process, counterpart staff to coordinate project activities at the national level.
- The ASEAN Secretariat will grant to the EU staff of the Project - and to their families - benefits, privileges and exemptions which are no less favourable than those granted to expatriates under other bilateral or multilateral agreements or arrangements for technical co-operation.

7. APPENDICES

Appendix 1 – Logical Framework

Logframe Matrix

	Project description	Objectively verifiable indicators of achievement	Sources and means of verification	Assumptions
Overall objective	To support ASEAN in its integration process through the implementation of the Master Plan on ASEAN Connectivity, in particular people to people connectivity.	Number of activities implemented that are reported in the Master Plan on ASEAN Connectivity.	Progress reports on the implementation of the Master plan on ASEAN Connectivity.	Political will of beneficiary countries Proper inter-institutional cooperation
Programme purpose	To strengthen law enforcement agencies' networks and cooperation at main regional transit hubs as well as work on easing visa requirements for ASEAN and non-ASEAN nationals within ASEAN.	Increase the exchange of information via the INTERPOL-I-24/7 secure network between the beneficiary countries, neighbouring countries and whole INTERPOL community. Further research on easing visa requirements for ASEAN and Non-ASEAN Nationals is established and "socialised".	Criminal files INTERPOL statistics INTERPOL network access statistics – logging reports Number of checks against INTERPOL databases. Statistics relating to crime (especially transnational crime) from ASEAN Member States Statistics/reports from relevant law enforcement agencies (Border Management agencies, immigration, etc.)	ASEAN Member States (AMS) shall maintain their efforts to combat transnational crime and integrate remote sites into an effective information network. Proper inter-institutional cooperation.
Expected results				

Result 1: Capacity Building Activity 1: Technical and Operational Roll-Out	<ul style="list-style-type: none"> - Computerized systems upgraded at INTERPOL National Central Bureaus (NCBs) in selected AMS in the context of the I-24/7 global communication system. - I-24/7 network extended in selected AMS from NCB to law enforcement authorities at selected Border Crossing Points (BCPs). - Reinforced information exchange and cooperation among AMS using I-24/7. 	<ul style="list-style-type: none"> - Quantity and quality of data collected at INTERPOL General Secretariat through I-24/7 network system. - Quantity and quality of data collected at central level (NCB) and at decentralized level (BCPs) through I-24/7 network system. - Number of officials provided with access rights to I-24/7 network in selected AMS. 	<ul style="list-style-type: none"> - Reports/statistics from INTERPOL NCBs and General Secretariat relating to selected NCBs and BCPs communication activities (number of messages exchanged, number of searches against INTERPOL databases, etc.). 	
Activity 2: Training	<ul style="list-style-type: none"> - Selected BCPs integrated into an effective information network at national and regional levels and beyond. - Improved investigational, intelligence gathering & sharing capacity of ASEAN NCB's and Border Control units. 	<p>Training activities taking place & number of staff trained during project implementation.</p> <p>Quantity and quality of data collected at central level (NCB) and at decentralized level (BCPs)</p>	<p>Training Reports</p>	
Activity 3: Operational Activities	<ul style="list-style-type: none"> - Increase the quality, quantity and usage of INTERPOL services through operational activities. 	<p>Operational activities taking place & number of staff involved in the training.</p>	<p>Training Reports</p> <p>Reports/statistics from NCBs and General Secretariat relating to selected NCBs and BCPs communication activities.</p>	
Result 2: Further research and related work	<ul style="list-style-type: none"> - stakeholders 'workshop to set the framework for further research; - Analysis related to the 	<p>Amount & quality of research collected on current ASEAN visa system.</p> <p>Quality of recommendations from specialist authorities and international organisations.</p>	<p>Stakeholders workshop to set framework of study</p> <p>Collaboration with specialised authorities.</p>	<p>Strong commitment of the beneficiary countries' institutions.</p> <p>Coordination and communication</p>

on easing visa requirements	simplification of Visa procedures for ASEAN and Non-ASEAN Nationals throughout the ASEAN region, based on the parameters set during the workshop conducted. - Organisation of a conference to disseminate carried out.	Application of best practices learned & information gathered through Component 1 in AMS.	Conference to disseminate the results.	between the various specialised authorities and their specific fields of action.
-----------------------------	---	--	--	--



28