

FINANCING AGREEMENT

BETWEEN

**THE GOVERNMENT OF [REDACTED]
REPUBLIC OF MACEDONIA**

AND

THE EUROPEAN COMMISSION

CONCERNING THE NATIONAL PROGRAMME FOR THE
[REDACTED] REPUBLIC OF MACEDONIA FOR
2010 UNDER THE INSTRUMENT FOR PREACCESSION
ASSISTANCE

Dated

(Decentralised Management)

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Annex A Commission Decision C(2010) 5936 of 28/08/2010 adopting the National programme for [REDACTED] Republic of Macedonia under the IPA-Transition Assistance and Institution Building Component for 2010

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FINANCING AGREEMENT

THE GOVERNMENT OF [REDACTED] REPUBLIC OF
MACEDONIA

and

THE EUROPEAN COMMISSION

hereafter jointly referred to as "the Parties" or individually as "the beneficiary country", in the case of the Government of [REDACTED] Republic of Macedonia, or the Commission, in the case of the European Commission

Whereas

- (a) On 1 August 2006, the Council of the European Union adopted Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (hereafter: the "IPA Framework Regulation"). With effect from 1 January 2007, this instrument constitutes the single legal basis for the provision of financial assistance to candidate countries and potential candidates in their efforts to enhance political, economic and institutional reforms with a view to their eventually becoming members of the European Union.
- (b) On 12 June 2007, the Commission adopted Regulation (EC) No 718/2007 implementing the IPA Framework Regulation, detailing applicable management and control provisions (hereafter: the "IPA Implementing Regulation").
- (c) European Union assistance under the instrument for pre-accession assistance should continue to support the beneficiary countries in their efforts to strengthen democratic institutions and the rule of law, reform public administration, carry out economic reforms, respect human as well as minority rights, promote gender equality, support the development of a civil society and advance regional cooperation as well as reconciliation and reconstruction, and contribute to sustainable development and poverty reduction.

European Union assistance for candidate countries should additionally focus on the adoption and implementation of the full EU *acquis*, and in particular prepare them for the implementation of the European Union's agricultural and cohesion policy.

- (d) The Parties have concluded on 30 October 2007 a Framework Agreement setting out the general rules for cooperation and implementation of the European Union assistance under the Instrument for Pre-accession Assistance.
 - (e) The Commission adopted on 28 August 2010 the National Programme for the [REDACTED] Republic of Macedonia under the IPA Transition Assistance and Institution Building Component for 2010 (hereafter: "the programme"). This programme is to be implemented by means of decentralised management, except for two projects which will be implemented by the European Commission.
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- (f) It is necessary for the implementation of this programme that the Parties conclude more than one Financing Agreements to lay down the conditions for the delivery of European Union assistance, the rules and procedures concerning disbursement related to such assistance and the terms on which the assistance will be managed.
 - (g) This Financing Agreement relates to the major part of the programme to be implemented by means of decentralised management, which will consist of 16 projects as specified in section 1 of the Financing Agreement;

HAVE AGREED ON THE FOLLOWING:

1 THE PROGRAMME

The Commission will contribute, by way of grant, to the financing of the following programme, which is set out in Annex A to this Agreement:

Programme number: IPA 2010/022-264

Title: National Programme for [REDACTED] Republic of Macedonia under the IPA-Transition Assistance and Institution Building Component for the year 2010

2 IMPLEMENTATION OF THE PROGRAMME

- (1) The programme shall be implemented by decentralised management, in the meaning of Article 53c of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, as last modified by Regulation (EC) 1525/2007 of 17 December 2007(hereafter: "the Financial Regulation").
- (2) The Programme shall be implemented in accordance with the provisions of the Framework Agreement on the rules for co-operation concerning EU Financial Assistance to [REDACTED] republic of Macedonia and the implementation of the Assistance under the Instrument for Pre-accession Assistance (IPA), concluded between the Parties on 30 October 2007 (hereafter: "the Framework Agreement"), which is set out in Annex B to this Agreement.

3 NATIONAL STRUCTURES AND AUTHORITIES

- (1) The structures and authorities with functions and responsibilities for the implementation of this Agreement are described in Annex B to this Agreement.
- (2) Further responsibilities of the national authorizing officer and the national fund are set out in Annex C to this Agreement.

4 FUNDING

The funding for the implementation of this Agreement shall be as follows:

- (a) The European Union contribution for the year 2010 is fixed at a maximum of €30,134,638, as detailed in the programme. However, payments of the European Union contribution by the Commission will not be made if the minimum requirements referred to in Article 41 of the IPA Implementing Regulation are not met.
- (b) The cost of the national structures and authorities indicated in Annex B shall be borne by the beneficiary country.

5 CONTRACTING DEADLINE

- (1) The individual contracts and agreements which implement this Agreement shall be concluded no later than two years from the date of conclusion of this Agreement.
- (2) In duly justified cases, this contracting deadline may be extended with the agreement of the Commission before its end date to a maximum of three years from the date of conclusion of this Agreement.
- ~~(3) Any funds for which no contract has been concluded before the contracting deadline shall be cancelled.~~

6 DEADLINE FOR THE EXECUTION OF CONTRACTS

- (1) The contracts must be executed within a maximum of two years from the end date of contracting.
- (2) The Commission may agree, upon request by the beneficiary country, to an appropriate extension of the deadline for the execution of contracts. Such request must be addressed to the Commission before the end of the deadline for the execution of contracts, and be duly justified by the beneficiary country.

7 DISBURSEMENT DEADLINE

- (1) Disbursement of funds must be made no later than one year after the final date for the execution of contracts.
- (2) The deadline for disbursement of funds may be extended with the agreement of the Commission before its end date in duly justified cases.

8 INTERPRETATION

- (1) Subject to any express provision to the contrary in this Agreement, the terms used in this Agreement shall bear the same meaning as attributed to them in the IPA Framework Regulation and the IPA Implementing Regulation.
- (2) Subject to any express provision to the contrary in this Agreement, references to this Agreement are references to such Agreement as amended, supplemented or replaced from time to time.
- (3) Any references to Council or Commission Regulations are made to the version of those regulations as indicated. If required, modifications of these regulations shall be transposed into this Agreement by means of amendments.
- (4) Headings in this Agreement have no legal significance and do not affect its interpretation.

9 PARTIAL INVALIDITY AND UNINTENTIONAL GAPS

- (1) If a provision of this Agreement is or becomes invalid or if this Agreement contains unintentional gaps, this will not affect the validity of the other provisions of this Agreement. The Parties will replace any invalid provision by a valid provision which comes as close as possible to the purpose of and intent of the invalid provision.
- (2) The Parties will fill any unintentional gap by a provision which best suits the purpose and intent of this Agreement, in compliance with the IPA Framework Regulation and the IPA Implementing Regulation.

10 REVIEW AND AMENDMENT

- (1) The implementation of this Agreement will be subject to periodic reviews at times arranged between the Parties.
- (2) Any amendment agreed to by the Parties will be in writing and will form part of this Agreement. Such amendment shall come into effect on the date determined by the Parties.

11 TERMINATION

- (1) Without prejudice to paragraph 2, this Agreement shall terminate eight years after its signature. The termination of this Agreement shall not preclude the possibility for the Commission to make financial corrections in accordance with Articles 49 to 54 of the IPA Implementing Regulation.
- (2) This Agreement may be terminated by either Party by giving written notice to the other Party. Such termination shall take effect six calendar months from the date of the written notice.

12 SETTLEMENT OF DIFFERENCES

- (1) Differences arising out of the interpretation, operation and implementation of this Agreement, at any and all levels of participation, will be settled amicably through consultation between the Parties.
- (2) In default of amicable settlement, either Party may refer the matter to arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of this Agreement.
- (3) The language to be used in the arbitration proceedings shall be English. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration following a written request submitted by either Party. The Arbitrator's decision shall be binding on all Parties and there shall be no appeal.

13 NOTICES

- (1) Any communication in connection with this Agreement shall be made in writing and in the English language. Each communication must be signed and must be supplied as an original document or by fax.
- (2) Any communication in connection with this Agreement must be sent to the following addresses:

For the Commission:

*DG Enlargement, Head of Unit Unit B2
Rue de la Loi 170, 1049 Brussels, Belgium
Fax: (+32) 299 86 40*

For the Beneficiary Country

*Deputy Prime Minister for European Affairs
Ilindenska bb, 1000 Skopje
Fax: (+389) 2 3113 710*

14 NUMBER OF ORIGINALS

This Agreement is drawn up in duplicate in the English language.

15 ANNEXES

The Annexes A, B and C shall form an integral part of this Agreement.

16 ENTRY INTO FORCE

This Agreement shall enter into force on the date of signature. Should the Parties sign on different dates, this Agreement shall enter into force on the date of signature by the second of the two Parties.

Signed, for and on behalf of the Government of [REDACTED] Republic of Macedonia at Skopje]

Mrs Teuta Arifi

National IPA Coordinator (NIPAC), Deputy Prime Minister for European Affairs

Signed, for and on behalf of the European Commission, at Brussels on

by.....


Mrs Alexandra Cas Granje

Director DG Enlargement for Croatia, [REDACTED] Republic of Macedonia, Turkey, Iceland

ANNEX A National programme for [REDACTED] Republic of Macedonia under the IPA-Transition Assistance and Institution Building Component for 2010 adopted by Commission Decision C(2010) 5936 of 28/08/2010.

**ANNEX B FRAMEWORK AGREEMENT BETWEEN THE COMMISSION
OF THE EUROPEAN COMMUNITIES AND THE
GOVERNMENT OF [REDACTED] REPUBLIC
OF MACEDONIA, DATED 30 OCTOBER 2007**

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ANNEX C FURTHER CONDITIONS FOR THE DELIVERY OF EUROPEAN UNION ASSISTANCE

1 DEPUTISING

- (1) The beneficiary country shall ensure that a system of deputising is in place to ensure the continuity of the functions assigned to the national authorising officer.
- (2) Without prejudice of the aforementioned, the national authorising officer shall remain finally responsible for all the responsibilities vested in him in this Agreement and other agreements.

2 FURTHER RESPONSIBILITIES OF THE NAO

In addition to the functions and responsibilities laid down in Annex B to this Agreement, the national authorizing officer shall:

- (a) conclude the relevant agreements with each of the implementing agencies, which must be endorsed by the Commission;
- (b) ensure the flow of national and other co-financing resources;
- (c) ensure that the financing reporting system Perseus¹ is regularly updated and reporting procedures properly respected by the national fund and the implementing agencies;
- (d) participate in the IPA monitoring committee;
- (e) participate in the Transition Assistance and Institution Building Monitoring Committee (the TAIB committee).

3 PAYMENTS

- (1) Payments by the Commission of the European Union contribution shall be made within the limits of the funds available.
- (2) They shall take the form of: pre-financing, interim payments and payments of the final balance.
- (3) By 28 February each year, the national authorising officer shall send to the Commission a forecast of its likely payments applications for the financial year concerned and for the subsequent financial years.

¹ Perseus is the current financial reporting system of the European Commission.

- (4) The exchange of information concerning financial transactions between the Commission and the national authorising officer shall, where appropriate, be made by electronic means, using procedures agreed upon between them.
 - (5) The combined total of pre-financing and interim payments shall not exceed 95% of the European Union contribution.
 - (6) When the ceiling referred to in paragraph 5 above is reached, the national authorising officer shall only submit a new certified statement of expenditure and information about the amounts received when he/she requests the payment of the final balance.
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- (7) Amounts set out in the programmes submitted by the national authorising officer, in certified statements of expenditure, in payment applications and in expenditure mentioned in the implementation reports, shall be denominated in euro. The national authorising officer shall convert the amounts of expenditure incurred in national currency into euro using the monthly accounting rate of the euro established by the Commission for the month during which the expenditure was registered in the accounts of the operating structure concerned.
 - (8) Payments by the Commission to the national fund shall be made to the euro account. One euro account shall be opened for each of the IPA programmes concerned, and shall be used exclusively for transactions relating to that programme.
 - (9) The national authorising officer shall ensure that the final beneficiaries receive the total amount of the public contribution in due time and in full. No specific charge or other charge with equivalent effect shall be levied which would reduce these amounts for the final beneficiaries.
 - (10) The expenditure may be covered by European Union financing only if it has been incurred and paid by the final beneficiary. Expenditure paid by final beneficiaries shall be substantiated by receipted invoices or accounting documents of equivalent probative value or other relevant documents, where, according to the programme, assistance is not a function of expenditure. Expenditure must have been certified by the national authorising officer.

4 ACCEPTABILITY OF PAYMENT APPLICATIONS

- (1) Without prejudice of establishing additional requirement if the circumstances so require, the Commission shall not approve a payment application until the following minimum requirements have been fulfilled:
 - (a) In the case of pre-financing by the Commission:
 - the national authorising officer has notified to the Commission the opening of the euro account concerned;
 - the accreditation delivered by the competent accrediting officer and the national authorising officer are in force and the conferral of management by the Commission remains valid;

- the relevant financing agreement has entered into force.

(b) In the case of each interim payment made by the Commission:

- the national authorising officer has sent to the Commission a payment application and a statement of expenditure relating to the payment in question;
- the ceilings for European Union assistance under each priority axis, as laid down in the Commission financing decision, have been respected;
- the operating structure have sent the Commission the sectoral annual implementation reports, as referred to in Article 61(1) of Regulation (EC) 718/2007, including the most recent one;
- the audit authority has sent the Commission, in accordance with the first and second indent of Article 29(2)(b) of Regulation (EC) .../... the most recent annual audit activity report and opinion on the conformity of the management and control systems in place with the requirements of Regulation (EC) 718/2007 and those of any agreement between the Commission and the beneficiary country;
- the accreditations delivered by the competent accrediting officer and the national authorising officer are in force, and the conferral of management by the Commission remains valid.

If one or more of the conditions mentioned in this paragraph are not met, the beneficiary country and the national authorising officer shall, when so requested by the Commission and within the time limit fixed by the Commission, take the necessary steps to remedy the situation.

(c) In the case of payment by the Commission of the final balance, in accordance with the deadline set down in Article 166 of Regulation (EC, Euratom) 1605/2002, as last modified by Regulation (EC, Euratom) No 1995/2006 of 13 December 2006:

- the national authorising officer has sent the Commission a final payment application and a final statement of expenditure;
- the operating structure have sent to the Commission the sectoral final reports for the programme concerned, as required by Article 61(1) of Regulation (EC) No 718/2007;
- the audit authority has sent the Commission, in accordance with the third indent of Article 29(2)(b) of Regulation (EC) No 718/2007, an opinion on any final statement of expenditure, supported by a final activity report;
- the accreditation delivered by the competent accrediting officer and the national authorising officer are in force and the conferral of management by the Commission remains valid.

Failure to meet any of the conditions mentioned in this paragraph shall immediately result in the de-commitment of the final balance.

- (2) All or part of the payments may be suspended by the Commission where:
- (a) there is a serious deficiency in the management and control system of the programme which affects the reliability of the procedure for certification of payments and for which corrective measures have not been taken; or
 - (b) expenditure in a certified statement of expenditure is linked to a serious irregularity which has not been corrected;
 - (c) clarifications are needed regarding the information contained in the declaration of expenditure.
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- (3) The beneficiary country shall be given the opportunity to present its observations within a period of two months before the Commission decides on a suspension in accordance with paragraph 2.
- (4) The Commission shall end suspension of all or part of the payments where the beneficiary country has taken the necessary measures to remedy the deficiency. If those measures have not been taken by the beneficiary country, the Commission may decide to cancel all or part of the European Union contribution to the programme.

5 PRE-FINANCING

- (1) Pre-financing shall in principle represent 50% of the European Union contribution to the programme concerned and it may be paid in yearly instalments. That rate may be raised if the national authorising officer demonstrates that the resulting amount will not cover the pre-financing of the contracts and grants signed at national level. Payments for the participation in Union programmes and agencies may amount to 100% of the European Union contribution relating to this participation.
- (2) The amount to be pre-financed shall be calculated as the sum of the estimate of the amount to be contracted by year, and the actual amount for which contractual obligations have been entered into in the previous years. With the exception of that concerning participation in Union programmes and agencies, pre-financing shall only be paid once the first tender or call for proposals is launched.
- (3) The total amount paid as pre-financing shall be reimbursed to the Commission if no payment application for the programme concerned is sent within 15 months of the date on which the Commission pays the first pre-financing amount. The European Union contribution to the programme concerned shall not be affected by such reimbursement.
- (4) The total pre-financing amount shall be cleared at the latest when the programme is closed. Throughout the lifetime of the programme, the national authorising officer shall use the pre-financing payment only to pay the European Union contribution to expenditure in compliance with Regulation (EC) 718/2007.

6 INTERIM PAYMENTS

- (1) If it appears that the rules applicable have not been complied with or that European Union funds have been improperly used, the Commission may reduce interim payments to the beneficiary country, or temporarily suspend them, in accordance with the provisions of Article 46 of Regulation (EC) 718/2007. It shall inform the beneficiary country accordingly.
- (2) The suspension or reduction of interim payments shall comply with the principle of proportionality and shall be without prejudice to the decisions of conformity and clearance-of-account decisions and financial corrections.

7 REALLOCATION OF FUNDS

- (1) The national authorizing officer may request a reallocation of funds within the same programme following a recommendation from the IPA monitoring Committee.
- (2) The reallocation requested shall be submitted to the Commission for approval, and shall be subject to a new Commission decision.
- (3) If the reallocation does not comprise substantial changes to the nature of the original programme and, as regards the financial element, it does not exceed 20% of the total amount allocated to the programme in question, subject to the limit of €4 million, the committee which gave an opinion on the original programme shall be informed.

8 STAFF, LOCATION AND OPERATIONAL COSTS OF THE NATIONAL FUND AND THE OTHER BODIES AND AUTHORITIES

- (1) The beneficiary country shall ensure that at its own cost the availability of the necessary human resources for the timely and correct execution of the tasks entrusted to the bodies and authorities designated under Article 21 of the IPA Implementing Regulation.
- (2) The beneficiary country shall provide at its own costs the necessary premises, office furniture and other facilities for the aforementioned bodies and authorities.
- (3) The operational costs of those bodies and authorities shall be borne by the beneficiary country.

9 BANK ACCOUNTS

- (1) The National Fund shall for each programme open up a separate euro bank account in the Central Bank or in a Government guaranteed bank account. The account shall, in principle, be interest-generating.
- (2) Any interest earned on any of the component-specific euro accounts remains the property of the beneficiary country. Interest generated by the financing by

the European Union of a programme shall be posted exclusively to that programme, being regarded as a resource for the beneficiary country in the form of a national public contribution, and shall be declared to the Commission whenever a payment application is submitted to the Commission.

- (3) The bank account shall be operated on the basis of a double signature system, requiring the signatures of the national authorizing officer and a senior accounting officer.
- (4) The National Fund shall communicate to the Commission all relevant information on the accounts at the national fund as well as on all other accounts in the implementing agencies and others to which IPA funds have been transferred. Relevant information encompasses the name and address of the bank, the account number, the names of the account holders, the interest rates and any other information that the Commission deems appropriate.

10 ACCOUNTING AND AUDITS

- (1) The National Fund shall operate an accounting system covering all contractual and other financial operations pertaining to all IPA financed programmes.
- (2) The accounts and operations of all relevant operating structures/implementing agencies and authorities may be checked at regular intervals by an outside auditor contracted by the Commission without prejudice to the responsibilities of the Commission and the European Court of Auditors as referred to in the Framework Agreement.
- (3) All documents related to a given programme shall be retained by the beneficiary country for at least three years after the closure of the programme. This period shall be interrupted either in case of legal proceedings or at the duly motivated request of the Commission.
- (4) By way of derogation from paragraph 3 above, written records of the entire procurement, grant award and contracting procedure shall be retained by the operating structure for a period of at least seven years from the payment of the balance of the contract.

11 REPORTING

- (1) The operating structure shall send the Commission, the national IPA co-ordinator and the national authorising officer a sectoral annual report by 30 June each year.
- (2) A sectoral final report shall be submitted to the Commission, the national IPA co-ordinator and the national authorising officer at the latest 6 months after the closure of the programme. The sectoral final report shall cover the whole period of implementation and include the last sectoral annual report.
- (3) Sectoral reports shall be examined by the TAIB committee prior to their transmission to the Commission, the national IPA co-ordinator and the

national authorising officer. These sectoral reports shall be made in conformity with the financing reporting system Perseus.

- (4) Sectoral reports shall include the following information:
- (a) quantitative and qualitative elements about the progress made in implementing the programme, priority axes or operations, in relation to specific, verifiable targets;
 - (b) detailed information about the financial implementation of the programme;
 - (c) information on the steps taken by the operating structure or the TAIB committee to ensure the quality and effectiveness of implementation, in particular:
 - (i) the monitoring and evaluation measures, including data collection arrangements,
 - (ii) a summary of any significant problems encountered in implementing the programme and any subsequent measures taken,
 - (iii) the use made of technical assistance.
- (5) information on the activities to provide information on and publicise the programme, in accordance with Article 62 of the IPA Implementing Regulation.

12 MONITORING

- (1) In addition to the setting up of an IPA monitoring committee as described in the Framework Agreement, the national IPA co-ordinator shall establish a sectoral monitoring committee, the Transition Assistance and Institution Building Monitoring Committee, or 'TAIB committee, within six months after the entry into force of this Financing Agreement.
- (2) The TAIB committee shall meet at least twice a year, at the initiative of the beneficiary country or the Commission. It shall draw up its rules of procedure, in compliance with a sectoral monitoring committee mandate set out by the Commission, and within the institutional, legal and financial framework of the beneficiary country concerned. It shall adopt these rules of procedure in agreement with the national IPA co-ordinator, the national authorising officer and the IPA monitoring committee.
- (3) The TAIB committee shall be chaired by the national IPA co-ordinator. Its Members shall include the national authorising officer, the programme authorising officers and, where appropriate, other representatives of the operating structure, representatives of the Commission, as well as, where appropriate, representatives of international financial institutions and civil

society, designated by the beneficiary country in agreement with the Commission.

- (4) In accordance with Article 59(2) of Regulation (EC) 718/2007 the TAIB committee shall satisfy itself as to the effectiveness and quality of the concerned programmes and operations by, in particular:
- (a) reviewing implementation status reports detailing financial and operational progress of the programmes;
 - ~~(b) reviewing the achievement of objectives and results of the programmes;~~
 - (c) reviewing procurement plans as well as relevant evaluation recommendations;
 - (d) discussing problematic issues and operations;
 - (e) proposing corrective actions as appropriate;
 - (f) reviewing the cases of fraud and irregularities and present the measures taken to recover the funds and to avoid the recurrence of similar cases;
 - (g) reviewing the annual audit work plan prepared by the audit authority and the findings and recommendations of the audits carried out.
- (5) The TAIB committee shall monitor all ongoing programmes under this component. In the case of, inter alia, investment operations, transfer of assets or privatizations, the beneficiary country shall monitor the programmes until their closure and shall notify the TAIB committee of any changes to the results of these programmes that significantly affect their impact, sustainability and ownership.
- (6) The TAIB committee may be assisted by sectoral monitoring sub-committees, set up by the beneficiary country to monitor programmes and operations of this component, grouped by monitoring sectors. Sub-committees shall report to the TAIB committee. They shall draw up and adopt their internal rules of procedure, in compliance with a mandate to be set out by the Commission.

13 ROADMAP FOR DECENTRALISATION WITH EX-POST CONTROLS

- (1) The Beneficiary country shall establish a roadmap with indicative benchmarks and time limits to achieve decentralisation without *ex ante* controls by the Commission.
- (2) The Commission shall monitor the implementation of the roadmap mentioned in paragraph 1, and shall take due account of the results achieved by the beneficiary country in this context, in particular in the provision of assistance and in the negotiation process. The roadmap to achieve decentralization without *ex ante* controls may refer to a phased waiver of different types of ex-ante control.

- (3) The Beneficiary country shall keep the Commission regularly updated with the progress made in the implementation of this roadmap.

14 TREATMENT OF RECEIPTS

- (1) Receipts for the purposes of IPA include revenue earned by an operation, during the period of its co-financing, from sales, rentals, service enrolment/fees or other equivalent receipts with the exception of:
 - (a) ~~receipts generated through the economic lifetime of the co-financed investments in the case of investments in firms;~~
 - (b) receipts generated within the framework of a financial engineering measure, including venture capital and loan funds, guarantee funds, leasing;
 - (c) where applicable, contributions from the private sector to the co-financing of operations, which shall be shown alongside public contribution in the financing tables of the programme.
- (2) Receipts as defined in paragraph 1 above represent income which shall be deducted from the amount of eligible expenditure for the operation concerned. No later than the closure of the programme, such receipts shall be deducted from the relevant operation's eligibility expenditure in their entirety or pro-rata, depending on whether they were generated entirely or only in part by the co-financed operation.

15 ELIGIBILITY OF EXPENDITURE

- (1) Expenditure under the programme in Annex A shall be eligible for European Union contribution if it has been incurred after the contracts and grants implementing such programme have been signed, except in the cases explicitly provided for in the Financial Regulation.
- (2) The following expenditure shall not be eligible for European Union contribution under the programme in Annex A:
 - (a) taxes, including value added taxes;
 - (b) customs and import duties, or any other charges;
 - (c) purchase, rent or leasing of land and existing buildings;
 - (d) fines, financial penalties and expenses of litigation;
 - (e) operating costs;
 - (f) second hand equipment;
 - (g) bank charges, costs of guarantees and similar charges;

- (h) conversion costs, charges and exchange losses associated with any of the component specific euro accounts, as well as other purely financial expenses;
 - (i) contributions in kind;
 - (j) any leasing costs;
 - (k) depreciation costs.
- (3) ~~By way of derogation from paragraph 2 above, the Commission will decide on a case-by-case basis whether the following expenditure is eligible:~~
- (a) operating costs, including rental costs, exclusively related to the period of co-financing of the operation;
 - (b) value added taxes, if the following conditions are fulfilled:
 - (i) the value added taxes are not recoverable by any means;
 - (ii) it is established that they are borne by the final beneficiary, and
 - (iii) they are clearly identified in the project proposal.
 - (c) where the implementation of an operation requires a separate account or accounts to be opened, the bank charges for opening and administering the accounts;
 - (d) legal consultancy fees, notarial fees, costs of technical or financial experts, and accountancy or audit costs, if they are directly linked to the co-financed operation and are necessary for its preparation or implementation;
 - (e) the cost of guarantees provided by a bank or other financial institutions, to the extent that the guarantees are required by national or European Union legislation;
 - (f) overheads, provided they are based on real costs attributable to the implementation of the operation concerned. Flat-rates based on average costs may not exceed 25% of those direct costs of an operation that can affect the level of overheads. The calculation shall be properly documented and periodically reviewed;
 - (g) the purchase of land for an amount up to 10% of the eligible expenditure of the operation concerned.
- (4) Expenditure financed under IPA shall not be the subject of any other financing under the European Union budget.

16 RETENTION OF DOCUMENTS

- (1) All documents related to a given programme shall be retained by the Beneficiary for at least three years after the closure of the programme. This period shall be interrupted either in the case of legal proceedings or at the duly motivated request of the Commission.
- (2) By way of derogation from paragraph 1, written records of the entire procurement, grant award and contracting procedure shall be retained by the operating structure for a period of at least seven years from the payment of the balance of the contract.

17 FURTHER RESPONSIBILITIES OF THE NATIONAL IPA COORDINATOR

Where the national IPA coordinator exercises his responsibility for the programming of the transition assistance and institution building component at national level, he/she shall carry out the following tasks:

- (a) organize the preparation of project proposals as referred to in Article 69 of the IPA Implementing Regulation.
- (b) elaborate and present to the Commission the project fiches referred to in Article 69 of the IPA Implementing Regulation.
- (c) monitor the technical execution of the national programmes.

18 DESIGNATION AND RESPONSIBILITIES OF THE PROGRAMME AUTHORIZING OFFICERS

- (1) The national authorizing officer shall, after consulting the national IPA coordinator, designate programme authorizing officers to head the implementing agencies. They shall be officials within the state administration of the Beneficiary and shall be responsible for the activities mentioned in Section 6(b) of Annex A to the Framework Agreement, in accordance with Article 8(3) of the Framework Agreement and with Article 11(3) of the IPA Implementing Regulation.
- (2) Programme authorizing officers shall designate officials within the national administration as senior programme officers. Under the overall responsibility of the programme authorizing officer concerned, senior programme officers shall carry out the following tasks:
 - (a) be responsible for the technical aspect of the operations within the line ministries;
 - (b) assist the programme authorizing officers in the good and timely preparation and implementation of operations at technical level;
 - (c) be in charge of the co-ordination within each priority axis set down in the Beneficiary's project proposal.

19 DETAILED RULES ON THE ACCREDITATION OF THE OPERATING STRUCTURES

(1) Where European Union funds have been managed by existing national bodies in the Beneficiary under Regulation (EEC) No 3906/89 or Regulation (EC) No 2500/2001 prior to the date of entry into force of the IPA Implementing Regulation, those bodies (hereinafter referred to as the "existing national bodies") shall manage funds under the transition assistance and institution building component and the cross-border co-operation component, until the Commission adopts a Decision on conferral of management powers.

(2) In no case the existing national bodies can manage funds under the transition assistance and institution building component or under the cross-border co-operation component without a conferral of management powers by the Commission in accordance with the IPA implementing rule for more than one year from the entry into force of the IPA Implementing Regulation.

(3) The Commission shall decide whether to confer management powers on the existing national bodies in particular having regard to the list of deviations submitted in accordance with paragraph 4 and the decision taken by the national authorizing officer in accordance with paragraph 5.

(4) The national authorizing officer shall carry out an assessment of the operating structure, which include the existing national bodies, with regard to the requirements referred to in Article 11 of the IPA Implementing Regulation. In particular, he/she shall establish a list of any requirements under the IPA Implementing Regulation, as set out in Article 11 therein, which the operating structure does not comply with, based on an opinion of an external auditor functionally independent from all actors in the management and control system. The list of deviations shall be sent to the Commission at the latest four months after the entry into force of the IPA Implementing Regulation.

(5) Where the non-compliance referred to in paragraph 4 is deemed to be compatible with the efficient and effective functioning of the operating structures, the national authorizing officer may decide to accredit the bodies concerned.

At the latest five months after the entry into force of the IPA Implementing Regulation, he/she shall send to the Commission a decision relating to the accreditation of the bodies concerned. This decision shall include a roadmap, with time bound objectives, laying down the steps to be taken to remedy the non-compliance as set out in the list referred to in paragraph 4. The roadmap shall be agreed by the Commission.

(6) Where the non-compliance referred to in paragraph 6 is not deemed to be compatible with the efficient and effective functioning of an operating structure, the national authorizing officer shall proceed to establish an accreditation for the operating structure concerned, in accordance with the provisions of Article 13 of the IPA Implementing Regulation.

20 DETAILED RULES ON THE CONFERRAL OF MANAGEMENT POWERS BY THE COMMISSION

- (1) In the event that the Commission decides to confer management powers on the "existing national bodies" mentioned in Section [18 or 19] (1) above, the Commission may lay down further conditions on the national authorities. In the event of further conditions, the Commission shall set a time limit for compliance by the national authorities for the conferral of management powers to remain effective. The Commission Decision shall also lay down the list of *ex-ante* controls mentioned in Article 12(4) of Annex B.
- (2) Irrespective of the national authorizing officer's decision, the Commission may decide to maintain, suspend or withdraw the conferral of management powers on any of the bodies concerned at any time.
- (3) At all stages, the national authorizing officer shall ensure that all the information required by the Commission is provided by the Beneficiary.

