



EUROPEAN UNION

DELEGATION TO UKRAINE

Contracts and Finance Section

Kyiv, 7 July 2011  
VF/D(11) 1750

Mr Carlo CREA  
Head of International Affairs,  
Strategy and Planning  
**Italian Regulatory Authority  
for Electricity and Gas**  
Piazza Cavour 5  
20121 Milan, Italy

0018570-11/07/2011  
PROT.GENERALE / A

**Subject: EU-funded Twinning contract no. 2011/264-312  
"Support to NERC in the process of implementation of the gas legislation in  
line with the provisions of ECT"**

Dear Mr Crea,

Please find enclosed three originals of the above mentioned Twinning contract, signed by the European Commission as Contracting Authority.

I would be grateful if you could sign and date all three originals on page 8 of *Special Conditions*, page 58 of *Annex A1 Description of the Action* and on the last page of *Annex A3 Budget*.

I also ask you initial all pages of the *Special Conditions*, *Annex A1 Description of the Action* and *Annex A3 Budget*.

Please return all three signed originals to the following address:

*Delegation of the European Union to Ukraine  
Mr Holger Rommen, Head of Contracts and Finance Section  
10, Kruhlo-Universytetska Street, Kyiv 01024, Ukraine*

Please use a reliable courier service or registered mail to avoid any delays or loss of the documents.

Your attention is drawn to the fact that the Contracting Authority will not be obliged to honour the signed contract in the event of any of the following:

- the contract is not returned to the above address within 30 days of the date of this letter, duly signed and dated by a signatory authorised to represent you;
- any modifications to the text of the contract or its annexes.



The Legal Entity number which has been attributed to you is: 6000086638.

Having received the contract back the Contracting Authority will forward it to the Administration of the Beneficiary country for signing Annex A1 and Annex A3.

Then we will provide you with one original copy of the contract duly signed by all parties.

Yours sincerely,

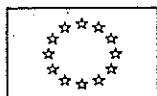


Wioletta KARWOWSKA  
Contract Officer

Encl.: Twinning contract no. 2011/264-312 (3 originals)



Support to NERC in the process of implementation of the gas legislation  
in line with the provisions of the EnCT



European Commission

## TWINNING CONTRACT

Name of Beneficiary	National Electricity Regulatory Commission of Ukraine
Name of the Member State Partner	Italian Regulatory Authority for Electricity and Gas (AEEG)
In consortium with:	Romanian Energy Regulatory Authority (ANRE), Regulatory Authority for Energy of the Hellenic Republic (RAE); Hungarian Energy Office (HEO); Studiare Sviluppo, StSv (Mandated Body)

Dossier No.	
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(for official use only)



**Support to NERC in the process of implementation of the gas legislation  
in line with the provisions of the EnCT**

**TWINNING CONTRACT  
Contract No 2011/264-312**

The European Union, represented by the Delegation of the European Union to Ukraine,  
10, Kruhlo-Universytetska Street, Kyiv, 01024 Ukraine, ("the Contracting Authority")  
of the one part,

and

the Italian Regulatory Authority for Electricity and Gas, with head office in Piazza  
Cavour 5, 20121 Milan Italy ("the Member State Partner" - MSP),

of the other part,

have agreed as follows:

**Special Conditions**

**Article 1 - Purpose**

- 1.1 The purpose of this contract is the award of a grant, consisting of reimbursement of expenditures, by the Contracting Authority for the implementation of the Action entitled: *Support to NERC in the process of implementation of the gas legislation in line with the provisions of the ECT* ("the Action").
- 1.2 The Member State Partner (MSP) will be awarded the grant on the terms and conditions set out in this contract, which consists of these special conditions ("Special Conditions") and the annexes, which the MSP hereby declares it has noted and accepted.
- 1.3 The MSP accepts the grant and undertakes to carry out the Action under its own responsibility.
- 1.4 The final beneficiary of this operation will be: The National Electricity Regulatory Commission of Ukraine

**Article 2 – Implementation period of the Action ((legal and work plan duration)**

- 2.1 The execution period of the contract (legal duration) shall enter into force upon the date of notification by the Contracting Authority of the contract signed by all parties. The execution period of the contract will end 3 months after the implementation period of the Action as stipulated in art 2.2.





**Support to NERC in the process of implementation of the gas legislation  
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2.2 The implementation period of the Action will take 12 months and shall start on the date of the arrival of the Resident Twinning Adviser (RTA). His/her arrival has to take place at the latest within one month following the notification of the Twinning contract.

**Article 3 - Financing the Action**

3.1 The total cost of the Action eligible for financing by the Contracting Authority is estimated at €598,565.00 [five hundred ninety eight thousand five hundred sixty five euros], as set out in Annex A3.

3.2 The Contracting Authority undertakes to finance a maximum of €598,565.00 [five hundred ninety eight thousand five hundred sixty five euros]. The final amount shall be established in accordance with Article 17 of Annex A2 except where annex A7 applies. The Action is co-financed as per Annex A3 by the Final Recipient of the Action.

**Article 4 - Technical and financial reporting and payment arrangements**

4.1 Technical and financial reports shall be produced in support of payment requests, in compliance with Articles 2 and 15.1 of the General Conditions (Annex A2) using the relevant twinning templates.

In addition to these reports, the MSP will send additional interim reports in compliance with article 2.1 of the General Conditions (Annex A2) on a quarterly basis. The specific reporting procedure will follow the provisions spelled out in Annex A7 to this contract.

4.2 Payment will be made in accordance with Article 15 of Annex A2. Of the options referred to in Article 15.1, the following (Option 2) will apply:

First installment of pre-financing (80% of the part of the forecast budget for the 12 months of implementation financed by the Contracting Authority):	€ 478.852,00
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Forecast final payment (minimum 10 %, subject to the provisions of Annex II):	€ 119.713,00
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**Article 5 - Contact addresses**

Any communication relating to this contract must be in writing, state the number and title of the Action and be sent to the following addresses:



**Support to NERC in the process of implementation of the gas legislation  
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**For the Contracting Authority**

**Mrs. Laura GARAGNANI**  
Head of Operations  
Delegation of the European Union to Ukraine  
10 Kruhlo-Universytetska Street  
Kyiv 01024  
Ukraine

Tel.: +380 (44) 390 80 10  
Fax : +380 (44) 253 45 47  
E-mail: [delegation-ukraine@eeas.europa.eu](mailto:delegation-ukraine@eeas.europa.eu)

**Contact Person**

**Ms Olga SIMAK**  
Sector Manager  
Delegation of the European Union to Ukraine  
10 Kruhlo-Universytetska Street  
Kyiv 01024, Ukraine

Tel.: +380 (44) 390 80 10  
Fax : +380 (44) 253 45 47  
E-mail: [Olga.SIMAK@eeas.europa.eu](mailto:Olga.SIMAK@eeas.europa.eu)

**For the Final Recipient of the Action**

**Victor MERKUSHOV**  
Commissioner  
National Electricity Regulatory Commission of Ukraine  
19, Smolenska St.,  
Kyiv 03680  
Ukraine

Tel: +380 (44) 454 70 81  
Fax: +380 (44) 241 90 49  
e-mail: [Tsaplin@nerc.gov.ua](mailto:Tsaplin@nerc.gov.ua)

**Contact person**

**Oksana Shumilo**  
Leading Specialist  
Department of Strategic Planning and Energy Markets Development  
National Electricity Regulatory Commission of Ukraine  
19, Smolenska St.,  
Kyiv, 03680 - Ukraine  
Tel: +380 44 454 71 77  
Fax: +380 44 454 70 72  
e-mail: [Shumilo@nerc.gov.ua](mailto:Shumilo@nerc.gov.ua)



**Support to NERC in the process of implementation of the gas legislation  
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**For the Member State Partner**

**Mr Carlo CREA**  
Head of International Affairs, Strategy & Planning,  
Italian Regulatory Authority for Electricity and Gas,  
Piazza Cavour 5,  
20121 Milan  
Italy

Tel: +39 02 655 65 280/201  
Fax: +39 02 655 65 278  
e-mail: [CCREA@autorita.energia.it](mailto:CCREA@autorita.energia.it)

*Communications regarding invoices and other issues related to payments and administration  
should be sent to the Project Leader and copied to:*

**Studiare Sviluppo (Mandated Body)**  
Via Vitorchiano, 123  
00189 - Roma  
Italy

Tel: +39 06 699 21 659  
Fax: +39 06 699 22 173  
e-mail: [avita@studiaresviluppo.it](mailto:avita@studiaresviluppo.it)

**A copy of the reports referred to in Article 4.1 must be sent to**

**Mr Andriy Vyshnevskiy**  
Director  
Programme Administration Office (PAO)  
Main Department of the Civil Service of Ukraine  
15, Prorizna Str., Kyiv, 01031 Ukraine  
Tel: +38 (044) 278 51 91  
Fax: +38 (044) 278 36 22  
e-mail: [pao@center.gov.ua](mailto:pao@center.gov.ua)

**Article 6 - Annexes**

6.1 The following documents are annexed to these Special Conditions and form an integral part of the contract:

- Annex A1: Description of the Action (including Work Plan)
- Annex A2: General Conditions applicable to European Community-financed grant contracts for external Actions
- Annex A3: Budget for the Action (including co-financing part by the Final Recipient of the Action)
- Annex A4: Contract-award procedures
- Annex A5: Standard request for payment and financial identification form
- Annex A6: Expenditure verification report
- Annex A7: Special Financial Annex



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- Annex A8: Mandates (if Member States have formed a consortium)  
Annex A9: Curriculum Vitae of NERC and MS Team Personnel

6.2 In the event of conflict between the provisions of the Annexes and those of the Special Conditions, the provisions of the Special Conditions shall take precedence.

**Article 7 - Other specific conditions applying to the Action**

7.1 The General Conditions are supplemented by the following:

7.1.1 The Member State Partner is referred to as the Beneficiary within the annexes A2 to A7 to this twinning contract. The word "NGOs" in article 1.3 is replaced by "MSP or designated Mandated Bodies".

7.1.2. The Action is co-financed as per annex A3 by the Final Recipient of the Action.

7.1.3 In article 7.1 of annex A2, 'Beneficiary' is replaced by 'the Final Recipient of the Action'.

7.2 The following derogations from the General Conditions shall apply:

7.2.1 By derogation from article 1.4 of the General Conditions (Annex A2) the Commission shall not endorse the Twinning Contracts relating to Twinning projects implemented in those beneficiary countries operating under the Extended Decentralised Implementation System.

7.2.2 The last sentence of article 2.3 of the General Conditions (Extension of the deadline for submission of the final report) shall not apply.

7.2.3 The provisions of Article 7.1 and 7.2 of the General Conditions (annex A2) are supplemented by the following: all rights to any work done by RTAs in the performance of their duties become the property of the BC in question. The MSP and the Commission will be permitted to use the results of the work elsewhere by permission of the BC. Permission may only be refused where the proposed use is liable to prejudice the interests of the BC or the European Union, or where it is for commercial purposes.

7.2.4 By derogation from article 9.2 of the General conditions, changes to the Twinning work plan and budget shall be governed by the procedure spelled out in Special financial annex A7.

7.2.5 By derogation from Article 12.1 of the General conditions, either party (BC or MS) may terminate the Twinning Contract at any time by giving three months notice in writing to the other party, after having informed the





**Support to NERC in the process of implementation of the gas legislation  
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Commission and the administrative office thereof. Failure of a party to fulfil any of its obligations under the Twinning Contract entitles the other party to terminate the Twinning Contract stating the grounds. If such a failure occurs, or for any other duly substantiated external reason, the Contracting Authority after agreement with the Commission (where the Commission is not the Contracting Authority) may also halt funding of the project by giving three months' notice in writing to the BC and MSP.

- 7.2.6 By derogation from Articles 13.3 and 13.4 of the General Conditions (Annex A2), the following procedure for settlement of disputes shall apply:

The Parties shall endeavour to settle amicably any dispute or complaint relating to the interpretation, application or fulfilment of this Twinning Contract, including its existence, validity or termination. In default of amicable settlement, any 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.

The language to be used in the arbitral proceedings shall be English, French or German. The appointing authority shall be the President of the Court of Justice of the European Communities following a written request submitted by either Party. The Arbitrator's decision shall be binding on all Parties and there shall be no appeal.

- 7.2.7 Eligible costs incurred by the MSP for this Twinning contract are defined in Annex A7. As such, if discrepancies appear between Article 14.2 of the General Conditions and Annex VII, the latter shall prevail.

- 7.2.8 Articles 14.4 and 14.5 of the General Conditions shall not apply.

- 7.2.9 The expenditure verification report of Article 15.6 is only required for the final payment. The auditor will be designated in accordance with the regulation prevailing for the MSP. The auditor will be duly notified to the Contracting Authority before the end of the contract.

- 7.2.10 A Privacy statement is publicly available on the twinning website at the following address:  
[http://ec.europa.eu/enlargement/twinning/index\\_en.htm](http://ec.europa.eu/enlargement/twinning/index_en.htm). The information contained therein applies to this Twinning contract.

- 7.2.11 All Twinning partners undertake to facilitate the organisation and conduct of the Twinning review Missions as explained in section 9.2.2 of the Common Twinning Manual, included in Article 9 of Annex A1.



**Support to NERC in the process of implementation of the gas legislation  
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Done at Kyiv in three originals in the English language, one for each of the signatories,  
and one for the Final Recipient of the Action.

*For the Member State Partner*

**Mr Carlo CREA**

Head of International Affairs, Strategy &  
Planning

Italian Regulatory Authority for Electricity  
and Gas

Signature,

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Date,

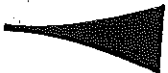
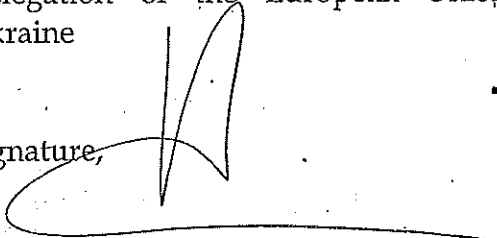
*For the Contracting Authority*

*Hans Rhein*

*Acting Head of Operations*

Delegation of the European Union to  
Ukraine

Signature,



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Date,

06 JUL 2011



**Support to NERC in the process of implementation of the gas legislation  
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**ANNEXES**

ANNEX A1: Description of the action

ANNEX A2: General Conditions applicable to European Community-financed grant contracts for external actions

ANNEX A3: Budget template: Breakdown of costs

ANNEX A4: Contract Award Procedures

ANNEX A5: Request for payment for Twinning Contract European Community external actions

ANNEX A6: Model Expenditure Verification Report

ANNEX A7: Special Financial Annex

ANNEX A8: Mandate

ANNEX A9: Curriculum Vitae



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ANNEX A1

## DESCRIPTION OF THE ACTION



### TWINNING WORKPLAN

*The Beneficiary Institution of Ukraine (hereinafter referred to as the Beneficiary Institution) represented by the National Electricity Regulatory Commission in the person of Victor Merkushov*

*on the one part, and*

*The Administration of Italy (hereinafter referred to as the "Member State" or Italy), represented by the Italian Regulatory Authority for Electricity and Gas, in the person of Carlo Crea, Secretary General, acting also on behalf of the Consortium partners: the Romanian Energy Regulatory Authority (ANRE), the Regulatory Authority for Energy of the Hellenic Republic (RAE) and the Hungarian Energy Office (HEO) and Studiare Sviluppo Srl (Italy)*

*on the other part,*

**HAVE AGREED THE FOLLOWING WORK PLAN WHICH THEY UNDERTAKE TO IMPLEMENT JOINTLY:**

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Support to NERC in the process of implementation of the gas  
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LIST OF ABBREVIATIONS

AEEG	-	Italian Regulatory Authority for Electricity and Gas
ANRE	-	Romanian Energy Regulatory Authority
BA	-	Beneficiary Administration
BC	-	Beneficiary Country
BCM	-	Billion Cubic Metres
CAPM	-	Capital Asset Pricing Model
CEER	-	Council of European Energy Regulators
EC	-	European Commission
ECSEE	-	Energy Community of South
ENP	-	European Neighbourhood Policy
ENPI	-	European Neighbourhood Policy Instrument
ERGEG	-	European Regulators' Group for Electricity and Gas
EU	-	European Union
GLAWG	-	Gas Legal Approximation Working Group (NERC's)
GRWG	-	Regulatory Working Group (NERC's)
HEO	-	Hungarian energy Office
IEM	-	Internal Energy Market (EU's)
IQR	-	Interim Quarterly Report
ITO	-	Implementation of Twinning Operations in Ukraine
KE	-	Key Expert
MC	-	Mission Certificate
MR	-	Mission Report
MS	-	Member State (EU's)
NCP	-	National Contact Point
NERC	-	National Energy Regulatory Commission
PAO	-	Twinning Programme Administration Office
PL	-	Project Leader
PSC	-	Project Steering Committee
QPR	-	Quarterly Progress Report
RAB	-	Regulatory Asset Base
RAE	-	Regulatory Authority for Energy of the Hellenic Republic
RTA	-	Resident Twinning Advisor
STE	-	Short Term Expert

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StSv	-	Studiare Sviluppo (Mandated Body)
TSO	-	Transmission System Operator
UAH	-	Hrivna (Ukraine's Currency)
WACC	-	Weighted Average Cost of Capital

# Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT

## ARTICLE 1 BACKGROUND

### 1.1 BC policy developments in the sector

#### Gas sector regulation

The NERC receives its powers to regulate and monitor from the Presidential decrees, the Law on Natural Monopoly, the Law on Functioning of the Gas market, and other acts of legislation. It is a quasi-independent body which issues its own decisions. Pursuant to NERC Regulations approved by NERC Resolution no. 1662 of November 29, 2007, decisions of the Commission are taken at open, closed and working meetings depending on the type of Resolution or Ordinance. However, the NERC is currently financed from the State budget and its powers are to some extent limited, with the Government having the final say over many aspects of regulation, particularly in the Gas sector. Over the last five years laws have been drafted to give the NERC more powers but they have all remained in draft form.

The new Law on NERC, which had been long awaited for adoption has been once more put aside since the President of Ukraine announced a thorough Administrative Reform in December 2010. This reform is supposed to define, among others, the structure, role and powers of all regulatory entities in Ukraine for each industry including NERC, and therefore adopting the abovementioned law on NERC alone did not make sense. The reform is expected to be completed soon and it is only then that the future structure, role, and power of NERC will be known.

#### Gas sector legislation

Drafts of a law "On the Principles of Functioning of the Natural Gas Market", focussing on a path for the sector to become more competitive and to begin the process of approximation towards EU gas sector legislation, were prepared as early as in 2006 by the Ministry of Fuel and Energy.

After various years of debate and numerous revisions, the draft Gas Law passed the two readings in Parliament in rapid succession on 8<sup>th</sup> and 15<sup>th</sup> July 2010, respectively, and the gas sector reform process is currently under implementation. The Law was assessed by the European Commission Services as being a sufficiently sound basis for starting to align Ukrainian gas market to the European standards and to harmonisation with EU Directive 2003/55/EC. Emanation of the Gas Law also completed the last step required of Ukraine to become a full member of the Energy Community of South-East Europe (ECSEE).

On December 15 2010 Ukraine's Parliament ratified the Accession Protocol to the Energy Community and as of 1<sup>st</sup> February 2011 Ukraine is exercising the full membership privileges and commitments of the Energy Community Treaty (EnCT).

## Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT

In order to meet the provisions of the Law of Ukraine "On Principles of Functioning of the Natural Gas Market" a meeting of the Cabinet of Ministers of Ukraine on 18th August 2010, approved a plan for drafting the laws necessary to ensure implementation of the Law of Ukraine of 8th July 2010 # 2467-VI "On Principles of Functioning of the Natural Gas Market" (minutes of meeting # 41). In accordance with this Plan the NERC adopted the Action Plan for implementation of certain provisions of the Law of Ukraine "On Principles of Functioning of the Natural Gas Market" (by Instruction of NERC of 12.08.2010 #77-p).

According to the abovementioned Action plan, NERC is expected to draft, a set of secondary legislation concerning market access rules (network code and related contracts); for gas transportation, distribution and storage; as well as criteria for eligibility; security of supply through establishment of suppliers of last resort; and ensuring indiscriminate third party access to the networks. These drafts were expected to be prepared by NERC by 1<sup>st</sup> June 2011, now postponed to 1<sup>st</sup> October 2011 but may be delayed even further (to the end of 2011 or early 2012) if the support of EU experts does not start immediately.

### 1.2 Issues addressed by the Twinning Project

*The EU Gas Directive 2003/55/EC promotes greater competition, innovation and ultimately more cost-reflective prices in the gas sector. To this end it provides for third party access to transmission and distribution network; legal and functional unbundling of transmission and distribution activities from supply and other commercial activities subject to competition on the market; the establishment of gas storage as a separately defined activity with negotiated or regulated third party access; an accelerated timetable for complete market opening (the capacity of customers to choose their supplier) for all non household customers by July 2004 (for Ukraine January 2012) and for all customers (including households) by July 2007 (for Ukraine January 2015). It also strengthens the powers and duties of Regulatory Commissions to monitor competition in the gas market. The Gas Directive was subsequently complemented and reinforced by EU Regulation no 1775/2005.*

*Measured against this backdrop, Ukraine's gas sector still has a long way to go in practically all aspects of regulation: unbundling of distribution and supply activities; access to the networks and to the storage facilities; market opening; efficient cost reflective tariffs and tariff structure; quality of supply. The main challenges to making headway in these fields are the meagre finances of the gas sector companies and the low prices and tariffs paid by the household sector which are far from reflecting the real costs.*

*The adoption of the Law of Ukraine on the Functioning of the Gas Market and Ukraine's full membership in the EnCT require the NERC to develop secondary legislation with urgency. Within the first stage of implementation of the gas law, which starts on January 1 2012 and ends on December 31 2014, the NERC has to prepare immediately proposals to the Cabinet of Ministers of Ukraine, guidelines and regulations regarding (among others) three key provisions: unbundling of the Oblgaz distribution business from supply of gas and other activities; for the opening of the gas market to eligible customers; for the*

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*identification of suppliers of last resort. This will be done according to the provisions of the EU Directive 2003/55/EC. Within the EnCT accession Protocol, the unbundling deadline is set for 1<sup>st</sup> January, 2012; other deadlines follow as per the abovementioned NERC's Action Plan within 2011 and the beginning of 2012. Intimately related to these requirements is also the urgent review of the methodologies applied to determine tariffs charged for connections to gas networks and for the distribution of gas to a multiplicity of customer categories spread out over the country, with different consumption profiles and costs.*

It is for the abovementioned reasons that the National Electricity Regulatory Commission (NERC) of Ukraine requested the EU to provide assistance on the development of necessary secondary legislation for the implementation of the Law of Ukraine "On the Principles of Functioning of the Natural Gas Market". The Twinning Project "Regulatory and Legal Capacity Strengthening of Natural Gas Regulation of NERC" which is successfully on-going in NERC does not foresee such activities.

Given the need for an urgent solution to enable Ukraine to align its gas legislation with the EU Directive 2003/55 with the deadline set already on 1 January 2012 as well as current on-going smooth cooperation of NERC with MS Partner - Consortium led by the Italian Regulatory Authority for Electricity and Gas (AEEG) - in the framework of the Twinning Project "Regulatory and Legal Capacity Strengthening of Natural Gas Regulation of NERC", the decision was taken by the European Commission Services to enter into direct negotiations with the Consortium led by AEEG on the new Twinning contract.

*The abovementioned activities are in many ways a continuation of activities started by the Twinning Project "Regulatory and Legal Capacity Strengthening of Natural Gas Regulation of NERC" (Twinning Contract no. 206219) and the current contracting party, having intimate knowledge of these activities and an excellent working relationship with the NERC, has the best possibility to guarantee achieving the goals in the short time available, compared to starting a new project from scratch.*

### **1.3 Beneficiary institution**

The Beneficiary Institution of the Twinning Project and final recipient of the action is the National Electricity Regulatory Commission, also responsible for the implementation of this project. The contact person is:

**Oksana Shumilo**  
Leading Specialist  
Department of Strategic Planning and Energy Markets Development  
National Electricity Regulatory Commission of Ukraine  
19, Smolenska St.,  
Kyiv, 03680 - Ukraine  
Tel: +380 44 454 71 77  
Fax: +380 44 454 70 72  
e-mail: [Shumilo@nerc.gov.ua](mailto:Shumilo@nerc.gov.ua)

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**ARTICLE 2**

**ACQUIS COMMUNAUTAIRE – PROJECT FICHE FIELD OF  
CO-OPERATION WITH THE EU**

Ukraine is a full member of the EnCT as of 1<sup>st</sup> February 2011. In compliance with its commitments within the EnCT, Ukraine is expected to adhere to the *Acquis communautaire* on Natural gas and Competition law.

With regard to Natural gas, the Contracting Parties must commit to transpose Directive 2003/55/EC into national legislation within one year of signing the ECT and to complete the liberalisation process in the gas sector by January 2015<sup>1</sup>. The EnCT in the gas sector also places an obligation on the Contracting Parties to implement Directive 2004/67/EC and Regulation 1775/2005 by January 2015. These three legal instruments are briefly summarised in the following paragraphs:

Directive 2003/55/EC concerning common rules for the internal market in natural gas, aims at creating a fully operational, liberalised and competitive EC wide internal gas market. Key provisions of this Directive are that from July 2007 all customers must be able to freely choose their suppliers, that distribution and transmission systems must be operated by legally and organisationally separate entities, and there must be non-discriminatory regulated (through approved published tariffs) third party access to transmission and distribution networks and to LNG facilities. The Directive requires interoperability of transmission and distribution systems, and for procedures to be adopted for access to storage facilities, line pack and ancillary services. Cost-reflective balancing mechanisms must be implemented to achieve liquid gas markets based on transparent market mechanisms. Independent regulatory authorities must be established with responsibility for ensuring effective competition and efficient functioning of the market. The Directive also requires active monitoring of security of supply issues, including level of future demand and supply, additional capacity, quality and level of networks maintenance, and measures to meet peak demand and shortfalls.

Directive 2004/67/EC concerning measures to safeguard security of natural gas supply, aims at ensuring an adequate level of security of gas supply, particularly in the event of a major supply disruption. The Directive defines the roles and responsibilities of the different gas market players, specifies minimum security of supply standards and obliges member states to ensure priority protection for supplies to households. It identifies the instruments that may be used to meet the standards including the development of liquid tradable gas markets, interruptible demand, enhanced cross-border capacities, diversification of supply sources, use of storage facilities and cooperation between system operators of neighbouring countries. Member states are expected to report to the Commission on the chosen

<sup>1</sup> An analogous commitment regards Directive 2003/54/EC concerning the internal market in electricity.

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security of supply measures and their impact and to improve and/or update national emergency measures.

Regulation no. 1775/2005 on conditions for access to the natural gas transmission networks sets the rules for access to natural gas transmission systems with a view to removing barriers to competition. The Regulation aims at setting transparency requirements for access to networks, at harmonising the principles of tariff determination, balancing rules, imbalance charges and capacity trading and establishing third party access services for capacity allocation and congestion management. Tariffs for access to networks must be cost reflective and transmission system operators must offer access services under equivalent contractual terms and conditions. Maximum system capacity must be made available to the market through transparent capacity allocation mechanisms and market mechanisms must be employed to deal with 'contractual congestion' and unused capacity. Balancing rules must be designed in a manner that reflects genuine system needs, while imbalance charges must be cost-reflective to the extent possible. Transmission system operators must take reasonable steps to allow capacity rights to be freely tradable. Finally, transmission system operators must make public detailed information regarding the services they offer, the relevant conditions, as well as technical information necessary for network users to gain effective network access.

The *Acquis communautaire* in Competition law must be implemented to the extent that trade in network energy between Contracting Parties is affected. The key elements of the *Acquis*, are embedded in the Treaty forming the EC, and are briefly summarised in the following:

Article 81 of the EC Treaty on Cartels prohibits all agreements, decisions and concerted practices which may affect trade between member states and which have as their object or effect the prevention, restriction or distortion of competition (e.g. price fixing, and production controls and limits).

Article 82 of the EC Treaty on Abuses of dominant position prohibits practices such as unfair trading, production limitations and dissimilar conditions for equivalent transactions.

Article 86(1) and (2) of the EC Treaty allows granting Exclusive rights for the delivery of services of 'general economic interest' to specific undertakings, so long as this is performed in compliance with competition rules (i.e. the provision of services is not undertaken in a manner that distorts competition for other non-exclusive services).

Article 87 of the EC Treaty on State aid prohibits member states to grant aid in any form whatever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, with the exception of situations that are otherwise provided for in the Treaty.

**Support to NERC in the process of implementation of the gas  
legislation in line with the provisions of the EnCT**

**ARTICLE 3**

**MANDATORY RESULTS**

The ultimate objective of this Project is the same as in the Twinning Project "Regulatory and Legal Capacity Strengthening of the Natural Gas Regulation in NERC" (Twinning Contract No206219): to accompany the NERC in the establishment of a transparent, efficient and competitive Ukrainian Gas Market, that functions in harmony with the *Acquis communautaire* of the EU Internal Gas Market.

The purpose of this Project is to assist the NERC in the development of urgent secondary legislation and regulations required in the initial implementation of the Law of Ukraine on the Functioning of the Gas Market and in meeting the deadlines established by Ukraine's membership in the EnCT.

More specifically, the basic Mandatory results to be achieved during the lifetime of this Project are as follows:

**Mandatory Result no. 1**

Secondary legislation and regulations are drafted in line with the schedule established in the Plan for drafting legal acts required for implementation of the Law of Ukraine as of 8 July 2010 No. 2467-VI 'On Principles of Functioning of the Natural Gas Market', adopted at the meeting of the Cabinet of Ministers of Ukraine on 18 August 2010 (Minutes of Meeting No. 41) in harmony with the EnCT deadlines and with the requirements of the EU Directive 2003/55/EC.

**Mandatory Result no. 2**

Regulations are drafted to facilitate market opening and competition by establishing cost effective connection charges to networks; and ensuring indiscriminate third party access.

**Mandatory Result no. 3**

Improved understanding by NERC representatives of EnCT legal framework, procedures, Ukraine's obligations according to the Treaty and joining Protocol.



**Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT**

**LOGICAL FRAMEWORK MATRIX**

Regulatory and Legal Capacity Strengthening of Natural Gas Regulation in the National Electricity Regulatory Commission of Ukraine – Total Budget EUR 600.000,00			
<b>OVERALL OBJECTIVE</b>	<b>BENCHMARKS</b>	<b>SOURCES OF INFORMATION</b>	<b>ASSUMPTIONS</b>
The establishment of a transparent, efficient and competitive Ukrainian Gas Market that functions in harmony with the <i>Acquis communautaire</i> of the EU Internal Gas Market.	Convergence of Ukrainian gas sector regulation with that of the EU. Competition within gas wholesale and retail supply. Price setting transparency.	Laws, decrees, regulations and other norms in the gas sector. Parliamentary and Government Reports on economic and social development in Ukraine. Official Reports from Ukrainian Authorities and International Organisations. Feedback from citizens. Independent publications on Gas Policy.	
<b>PROJECT PURPOSE</b>	<b>BENCHMARKS</b>	<b>SOURCES OF INFORMATION</b>	<b>ASSUMPTIONS</b>
To assist the NERC in the development of urgent secondary legislation and regulations required in the initial implementation of the Law of Ukraine on the Functioning of the Gas Market	Effective implementation by the NERC of regulatory principles in line with the <i>Acquis communautaire</i> and EU best practice. The technical capabilities and skills of the NERC in the gas sector regulation is significantly increased with specific reference to: 1) Development of Secondary Legislation; 2) Connection charges and new tariff design; 3) Implementation of EnCT commitments.	Interim Quarterly Reports. Acts and Minutes of the PSC. Minutes of the Fortnightly meetings Final Report. Publications and reviews by international organisations. Independent publications and reviews.	Economic conditions in Ukraine do not create obstacles to the implementation of cost effective regulatory principles and Institutional impediments do not hinder the NERC's actions in its regulatory duties in harmony with EU legislation and <i>Acquis communautaire</i> . Financing of the NERC is adequate for its effective functioning. Effective and timely financial administration and strong project back up on the part of the EU Delegation and PAO.

Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT

MANDATORY RESULTS			
RESULT NO. 1	BENCHMARKS	SOURCES OF INFORMATION	ASSUMPTIONS
<p>Secondary legislation and regulations are drafted in line with the schedule established Plan for drafting legal acts required for implementation of the Law of Ukraine as of 8 July 2010 No. 2467-VI and in harmony with the EU Directive 2003/55/EC.</p>	<p>Capability of the NERC to issue regulations required for:</p> <ul style="list-style-type: none"> <li>- promoting market opening through eligible customers;</li> <li>- guaranteeing energy security through suppliers of last resort.</li> </ul>	<p>Mission Reports, Interim Quarterly Reports and Final Report.</p> <p>Minutes of the PSC meetings.</p> <p>Body of norms, laws and decrees in the gas sector issued during the course of the Project.</p> <p>Regulations on implementing measures within the competence of the NERC.</p> <p>Publications and reviews by international organisations.</p>	<p>There is effective interaction of the NERC with the Government and Parliamentary commissions, and that they are open to observations and proposals from the NERC in relation to the secondary legislation in line with EU <i>Acquis communautaire</i>.</p> <p>The NERC receives adequate financial support to carry out its regulatory mandate in the gas sector effectively.</p> <p>Economic conditions of Ukraine do not slow down or hinder gas sector reform towards greater liberalisation and competition.</p>
RESULT NO. 2	BENCHMARKS	SOURCES OF INFORMATION	ASSUMPTIONS
<p>Regulations are drafted to facilitate market opening and competition by establishing cost effective connection charges to the networks.</p>	<p>Capability of the NERC to issue regulations required for:</p> <ul style="list-style-type: none"> <li>- defining fair charges for connecting to gas networks;</li> <li>- determining cost reflective tariffs for transmission of gas through transport and distribution networks;</li> <li>- ensuring indiscriminate third party access.</li> </ul>	<p>Mission Reports and Interim Quarterly Reports and Final Report.</p> <p>Minutes of the PSC meetings.</p> <p>Reports of the NERC on Interim staff development with special regard to progress achieved by the gas sector regulatory specialists.</p> <p>Publications and reviews by international organisations.</p>	<p>Adequate financial support from the State budget to enable the NERC to carry out its regulatory mandate in the gas sector effectively.</p> <p>Government measures do not discourage NERC.</p> <p>Staff motivation and development.</p> <p>Cooperation of the distribution companies and other stakeholders in the data collection and Consultation processes.</p>

**Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT**

RESULT NO. 3	BENCHMARKS	SOURCES OF INFORMATION	ASSUMPTIONS
<p>Improved understanding by NERC representatives of EnCT legal framework, procedures, Ukraine's obligations according to the Treaty and joining Protocol.</p>	<p>Capacity Building of the NERC to enable them implement key elements of the <i>acquis communautaire</i> according to the EnCT schedule and to participate in the EnCT meetings with enhanced skills and improved understanding of technical terminology.</p>	<p>Mission Reports and Interim Quarterly Reports and Final Report. Minutes of the PSC meetings. Minutes from EnCT meetings</p>	<p>Active participation by the NERC WGs to all meetings and training sessions and to follow-up appropriately with the actions and commitments undertaken.</p>

**Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT**

<b>COMPONENT 1: CRITERIA FOR SELECTING and APPOINTING SUPPLIERS OF LAST RESORT</b>		
Activities : see details in Article 4	Means/Inputs	Assumptions
<ul style="list-style-type: none"> <li>- <b>Activity 1.1:</b> Review of the functions, legislation and procedures for appointing suppliers of last resort in Ukraine and in the EU Member States</li> <li>- <b>Activity 1.2:</b> Training and Study visits on the experience in the EU Member States on suppliers last resort</li> <li>- <b>Activity 1.3:</b> Proposal for a draft Resolution of the Cabinet of Ministers on the appointment of suppliers of last resort</li> </ul>	<ul style="list-style-type: none"> <li>- Short Term Experts 53 days, 22 missions</li> <li>- Translation (39 pages)</li> <li>- Study Tours 1 x 6 persons</li> </ul>	<p>Keen participation of key gas sector institutions and regulated industries in the Member States hosting the Study tours to provide the WGs with a broad understanding of the implementation of the EU legal framework in the gas sector.</p> <p>Constructive interaction of the GLAWG with institutions in the Gas sector legislation, such as Parliamentary Committee; and inter-Ministerial working groups.</p> <p>Participation of key ministries and other stakeholders in the public discussion organised by the GLAWG.</p>
<b>COMPONENT 2: CRITERIA and PROCEDURES FOR IDENTIFYING ELIGIBLE CUSTOMERS</b>		
Activities : see details in Article 4	Means/Inputs	Assumptions
<ul style="list-style-type: none"> <li>- <b>Activity 2.1:</b> Review of EU Member State legislation on eligibility and procedures for the certification of eligible customers</li> <li>- <b>Activity 2.2:</b> Training and Study visits on the experience of EU Member States on identification and certification of eligible customers</li> <li>- <b>Activity 2.3:</b> Preparation of a draft NERC regulation 'On Approval of the Procedure for Certifying Eligible Customers'</li> </ul>	<ul style="list-style-type: none"> <li>- Short Term Experts 53 days, 22 missions</li> <li>- Translation (42 pages)</li> <li>- Study Tour: 1 x 6 persons</li> </ul>	<p>Keen participation of key gas sector institutions and regulated industries in the Member States hosting the Study tours to provide the WGs with a broad understanding of the implementation of the EU legal framework in the gas sector.</p> <p>Constructive interaction of the GLAWG with institutions in the Gas sector legislation, such as Parliamentary Committee; and inter-Ministerial working groups.</p> <p>Participation of key ministries and other stakeholders in the public discussion organised by the GLAWG.</p>

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COMPONENT 3: METHODOLOGY for DETERMINING OF CONNECTION CHARGES TO GAS NETWORKS		
Activities : see details in Article 4	Means/Inputs	Assumptions
<ul style="list-style-type: none"> <li>- Activity 3.1: Review of methodologies for calculating connection charges to gas networks in Ukraine and in the EU Member States</li> <li>- Activity 3.2: Training and Study visits on the experience of the EU Member States on the determination of charges for connection to gas networks</li> <li>- Activity 3.3: Standard procedure for calculating the cost of services related to connection to gas networks</li> </ul>	<ul style="list-style-type: none"> <li>- Short Term Experts 57 days, 24 missions</li> <li>- Translation (42 pages)</li> <li>- Study Tour: 1 x 6 persons</li> </ul>	<p>Keen participation of key gas sector institutions and regulated industries in the Member States hosting the Study tours to provide the WGs with a broad understanding of the implementation of the EU legal framework in the gas sector.</p> <p>Constructive interaction of the GLA WG with institutions in the Gas sector legislation, such as Parliamentary Committee; and inter-Ministerial working groups.</p> <p>Participation of key ministries and other stakeholders in the public discussion organised by the GLA WG.</p>
COMPONENT 4: TARIFF DESIGN METHODOLOGY		
Activities : see details in Article 4	Means/Inputs	Assumptions
<ul style="list-style-type: none"> <li>- Activity 4.1: Review of tariff design methodologies applied in the EU Member State gas distribution sector and analysis of their applicability in Ukraine</li> <li>- Activity 4.2: Training and study tours on tariff design methodologies applied in the EU Member State gas distribution sector</li> <li>- Activity 4.3: Development of a draft methodology for binominal tariff design</li> <li>- Activity 4.4: Consultations with the Oblgaz and other stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>- Short Term Experts 64 days, 27 missions</li> <li>- Translation (42 pages)</li> <li>- Study Tour: 1 x 6 persons.</li> </ul>	<p>Keen participation of key gas sector institutions and regulated industries involved in the Member States hosting the Study tours to provide the GR WG with familiarity in the practical application of incentive regulation and benchmarking.</p> <p>Cooperation of the distribution companies and other stakeholders in the data collection and Consultation process.</p> <p>Participation of the Oblgaz and other principal stakeholders in the Consultation process.</p>

**Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT**

<b>COMPONENT 5: ASSISTANCE TO NERC IN THE IMPLEMENTATION OF THE EnCT COMMITMENTS AND DEDICATED TRAINING ON TECHNICAL EnCT TERMINOLOGY</b>		
<b>Activities : see details in Article 4</b>	<b>Means/Inputs</b>	<b>Assumptions</b>
<ul style="list-style-type: none"> <li>- Activity 5.1: Coordination of technical meetings and activities at the EnCT Secretariat</li> <li>- Activity 5.2: Dedicated training on technical EnCT terminology.</li> </ul>	<ul style="list-style-type: none"> <li>- Short Term Experts 8 days, 4 missions</li> <li>- Translation (11 pages)</li> </ul>	<p>Active participation by the NERC WGs to all meetings and training sessions and to follow-up appropriately with the actions and commitments undertaken.</p>

**Support to NERC in the process of implementation of the gas legislation in  
line with the provisions of the EnCT**

**ARTICLE 4**

**TASKS AND INPUTS**

The present section outlines for each Component of the Project, the nature and challenges of the issues addressed, the objective of the Component, the general approach adopted, the sequence of distinct activities envisaged for each:

- Title of the Activity;
- the Tasks included in the Activity;
- description of the Working method;
- outputs of the Activity;
- contribution of the NERC Working Groups;
- the Inputs in terms of number of STE, days on mission and number of missions by the MS Team;
- other resources.

There will be four Study Tours, one to each of the MS Team Partner countries. Each study visit will combine the contents specified in all of the five Components.

## Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT

### COMPONENT 1

#### *Criteria for selecting and appointing suppliers of last resort*

EU legislation gives more and more attention to natural gas market liberalisation, full unbundling of natural gas distribution and supply activities, competitiveness and customer protection. Directive 2003/55/EU provides for the liberalisation of the internal natural gas market, in particular, the right of consumers for a free choice of natural gas suppliers.

The Law of Ukraine 'On Principles of Natural Gas Market Operation' (hereinafter referred to as the Law) was adopted by the Ukrainian Parliament with the objective of strengthening regulatory and legal capacity as well as harmonizing Ukrainian gas sector legislation with the principles embedded in EU Directive 2003/55/EU. The Law provides for a gradual and consecutive transition to natural gas market liberalisation. The first stage will be focused on unbundling of natural gas distribution and supply, determination of eligible customers and suppliers of last resort by the Cabinet of Ministers of Ukraine. This stage begins on the 1<sup>st</sup> of January 2012.

At present in Ukraine the functions of a supplier of last resort, which is the company that cannot refuse the supply of natural gas to a consumer, are performed by business entities that have a license for supplying natural gas at a regulated tariff. This means 53 companies (Oblgaz) which own or operate gas distribution networks and carry out natural gas distribution and supply, currently as essentially bundled activities.

However, the provisions of the Directive 2003/55/EU and the Law provide for functional unbundling between distribution and supply. This means that a customer can be supplied with natural gas from any licensed supplier, even one which could in principle run out of gas supplies or become bankrupt. The principal role of the supplier of last resort is to guarantee gas supplies to customers in such cases. To this end NERC is to develop a Procedure for Appointing Suppliers of Last Resort to propose to the Cabinet of Ministers.

To expedite the development of the Procedure and its approval, the NERC needs assistance of EU experts to identify a well-tested and reliable mechanism for appointing suppliers of last resort. Thus, the main objective of this Component is to assist the NERC in monitoring how EU legislation and energy regulators address the issues related to the appointment of suppliers of last resort, establishing the most suitable mechanism for their appointment in Ukraine with the ultimate objective of developing a draft resolution of the Cabinet of Ministers of Ukraine 'On Approval of the Procedure for Appointing Suppliers of Last Resort'.

#### ACTIVITIES REQUIRED TO ACHIEVE THE OBJECTIVES OF THE COMPONENT

Activity 1.1 Review of the functions, legislation and procedures for appointing suppliers of last resort in Ukraine and in the EU Member States



## Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT

### 1.1.1 Working method

The overall objective of this Activity will be achieved through three basic tasks: assessment of the functions of suppliers of last resort in Ukraine and the legislation and procedures for their appointment; survey of the legislation of the EU Member States concerning the functions of suppliers of last resort and the criteria for their selection and appointment; comparative analysis of EU mechanisms for appointing suppliers of last resort.

#### *Assessment of the functions of suppliers of last resort in Ukraine and the legislation and procedures for their appointment*

The MS Team together with the NERC WG1 will make an assessment of the current legislation on gas supply in Ukraine (currently the supply business of the Oblgaz) and the ways the activities of gas suppliers are regulated, as well as the legal framework for the appointment suppliers of last resort.

#### *Survey of the legislation of EU Member States concerning the functions of suppliers of last resort and the criteria for their selection and appointment*

With a view to acquiring the necessary knowledge and applying it in the development of procedures for the selection and appointment of suppliers of last resort in Ukraine, the NERC WG1 will undertake a survey on legislation in the EU Member States, also in relation to the agenda for market opening to eligible customers. This will rely as much as possible on materials published in English language documents. However, to obtain as broad and detailed a picture as possible of EU Member State laws, regulations and procedures, the MS Team and the NERC WG1 will (if necessary) proceed to undertake a Questionnaire Survey addressed to EU regulators.

#### *Comparative analysis of EU mechanisms for appointing last resort suppliers*

The MS Team and the NERC WG1 will make a comparative analysis of the material gathered in the Survey, summarising this also in a table. The table will emphasise EU Member State laws and regulations issued over the last five years. The table will be used in Activity 1.3 as a basis for identifying the most suitable regulations and procedures for application in Ukraine.

### 1.1.2 Outputs of the Activity

Report assessing current legislation and procedures for appointing suppliers of last resort in Ukraine. Comparative analysis and summary table of legislation, regulation, criteria and procedures for establishing suppliers of last resort in the EU Member States.

### 1.1.3 MS Team Resources

Number of STE:

STE input: 28 days on mission

Number of missions: 12

### 1.1.4 Contribution of the NERC

## Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT

Active contribution to the preparation, execution and analysis of the Survey on EU legislation, regulation and procedures for the selection and appointment of suppliers of last resort. Preparation of the comparative analysis and summary table.

### Activity 1.2 Training and Study visits on the experience in the EU Member States on suppliers of last resort

#### 1.2.1 Working method

The objective of Activity 1.2 is to provide the NERC WG1 with theoretical and practical training on the subject of suppliers of last resort. It consists of a training session, study visits and seminars on key issues arising in the application of EU legislation to the identification and functioning of the supplier of last resort.

##### *Training on suppliers of last resort*

Component activities will start with a two day training session, providing the full background and all aspects of EU legislation and regulations developed in relation to the functions of suppliers of last resort, the criteria and procedures for their appointment, their mandate, regulatory monitoring of their activities, the penalties foreseen for non fulfilment of their assignment. If deemed necessary, further seminars will be held during the course of activities regarding practical issues related to the selection and appointment of suppliers of last resort.

##### *Study visits to the MS Team countries*

The Study visits will focus on the role and experience of Regulators in establishing and applying procedures for appointing suppliers of last resort, highlighting the treatment of key problem areas. They will also include meetings with other government bodies involved in the regulation and identification of suppliers of last resort and in the execution of their functions. Finally, they will include visits to the companies that currently hold or have in prior years held the position of supplier of last resort, for a first hand assessment of their practical experience. The MS Team shall provide the NERC WG1 with relevant documentation in preparation for the Study visits.

#### 1.2.2 Outputs of the Activity

Basic knowledge of EU legislation, sufficient to allow evaluation of the issues involved in the introduction of analogous concepts in Ukraine. Appropriate understanding by the NERC WG1 of the role and obligations of Regulators in the selection and appointment of suppliers of last resort. Report by the MS Team on the Study visits.

#### 1.2.3 MS Team Resources

Number of STE: 2

STE input: 5 days on mission

Number of missions: 2

#### 1.2.4 Contribution of the NERC

Participation in the training course. Participation of the NERC WG1 in the Study visits.

Preparation of a brief Report on the findings of the Study visits.

## Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT

### Activity 1.3 Proposal for a draft Resolution of the Cabinet of Ministers on the appointment of suppliers of last resort

#### 1.3.1 Working method

In this Activity the theoretical principles and practical experience developed in Activities 1.1 and 1.2 will be applied to prepare a draft Resolution of the Cabinet of Ministers of Ukraine 'On Approval of a Procedure for Appointing Suppliers of Last Resort'. It is composed of three basically consecutive tasks: assessment of the application of EU legislation and procedures for appointing suppliers of last resort in Ukraine; development of a draft Resolution for the selection and appointment of suppliers of last resort in Ukraine; revision and final approval of the draft Resolution.

#### *Assessment of the application of EU legislation and procedures for appointing suppliers of last resort in Ukraine*

The MS Team and NERC WG-1 will work together to identify the most suitable functions and procedures for selection and appointment of suppliers of last resort in Ukraine, based on the comparative information collected in the table developed in Activity 1.1, taking into account their appropriateness and efficiency for the Ukrainian gas sector and their coherence with Ukrainian legislation. This will include a detailed simulation of the application of the procedure in relation to the agenda for gas market opening to eligible customers.

#### *Development of a draft Resolution for the selection and appointment of suppliers of last resort in Ukraine*

Based on the assessment in the preceding task, the NERC WG1 will develop a draft Resolution of the Cabinet of Ministers of Ukraine 'On Approval of the Procedure for Appointing Suppliers of Last Resort'. This will define basic functions and establish criteria and procedures for the selection and appointment of suppliers of last resort in Ukraine.

#### *Revision and final approval of the draft Resolution*

The MS Team will test the Resolution with simulation exercises undertaken together with the NERC WG1 and provide comments and suggestions for its improvement, as deemed necessary. The NERC WG1 will revise the draft Resolution taking into account the observations and suggestions of the MS Team.

#### 1.3.2 Outputs of the Activity

Draft Resolution of the Cabinet of Ministers of Ukraine 'On Approval of the Procedure for Appointing Suppliers of Last Resort'.

#### 1.3.3 MS Team Resources

Number of STE: 2

STE input: 20 days on mission

Number of missions: 8

**Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT**

**1.3.4 Contribution of the NERC**

Assessment of alternative procedures most adapted to the Ukrainian gas supply framework. Discussion, preparation, revision and finalisation of the draft Résolution.

## Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT

### COMPONENT 2

#### *Criteria and procedure for identifying eligible customers*

The promotion of liberalisation of the natural gas market, to ensure competitiveness and customer protection, is currently a strategic direction of the Ukrainian energy sector.

The law of Ukraine 'On Principles of Natural Gas Market Operation' (hereinafter referred to as the Law) was enacted on July 8 2010, in harmony with the requirements of Directive 2003/55/EU which provides for liberalisation of the internal natural gas market. The Law aims at improving legislation in the gas sector by identifying principles of operation of the natural gas market and establishes the regulator's functions for setting rules of market operation. It provides for a gradual and consecutive transition to natural gas market liberalisation. The first stage will be focused on unbundling of natural gas distribution and supply, determination of eligible customers and last resort suppliers by the Cabinet of Ministers of Ukraine. This stage begins on the 1<sup>st</sup> of January 2012.

The EU energy directives establishes that national regulators shall work on building more homogeneous conditions and ensuring the same level of market opening for the internal EU gas market. In harmony with these principles, the Law establishes that an eligible customer has the right to buy gas freely from any supplier and that eligibility criteria are defined by the National Electricity Regulatory Commission of Ukraine.

The assistance of EU experts is required to expedite the definition of appropriate eligibility criteria and procedures for the certification of eligible customers by the NERC, based on well-tested and reliable mechanisms applied in the EU context.

This Component therefore aims at receiving assistance from EU experts in monitoring and evaluating the EU experience on the implementation of EU legislation on eligibility with reference to such issues as the definition of eligibility criteria and of mechanisms for the identification and certification of eligible customers, with the final objective of developing a draft NERC regulation 'On Approval of the Procedure for Establishing Eligible Customers'.

#### ACTIVITIES REQUIRED TO ACHIEVE THE OBJECTIVES OF THE COMPONENT

##### Activity 2.1 Review of EU Member State legislation on eligibility and procedures for the identification of eligible customers

###### 2.1.1 Working method

The overall objective of this Activity will be achieved through two basic tasks: survey of legislation of EU Member States setting criteria and procedures for establishing eligible customers; comparative analysis of EU legislation on the identification and certification of eligible customers.

## Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT

Survey of the legislation of EU Member States on criteria and procedures for the certification of eligible customers with a view to acquiring the necessary knowledge on eligibility criteria and procedures for certifying eligible customers and applying it in the development of criteria and procedures in Ukraine, the NERC WG2 will undertake a survey on legislation in the EU Member States, also in relation to the characteristics of natural gas consumption by final customers. This will rely as much as possible on materials published in English language documents. However, to obtain as broad and detailed a picture as possible of EU Member State laws, regulations and procedures, the MS Team and the NERC WG2 will (if necessary) proceed to undertake a Questionnaire Survey addressed to EU regulators.

### *Comparative analysis of European legislation on eligible customers*

The MS Team and the NERC WG2 will make a comparative analysis of the material gathered in the Survey, summarising this also in a table. The table will be used in Activity 2.3 as a basis for identifying the most suitable regulations and procedures for application in Ukraine.

#### **2.1.2 Outputs of the Activity**

Comparative analysis and summary table of legislation, regulation, criteria and procedures for the certification of eligibility in EU Member States.

#### **2.1.3 MS Team Resources**

Number of STE:

STE input: 19 days on mission

Number of missions: 9

#### **2.1.4 Contribution of the NERC**

Active contribution to the preparation, execution and analysis of the Survey on EU legislation, regulation and procedures for the certification of eligibility.

Preparation of the comparative analysis and summary table.

Preparation of suitable statistics on the characteristics of natural gas consumption of final customers.

## Activity 2.2 Training and Study visits on the experience of EU Member States on identification of eligible customers

### **2.2.1 Working method**

The objective of Activity 2.2 is to provide the NERC WG2 with theoretical and practical training on the subject of identification and certification of eligible customers. It consists of a training session, study visits and seminars on key issues arising in the application of EU legislation to the identification and certification of eligible customers.

#### *Training on eligible customers*

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Component activities will start with a two day training session, providing the full background and all aspects of EU legislation and regulations developed in relation to the concept of eligible customers, the criteria and procedures foreseen for their identification and certification. Where helpful further seminars will be held during the course of activities regarding practical issues related to the identification and certification of eligible customers.

### *Study visits to MS Team countries*

The Study visits will focus on the role and experience of Regulators in establishing and applying criteria and procedures for identifying and certifying eligible customers. They will also include meetings with other government bodies involved in the regulation and identification of eligible customers. Finally, they will include meetings with a variety of final consumers that have applied for recognition of eligibility. The MS Team shall provide the NERC WG2 with relevant documentation in preparation for the Study visits.

### 2.2.2 Outputs of the Activity

Basic knowledge of EU legislation, sufficient to allow evaluation of the issues involved in the introduction of analogous concepts in Ukraine. Appropriate understanding by the NERC WG2 of the role and obligations of Regulators in the identification and certification of eligible customers. Report by the MS Team and the NERC WG2 on the Study visits.

### 2.2.3 Resources

Number of STE:

STE input: 6 days

Number of missions: 2

### 2.2.4 Contribution of the NERC

Participation in the training course. Participation of the NERC WG2 in the Study visits. Preparation of a brief Report on the findings of Study visits.

## Activity 2.3 Preparation of a draft NERC regulation 'On Approval of the Procedure for Identification of Eligible Customers'

### 2.3.1 Working method

In this Activity the theoretical principles and practical experience developed in Activities 2.1 and 2.2 will be applied to prepare a draft NERC regulation 'On Approval of the Procedure for Establishing Eligible Customers'. It is composed of four basically consecutive tasks: characteristics of natural gas consumers in Ukraine; assessment of the application of EU legislation and procedures for certifying eligible customers in Ukraine; development of a draft Regulation for the selection and appointment of suppliers of last resort in Ukraine; revision and final approval of the draft Regulation.

#### *Characteristics of gas consumption of final customers in Ukraine*

As a basis for identifying eligibility criteria and certification procedures applicable in Ukraine, the NERC WG-2 will gather available statistics from the Oblgaz and from other

## Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT

sources on consumption patterns of final customers, identifying key factors such as sector, consumption level, delivery pressure, type of connection and nature of metering, as well as other information considered to be pertinent.

### *Assessment of the application of EU legislation and procedures for certifying eligible customers in Ukraine*

The MS Team and NERC WG2 will work together to identify the most suitable criteria and procedures for the identification and certification of eligible customers in Ukraine, based on the characteristics of gas consumers studied in the previous task and the comparative information collected in the table developed in Activity 2.1, taking into account their appropriateness and coherence with Ukrainian legislation.

### *Development of a draft Regulation for the identification and certification of eligible customers in Ukraine*

Based on the assessment in the preceding task, the NERC WG2 will develop a draft NERC regulation 'On Approval of the Procedure for Certifying Eligible Customers'. This will establish criteria and procedures for the identification and certification of eligible customers in Ukraine.

### *Revision and final approval of the draft Regulation*

The MS Team will test the Regulation with simulation exercises undertaken together with the NERC WG2 and provide comments and suggestions for its improvement, as deemed necessary. The NERC WG2 will revise the draft Regulation taking into account the observations and suggestions of the MS Team.

#### **2.3.2 Outputs of the Activity**

Draft NERC Regulation 'On Approval of the Procedure for Certifying Eligible Customers'.

#### **2.3.3 Resources**

Number of STE:

STE input: 27 days

Number of missions: 12

#### **2.3.4 Contribution of the NERC**

Assessment of alternative criteria and procedures most adapted to the Ukrainian gas supply framework. Discussion, preparation, revision and finalisation of the draft Regulation.



## Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT

### COMPONENT 3

#### *Methodology for determining of connection charges to gas networks*

One of the main tasks of regulators of network services is to ensure equal and non-discriminatory access to networks. In particular, connection is a key aspect of access to networks and businesses often abuse their monopoly power by taking unjustified connection charges.

EU legislation pays special attention to regulating the issue of connection to gas networks. For instance, in accordance with Article 25 of EU Directive 2003/55/EU regulatory authorities bear responsibility for establishing the conditions for access to gas networks and for approving, prior to their operation, at least the methodologies used for calculating the connection charges.

Also, EU Regulation no. 1775/2005 contains provisions regarding the need to ensure transparency in the natural gas market through the publication of sufficiently detailed information on the costs of services provided by gas market operators, of the methodologies applied for the determination of these costs, as well as sufficiently detailed technical information for receiving access to the gas networks.

The Law of Ukraine 'On Principles of Natural Gas Market Operation' (hereinafter referred to as the Law) entrusts the NERC with powers of approval of the Procedure for Access to the Single Gas Transmission System of Ukraine, which includes requirements by license-holders for connection of suppliers and consumers to gas networks. With the objective of developing a transparent and non-discriminatory connection procedure, the NERC is to issue the technical requirements and a methodology for calculating the cost of services related to connection to gas networks.

In order to achieve compliance with the objective of equal and non-discriminatory rights of consumers for connection to gas networks set by the Law, the NERC can benefit from the assistance of EU experts in the development of a transparent and sufficiently detailed methodology to determine the cost of services related to connection to gas networks. Thus, the main objective of this Component is to provide support to the NERC in developing the most suitable mechanism for calculating charges for connection to gas networks in line with the requirements of EU legislation.

#### ACTIVITIES REQUIRED TO ACHIEVE THE OBJECTIVES OF THE COMPONENT

##### Activity 3.1 Review of methodologies for calculating connection charges to gas networks in Ukraine and in the EU Member States

###### 3.1.1 Working method

The overall objective of Activity 3.1 will be achieved through four main tasks: assessment of current Ukrainian legislation and procedures for connection to gas networks; survey of the legislation of EU Member States concerning the regulation of the cost of connection to

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gas networks; comparative analysis of methodologies for calculating the cost of services related to connection to gas networks in the EU Member States.

### *Assessment of current Ukrainian legislation and procedures for connection to gas networks*

The MS Team and the NERC WG3 will carry out an assessment of existing Ukrainian legislation, regulations and practical procedures for the connection of customers to gas networks and related charges.

### *Survey of the legislation of EU Member States concerning the regulation of the cost of connection to gas networks*

With a view to acquiring the necessary knowledge and applying it in the development of a methodology for the determination of the cost of service for connection to gas networks, the NERC WG3 and the MS Team will undertake a survey on legislation and regulation in the EU Member States. This will address both main pipelines and distribution pipelines and rely to the extent possible on materials published in English language documents. However, to obtain as broad and detailed a picture as possible of EU Member State laws, regulations and procedures, the MS Team and the NERC WG3 will (if necessary) proceed to undertake a Questionnaire Survey addressed to EU regulators.

### *Comparative analysis of methodologies for calculating the cost of services related to connection to gas networks in the EU Member States*

The MS Team and the NERC WG3 will make a comparative analysis of the material gathered in the Survey, summarising this also in a table. The table will emphasise EU Member State laws and regulations issued over the last five years. It will be used in Activity 3.3 as a basis for identifying the most suitable methodologies and procedures for application in Ukraine.

#### **3.1.2 Outputs of the Activity**

Report assessing current legislation and procedures governing the connection to gas networks and methodologies for calculating connection charges in Ukraine. Comparative analysis and summary table of legislation, regulation and methodologies applied in the EU Member States.

#### **3.1.3 MS Team Resources**

Number of STE:

STE input: 24 days on mission

Number of missions: 10

#### **3.1.4 Contribution of the NERC**

Active contribution to the preparation, execution and analysis of the Survey on EU legislation and procedures governing the connection to gas networks and methodologies for calculating connection charges. Preparation of the comparative analysis and summary table.

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### Activity 3.2 Training and Study visits on the experience of the EU Member States on the determination of charges for connection to gas networks

#### 3.2.1. Working method

The objective of Activity 3.2 is to provide the NERC WG3 with theoretical and practical training on the subject of connection charges and related services. It consists of a training session, study visits and seminars on key issues arising in the application of legislation and methodologies used in the EU Member States.

#### *Training on connection to gas networks*

Component activities will start with a two day training session, providing the full background and all aspects of EU legislation and regulations as well as methodologies developed in relation to connection of customers to gas networks. Where helpful further seminars will be held during the course of activities regarding practical issues related to the selection and appointment of suppliers of last resort.

#### *Study visits to MS Team countries*

They will focus on the role and experience of Regulators in establishing and applying the methodologies for calculating connection charges and related services, inspections and sanctions applied for non compliance. They will also include key meetings with transmission and distribution companies. The MS Team shall provide the NERC WG3 with relevant documentation in preparation for the Study visits.

#### 3.2.2 Outputs of the Activity

Appropriate understanding by the NERC WG3 of the role and obligations of EU Regulators in relation to the connection of consumers to gas networks. Insight into issues related to the application EU legislation and methodologies used by EU regulators in the calculation of connection charges and related services and their introduction in Ukraine. Report on the results of the study visits.

#### 3.2.3 Resources

Number of STE:

STE input: 5 days on mission

Number of missions: 2

#### 3.2.4 Contribution of the NERC

Participation in the training course and Study visits. Preparation of a brief Report on the findings of Study visits.

### Activity 3.3 Standard procedure for calculating the cost of services related to connection to gas networks

#### 3.3.1 Working method

This activity is focused on application of theoretical knowledge received by NERC WG3 members in Activities 3.1 and 3.2. It is composed of three tasks, which are basically

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consecutive: assessment of methodologies applied in the EU Member States for the calculation of connection charges and related services; development of a methodology for calculating the cost of services for connection to gas networks; revision and final approval of the technique developed.

### *Assessment of methodologies applied in the EU Member States for the calculation of connection charges and related services*

The MS Team and NERC WG-3 will work together to identify the most suitable methodology for application in Ukraine, based on the comparative information collected in the table developed in Activity 3.1, taking into account their appropriateness and efficiency for the Ukrainian gas sector and their coherence with Ukrainian legislation.

### *Development of a methodology for calculating the cost of services for connection to gas networks*

Based on the assessment in the preceding task, the NERC WG3 will develop a draft methodology for calculating standard costs of services for connection to gas networks (both main and distribution lines) as a basis for the preparation of a NERC Regulation 'On Approval of the Methodology for Calculating Charges for connecting Gas Using and Supply Facilities to Gas Networks'.

### *Revision and final approval of the technique developed*

The MS Team will test the proposed methodology with simulation exercises undertaken together with the NERC WG3 and provide comments and suggestions for its improvement, as deemed necessary. The NERC WG3 will revise the draft methodology taking into account the observations and suggestions of the MS Team.

### **3.3.2 Outputs of the Activity**

Draft methodology for calculating connection charges to be used as a basis for a NERC Regulation 'On Approval of the Methodology for Calculating Charges for connecting Gas Using and Supply Facilities to Gas Networks'.

### **3.3.3 MS Team Resources**

Number of STE:

STE input: 27 days on mission

Number of missions: 12

### **3.3.4 Contribution of the NERC**

Assessment of alternative methodologies most adapted to the calculation of standard connection charges and related services in the Ukrainian gas supply system. Discussion, preparation, revision and finalisation of the draft Regulation.

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### COMPONENT 4

#### *Tariff design methodology*

The current system for setting tariffs for gas distribution companies of Ukraine provides for a single consolidated tariff for transmission of natural gas by distribution pipelines for all customers of Ukraine, except for customers receiving natural gas directly from main high pressure pipelines. The consolidated tariff on natural gas transmission is established based on a 'postage stamp' principle, that is all customers pay the same cost for transmission services, irrespective of the distance of transmission, based on the costs of the gas transmission system of Ukraine and volumes of gas transmitted. The consolidated tariff is set as a sum of tariffs for the transport and dispatch of gas and is calculated taking into account general costs related to transmission (both by main pipelines and distribution networks) and to the volumes of gas transmitted.

Such an approach does not fully reflect actual costs of gas distribution companies, which are largely fixed and depend only in a secondary way on the volumes of gas distributed. It also creates conditions favourable for cross subsidisation of some consumers at the expense of others.

In order to improve state regulation in the gas sector of Ukraine, it is proposed to study the possibility of switching to the system of binominal tariffs for distribution of natural gas based on a fixed part that depends on capacity and a variable part that depends on the volume of gas transmitted. To this end it is useful to refer to the experience of EU Member States with binomial and other forms of tariff differentiation.

The main objective of this Component is thus to provide assistance to the NERC in developing a suitable tariff design methodology which takes into account consumption volumes, category of consumers, pressure level and other key parameters.

#### ACTIVITIES REQUIRED TO ACHIEVE THE OBJECTIVES OF THE COMPONENT

#### Activity 4.1 Review of tariff design methodologies applied in the EU Member State gas distribution sector and analysis of their applicability in Ukraine

##### 4.1.1 Working method

The overall objective of this Activity will be achieved through three basic tasks: survey of the legislative basis and regulation of tariff design for gas distribution companies in the EU Member States; comparative analysis of methodologies applied for the development of binomial and other forms of differentiated tariffs in the EU Member States; recommendations on the application of methodologies for designing binomial and other forms of differentiated tariffs for Ukraine's gas distribution sector.

Survey of the legislative basis and regulation of tariff design for gas distribution companies in the EU Member States. In this task the MS Team will assist the NERC WG4

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to investigate the legislative fundamentals, regulatory framework and methodologies used for tariff design in the EU Member States, as a basis for implementing differentiated tariffs for gas distribution companies in Ukraine. The Survey will rely as much as possible on materials published in English language documents and on the information collected in the Survey undertaken in the Twinning Project UA08/PCA/EY/12 "Regulatory and Legal Capacity Strengthening of Natural Gas Regulation in NERC"<sup>2</sup>. However, to obtain as broad and detailed a picture as possible of the methodologies used in the EU Member States, the MS Team and the NERC WG4 will (if necessary) undertake a further Questionnaire Survey addressed to EU regulators.

### *Comparative analysis of methodologies applied for the development of binomial and other forms of differentiated tariffs in the EU Member States*

The MS Team and the NERC WG4 will make a comparative analysis of the material gathered in the Survey, summarising this also in a table. The table will emphasise EU Member State legislation and regulations issued over the last five years and will be used in the subsequent task as a basis for identifying the most suitable regulatory procedures and methodologies applicable in Ukraine.

### *Recommendations on the application of methodologies for designing binominal and other forms of differentiated tariffs for Ukraine's gas distribution sector*

Based on the comparative analysis, the MS Team and the NERC WG4 will prepare recommendations for the implementation of binominal and other forms of differentiated gas distribution tariffs, taking into account the structure and operation of Ukraine's gas sector.

#### **4.1.2 Outputs of the Activity**

Comparative analysis of legislation, regulation and methodologies for binomial and other forms of differentiated tariff design in the EU Member States. Recommendations on the implementation of binominal and other forms of differentiated tariffs in Ukraine's gas distribution sector.

#### **4.1.3 MS Team Resources**

Number of STE:

STE input: 20 days on mission

Number of missions: 9

#### **4.1.4 Contribution of the NERC**

Active contribution to the preparation, execution and analysis of the Survey on legislation, regulation and methodologies for tariff design applied in the EU Member States. Preparation of the comparative analysis and summary table.

## Activity 4.2 Training on tariff design methodologies applied in the EU Member State gas distribution sector

<sup>2</sup> Survey on incentive regulation in the gas sector of Member States of the CEER and ERRA.

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### 4.2.1 Working method

The objective of Activity 4.2 is to provide the NERC WG4 with theoretical and practical training on the subject tariff design. It consists of a training session, study visits and seminars on key issues arising in the application of binomial and other forms of differentiated tariff design methodologies.

#### *Training on tariff design methodologies*

Component activities will start with a two day training session, providing the background and basic aspects of EU legislation, regulatory framework and tariff design methodologies, emphasising binomial and other forms of differentiated tariffs. Where helpful further seminars will be held during the course of activities regarding practical issues related to the selection and appointment of suppliers of last resort.

#### *Study visits to MS Team countries*

The Study visits will focus on the role and experience of Regulators in establishing and applying tariff design methodologies to the gas distribution sector, highlighting overall results, the treatment of key problem areas and tariff design reviews. They will also include visits to a selected number of gas distribution companies to discuss the data and other parameters used in the application of the methodologies, to evaluate the results and other critical regulatory issues. The MS Team shall provide the NERC WG4 with relevant documentation in preparation for the Study visits.

### 4.2.2 Outputs of the Activity

Basic knowledge of tariff design methodologies applied in the countries of the Study visits, also in relation to tariff design alternatives, sufficient to allow evaluation of the issues involved in the introduction of analogous concepts in Ukraine. Report by the MS Team on the Study visits.

### 4.2.3 MS Team Resources

Number of STE:

STE input: 5 days on mission

Number of missions: 3

### 4.2.4 Contribution of the NERC

Participation in the training course. Participation of the NERC WG4 in the Study visits. Preparation of a brief Report on the findings of the Study visits.

## Activity 4.3 Development of a draft methodology for binominal tariff design

### 4.3.1 Working method

The focus of Activity 4.3 is on the application of principles and methodologies examined in Activity 4.1 and further insight obtained in Activity 4.2 to develop a methodology for designing binominal tariffs adapted to Ukraine's gas distribution sector, with a fixed part that depends on capacity and a variable part that depends on volume of gas consumed. It consists of three principal tasks: selection of tariff design

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methodologies and parameters; development of reporting forms for cost accounting by the Oblgaz; development of a spreadsheet model for tariff design and choice of a draft methodology.

### *Identification of tariff design methodologies*

The methodologies to be tested by the NERC WG4 and the MS Team will be identified based on the recommendations prepared in Activity 4.1 and concepts developed in Activity 4.2. Alternative options for tariff differentiation will be considered depending on pressure levels, consumer category and other relevant variables.

### *Development of reporting forms for cost accounting by the Oblgaz*

This task aims at developing suitable reporting forms which enable the allocation of costs between cost-centres in order to distinguish between:

- costs that depend on capacity (accounted capacity, connected capacity, booked capacity);
- costs that depend on the volumes of energy supplied;
- costs that depend on the number of consumers and points of connection.

The reporting forms will be developed and tested with a selected number of Oblgaz, taking into account the experience developed in the course of the exercise on accounting unbundling undertaken in the Twinning Project UA08/PCA/EY/12.

### *Development of a spreadsheet model for tariff design and choice of a draft methodology*

The tariff design methodologies will be analysed with the use of a spreadsheet model in EXCEL format, prepared expressly for the purpose. This will allow examination of the impact of different tariff design formulae on the tariffs applied to the different consumer categories. The final result of this task will be the choice of a draft methodology for tariff design to be proposed in the Consultation process.

#### **4.3.2 Outputs of the Activity**

Accounting forms for the Oblgaz. Spreadsheet model for tariff design. Draft methodology for binominal tariff design for the Consultation process.

#### **4.3.3 MS Team Resources**

Number of STE:

STE input: 27 days on mission

Number of missions: 12

#### **4.3.4 Contribution of the NERC**

Active contribution to the selection of tariff design methodologies and parameters.

Development and testing of reporting forms for cost accounting by the Oblgaz.

Collaboration in the development of the spreadsheet model and application using different parameters and tariff design formulae.



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### Activity 4.4 Consultations with the Oblgaz and other stakeholders

#### 4.4.1 Working method

The Consultation with the Oblgaz and other stakeholders at the end of the process consists of two engagements: technical seminars with the Oblgaz on the proposed tariff design methodology; final seminar with all stakeholders.

##### *Technical seminars with the Oblgaz on the proposed tariff design methodology*

A selected number of Oblgaz will be involved in the course of Activity 4.3 to test the reporting forms for cost accounting and to provide data for the tariff design applications. The NERC WG4 will also organise a first seminar with the Oblgaz to arrange test applications of the tariff design methodology using company data. This will be followed by a Workshop with the Oblgaz to examine the results obtained, to discuss critical issues arising out of the applications and to examine revisions of the methodology where necessary.

##### *Final seminar with all stakeholders*

The final Seminar opens the Consultation to government bodies, consumer associations and other stakeholders, as well as the Oblgaz who will be expected to provide responses as in a normal NERC Consultation.

#### 4.4.2 Outputs of the Activity

Consultation Report based on the responses provided by the Oblgaz and other stakeholders.

#### 4.4.3 MS Team Resources

Number of STE:

STE input: 13 days on mission

Number of missions: 5

#### 4.4.4 Contribution of the NERC

Organisation of the meetings with the Oblgaz and the final Consultation seminar.

Preparation of the Consultation Report.

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### COMPONENT 5

*Assistance to NERC in the implementation of the EnCT commitments and dedicated training on technical EnCT terminology*

Ratification on December 15 2010 of Ukraine's Accession Protocol to the Energy Community as of 1<sup>st</sup> February 2011 obliges Ukraine to a strict timetable for the implementation of the *acquis communautaire*.

In this context, the EnCT Secretariat in Vienna has asked the NERC to formally commence implementation with a series of meetings starting in April 2011. Given the particular characteristics of EU style procedures and to secure active participation by the NERC, the EnCT Secretariat recommends that the NERC be given concrete assistance in this activity, specifically in the preparation of the meetings and in the coordination of subsequent activities.

A concern for the successful implementation of these activities is the lack of proficient technical language capability by most NERC staff, since EnCT business is conducted solely in English. As part of this Component it is therefore considered useful to organise dedicated training courses for NERC Staff with technical energy sector terminology, particular for personnel who will be attending the EnCT meetings and implementing the actions.

### Activity 5.1 Coordination of technical meetings and activities at the EnCT Secretariat

#### 5.1.1 Working method

The MS Team will assist the NERC representatives in preparing for the meetings at the EnCT and in coordinating the subsequent work commitments. Missions to Vienna by the MS Team will be required to achieve the best results.

#### 5.1.2 Outputs of the Activity

Familiarity with EnCT legal framework and procedures. Understanding of Ukrainian obligation within the EnCT Treaty and joining Protocol. Efficient participation of NERC representatives in EnCT institutions and related working groups.

#### 5.1.3 Resources

Number of STE: 1

STE Input: 8 days on mission

Number of missions: 4

#### 5.1.4 Contribution of the NERC

Joint preparation of technical meetings and co-ordination of follow up activities with the MS Team.

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### Activity 5.2 Dedicated training on technical EnCT terminology

#### 5.2.1 Working method

Training of the NERC Staff will be provided over a six months period by a Specialist training institute based in Kyiv, certified as meeting the required competences for training in the "full immersion" method. The institute will provide training aids and audiovisuals and issue a training achievement certificate to all participants at the end of the course. Classes will be held on NERC premises.

#### 5.2.2 Outputs of the Activity

Capacity Building of Staff from core departments of NERC through dedicated training on technical terminology, focusing on EnCT issues to enable them to participate fully to ECRB meetings and be able to contribute to EnCT related commitments' output.

#### 5.2.3. Resources

STE Input:

Number of missions:

Other: Technical training course

#### 1.3.4 Contribution of the NERC

Assiduous participation of the NERC WG members in the technical training sessions and full contribution to related activities.

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**ARTICLE 5**

**SCHEDULE OF ACTIVITIES**

Since this Project is expected to begin when the Twinning Project "...." is still fully underway, the Preliminary Schedule outlined in this section does not consider a start up period from the date of notification by the Contracting Authority. The implementation of this project is assumed to take 12 months with the final month or two set aside for the closure of the Action. The Schedule reflects the Work Plan outlined in Article 4. For each Component, it indicates the estimated duration and timing of each Activity, starting from the first month of implementation, as well as the STE contribution in terms of days on mission in Kyiv.

The Schedule will be reviewed and refined on a quarterly basis with the BC Counterpart, based on actual achievements, on better and more updated information and in depth analysis of the issues, and on external events not directly under the control of the MS Team.

Formal reporting of Project development will be undertaken following the indications specified in Article 7.3 which summarises the procedures outlined in Point 6.4.2 of the Twinning Manual. The Interim Quarterly Reports will be produced as soon as possible in the month following the corresponding quarter.

Overall Project monitoring will also be undertaken on a three month basis in meetings to be agreed by the MS and BC Project Leaders with the EC Delegation, the PAO and ITO as soon as possible after transmission of the IQRs.

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**PRELIMINARY SCHEDULE OF ACTIVITIES (WITH STE INPUTS IN DAYS ON MISSION)**

COMPONENTS AND ACTIVITIES		Q-1	Q-2	Q-3	Q-4	Total
<b>COMPONENT 1</b>	<b>Criteria for selecting and appointing suppliers of last resort</b>	21	22	10	0	53
Activity 1.1	Review of functions, legislation and procedures in Ukraine and in the EU	19	9			28
Activity 1.2	Training and Study visits	2	3			5
Activity 1.3	Proposal for a draft resolution to the Cabinet of Ministers		10	10		20
<b>COMPONENT 2</b>	<b>Criteria for identifying eligible customers</b>	16	18	18	0	52
Activity 2.1	Review of EU legislation and procedures for certification of eligibility	14	5			19
Activity 2.2	Training and Study visits	2	4			6
Activity 2.3	Preparation of a draft NERC regulation		9	18		27
<b>COMPONENT 3</b>	<b>Methodology for determining of connection charges to gas networks</b>	7	31	18	0	56
Activity 3.1	Review of methodologies applied in Ukraine and in the EU Member States	5	19			24
Activity 3.2	Training and Study visits	2	3			5
Activity 3.3	Standard procedure for calculating connection charges		9	18		27
<b>COMPONENT 4</b>	<b>Tariff design methodology</b>	3	27	16	19	65
Activity 4.1	Review of methodologies applied in the EU Member States		20			20
Activity 4.2	Training and Study visits	3	2			5
Activity 4.3	Development of a draft methodology for binominal tariff design		5	16		21
Activity 4.4	Consultations with the Oblgaz and other stakeholders				13	13
<b>COMPONENT 5</b>	<b>Assisting NERC to implement EnCT commitments and Technical Training</b>	2	2	2	2	8
Activity 5.1	Coordination of technical meetings and activities at the EnCT Secretariat	2	2	2	2	8
Activity 5.2	Dedicated training on technical EnCT terminology					0
<b>TOTAL</b>		49	100	64	21	234

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## ARTICLE 6

### RESOURCES

#### 6.1 Human resources

##### 6.1.1 Member States

The Consortium implementing the Twinning Project is composed of the following MS institutions:

- the *Italian Regulatory Authority for Electricity and Gas (AEEG)*, Leading Consortium Partner, will have the overall responsibility for implementation of the Project and will provide specific leadership in Components 1 and 5;
- the *Romanian Energy Regulatory Authority (ANRE)*, Junior Consortium Partner, will provide specific leadership in Components 4 and 6;
- the *Regulatory Authority for Energy of the Hellenic Republic (RAE)*, Junior Consortium Partner, will provide specific leadership in Components 2 and 7;
- the *Hungarian Energy Office (HEO)*, Junior Consortium Partner, will provide specific leadership in Component 3;
- *Studiare Sviluppo, (STSV)*, Junior Consortium Partner, will provide administrative and logistic assistance to implementation of the Project.

The MS Team involved in the implementation of the Twinning Project consists of the Project Leader and Resident Twinning Advisor, the Component Coordinators (Key Short Term Experts), the other Short Term Experts (STE). The following identifies the human resources filling these positions and provides a description of the tasks performed by them. A brief description of the role and tasks of the Project Office personnel is also included.

#### a) Project Leader

The Member State Project Leader (MSPL) will be Mr Carlo CREA. Mr Crea is currently with the Italian Energy Regulator (AEEG) since 2005. Mr Crea holds a Master Degree in Law and has more than 20 years of experience in energy sector activities. He holds an important track record in public administration as Government official in the Ministry of Interior, Oil Division legal advisor at the Ministry of Industry and Trade, Executive for Foreign Affairs Division at General Directorate of Energy Sources in the Ministry of Industry. He also achieved strong management and industry experience as Head of International Affairs in the Italian Transmission System Operator (then GRTN), and as Director of European Institutional Relations and assistant to the CEO at EDISON SPA. He has also held the position of Project Leader in the TACIS financed Twinning Project "Regulatory and Legal Capacity Strengthening of Energy Regulation in NERC of Ukraine".

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### b) Resident Twinning Advisor

The Resident Twinning Advisor (RTA) will be Ms Lemlem SAID ISSA. Ms Said Issa holds B.Sc and M.Sc. degrees in Business Administration and International Affairs, and has completed PhD courses in Development Economics. She has over eighteen years experience as Energy Economist and Regulation Expert in implementing EU energy sector regulations. Ms Said Issa has worked on institution building projects financed by the EBRD, the World Bank and EU funds TACIS, PHARE and CARDS. She has worked in the international co-operation division of the Italian Transmission System Operator where she coordinated policy and regulatory exchanges with neighbouring countries, participating in a variety of activities including the establishment of the Energy Community in South East Europe (ECSEE) aimed at harmonisation with EU energy sector legislation and best practice. She has close to eleven years of professional experience in the CIS and transition economies having managed a project in Russia prior to her appointment as RTA for the Twinning Project with the NERC in the electricity sector. She has also participated in setting up the INOGATE establishment in Ukraine, aimed at creating a network of activities among the Caspian countries for developing financial oil & gas pipeline projects.

In her function as RTA, Ms Said Issa is resident in Ukraine for the duration of the project. Her principal function is local coordination of Twinning Project activities, interfacing with both the MS and BC Project Leaders, her BC Counterpart, the members of the BC Working Groups and of the MS Team. Together with the BC Counterpart she is responsible for organising the missions of the MS Team and the meetings with the BC Working Groups. She follows the execution of all Project activities, drafts the Interim Quarterly Reports and Final Report and more generally guarantees fulfilment of Twinning Manual procedures on the local scale. Beyond this, the RTA is responsible for ascertaining coordination with other projects relevant for the implementation of the EU-Ukrainian Partnership and Association Agreement, locally implemented and funded by other donors, with the primary objective of avoiding overlapping of interventions and misuse of funds.

### c) Component Coordinators

Development of the 5 Project Components will be conducted under the technical leadership of five Key STE (one per Component). Each of the Key STE will be responsible for the technical and scientific coordination of the respective Component. The Key STEs are identified as follows:

- Component 1 - Criteria for appointing and selecting Suppliers of Last Resort: Florin RADOI (ANRE).
- Component 2 - Criteria for establishing Eligible Customers: Oliviero BERNARDINI (StSv)
- Component 3 - Methodology for determining of connection charges to gas networks: Edith FARKAS (HEO)

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- Component 4 - Tariff Design Methodology: Gerasimos AVLONITIS (RAE)
- Component 5 - Assistance to NERC in the implementation of the EnCT commitments and Dedicated training on technical EnCT terminology: Lemlem SAID ISSA (ABEG)

### d) Short Term Experts

A total of 33 Short Term Experts are currently listed to engage in Project activities: this number may increase during the project according to need. A brief description of their professional background and career details is provided in the table at the end of this section. Supplementary MS Experts can be made available as required to implement the Project.

### e) Project Office Personnel

The Project Office benefits from the services of two Assistants: the first for the execution of secretarial services, the second for translation and interpretation.

#### *First Assistant*

The RTA Assistant will be selected by the RTA in consultation with the NERC, according to the procedures defined in the Twinning Manual (in particular Article 5.9).

The Assistant to the RTA should fulfil following requirements:

- Ukrainian and/or Russian mother tongue;
- good knowledge of the English language;
- computer literacy (MS Office; Internet; e-mail etc.);
- familiarity with energy sector;
- previous experience in a similar position.

Her/his CV will be provided to the Contracting Authority when available.

The tasks of the Assistant will be assigned exclusively by the RTA. The Assistant's primary task is to support the RTA and other project experts in their day-to-day activities as Project secretary, translator and interpreter. Based on her/his capabilities she/he will also contribute to the more technical aspects of Project management. More specifically, the role of the RTA Assistant will be the following:

- to provide general support to the RTA in terms of office management, record keeping, correspondence;
- to assist the RTA in guaranteeing adherence to the Project Schedule and updating it as decided by the Project Steering Committee or when necessary to meet short term logistic requirements;



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- to assist the RTA in drafting the minutes of the Project Steering Committee meetings and other Project meetings and any other material related to the Project in Ukrainian and MS languages;
- to translate documents made available or produced in the course of project implementation (internal notes, reports, consultation documents, guidelines, draft NERC rulings, amendments to draft laws, etc.) from English to Ukrainian and vice versa;
- to assist the RTA in the organisation of the Training Programme, STE missions, Study Tours and meetings;
- to assist the RTA in the organisation of STE assignments and meetings as well as Project related missions of the PL and other MS Partner staff;
- to support the RTA in developing and maintaining working contacts and relations with the NERC staff involved in the Twinning Project and with personnel from other Ukrainian institutions;
- to provide necessary support in the organization of seminars and meetings in the BC (preparation of invitation letters and documents, etc.);
- other tasks (e.g. internet research, summarizing of information, etc.).

*Second Assistant*

The Budget in Annex A3 includes a second Assistant to the RTA dedicated solely to translation and interpreting services, including translation of manuals, documents, guidelines, slides and all training material into Ukrainian. This is justified by the fact that, based on experience in the Twinning Project on electricity, practically none of the NERC staff speak English and language is therefore a major obstacle to the efficient implementation of project activities. An assistant with the primary function of carrying out secretarial activities for the Project Office is insufficient to deal with the volume of work developed by 235 days of EU expert missions. A total of 235 days over a period of 12 months of project activity corresponds to an average of one expert present on NERC premises every day. However, parallel meetings are likely to be quite frequent and two or even three EU experts working on different project Components or Activities are likely to be present on the same day and will not be able to do very much if they are not simultaneously assisted by an interpreter. Moreover two interpreters will sometimes be necessary for seminars and workshops to provide simultaneous interpretation, facilitating discussion and debates.

Depending on the volume of material to be translated and on the overlapping of activities, even a Second Assistant may at times be insufficient to guarantee timely availability of documentation in English and in Ukrainian. For this reason the Budget includes an allowance for external translations. These resources will be utilised only if the Assistants to the RTA are unable to meet the required translation deadlines.

<p style="text-align: center;"><b>Support to NERC in the process of implementation of the gas legislation in line with the provisions of the EnCT</b></p>
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### 6.1.2 Beneficiary Country

#### a) Project Leader

The Beneficiary Country Project Leader (BCPL) will be Mr Viktor MERKUSHOV. Mr Merkushov is member of the NERC Commission, with responsibilities in supervision of regulation and pricing in the oil and gas sectors. He obtained in 2000 PhD in Technical Science, from the Dnipropetrovsk Railway Transport Engineering Institute; and has held management positions in various Ukrainian mechanical engineering companies prior to achieving administrative responsibilities in local government and political functions as Commissioner in the Law and Order Commission of the Verhovna Rada and in the State Energy Saving Committee of Ukraine. He has held positions as the Head of the Executive Committee (Mayor) of Dnipropetrovsk from April 1993 to June 1994 ; and as a Member of the Ukraine Parliament, the Verhovna Rada.

#### b) RTA Counterpart

The Beneficiary Country RTA Counterpart will be Mr Valeriy TSAPLIN. Mr Tsaplin holds a degree in Engineering with specialisation in metal sciences and an MA in Economics. Prior to his appointment at the NERC, he was Senior engineer in the Coal Energy Technology Centre of the Ukrainian National Academy of Sciences. At the NERC he is Head of the Department of Strategic Planning and Energy Markets Development, where he also manages the NERC's involvement in international activities.

#### c) NERC Working Groups

The NERC Working Groups have been established in preparation for project implementation. It is expected that a total of 21 NERC Staff will be involved in the Twinning Project. Their CVs are included in Annex A9 of the Contract.

### 6.1.3 Curriculum vitae

The CVs of all the experts involved in the management and execution of the Twinning Project are included in Annex A9. A brief description of the MS and BC Project leaders, of the RTA and the RTA Counterpart, of the MS Short Term Experts and of the members of the NERC Working Groups with their professional background and career details is provided at the end of this section.

## 6.3 Material Resources

The beneficiary country commits itself to cover the costs of the following provisions:

- Adequately equipped (with computer/phone/fax) office space for the RTA and the RTA assistant for the entire duration of their secondment.

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- Adequate conditions for the STEs to perform their work while on mission to the BC.
- Training and conference venues, costs of coffee breaks, as well as presentation equipment;
- Equipment for interpretation.

### **6.3 Indicative Budget**

The total budget is Euro 598.565,00. The detailed breakdown of the costs is provided In Annex A3.



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### DESCRIPTION OF THE MS PROJECT LEADER, OF THE RTA AND OF THE SHORT TERM EXPERTS

Name	Nationality	Education	Specialist knowledge	Present position	Employer	Years of experience	Experience abroad	Foreign languages
Viorel ALICUS	Romania	M. Sc. (Engineering) Polytechnic Institute, Timisoara -Romania	Incentive regulation, criteria and methods for setting prices and regulated tariffs in the electricity, gas and heat sectors	General Director for Prices and Tariffs Department	Romanian Energy Regulatory Authority (ANRE)	25	Ukraine	English (VG) French (G)
Sergio ASCARI	Italian	M. Sc. (Econ), University of York, U.K.	Energy regulation; Gas economic regulation; International Co-operation and Technical Assistance; Energy-Environmental interactions; Solid Waste Policy	Senior Consultant	Ref. - <i>Ricerche per l'economia e la finanza</i> , Italy	27	Austria Belgium Czech - Republic Lithuania Turkey	English (VG) German (G) French (G) Turkish (G)
Miltiadis ASLANOGLU	Greek	M.Sc. in Applied Economics & Finance, Athens University of Economics and Business (AUEB), Greece	Markets restructuring, Markets design, markets economics and financing; Competition, Tariffs, Trading activities.	Head of Markets Monitoring and Competition Unit	Regulatory Authority for Energy (RAE), Greece	10	UK	English (E) French (W)
Gerasimos AVLONITIS	Greek	Master of Science (MSc) and Diploma of Imperial College (DIC), Petroleum Engineering, Imperial College London, U.K.	Market restructuring; market design; regulation of natural monopolies; tariffs	Head of Energy Systems Analysis Department	Regulatory Authority for Energy (RAE), Greece	10	UK	English (E) French (B)
Gian Paolo BASTIA	Italian	Degree in Political Science and Economics, University of Bologna, Italy	Accounting methods and practices; administrative standards of the regulated companies; industrial accounting; organisation and management in utility industries; unbundling and reporting for the Regulatory compliance	Expert	<i>Studiare Sviluppo</i> , R.I.E., NOMISMA Italy Local and central government bodies	38	Czech - Republic, Ukraine	English (G)
Oliviero BERNARDINI	Italian	Ph.D. in Chemical Physics, Harvard	Energy regulation; energy policy; energy economics; energy technology	Senior Staff of the Strategies,	Italian Regulatory	42	Byelorussia Russia	English (E) French (VG)



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Name	Nationality	Education	Specialist knowledge	Present position.	Employer	Years of experience	Experience abroad	Foreign languages
Carlo CREA	Italian	Degree in Law, University of Naples, Italy	Energy Sector both in top level public and private management; public affair and Institutional relations; knowledge of EU system, Institutional and rules; national/international Energy regulation	Head of International Affairs, Strategy & Planning	Italian Regulatory Authority for Electricity and Gas (AEEG)	24	Belgium Spain Ukraine	English (VG) French (G)
Marco DELPERO	Italian	Degree in business economics, Turin University, Italy	Gas and electricity distribution tariffs; Gas distribution regulation; Implementation of unbundling rules	Head of gas and electricity distribution tariff department	Italian Regulatory Authority for Electricity and Gas (AEEG)	25		English (E) French (VG) German (E) Russian (B)
Gergely ÉLIÁS	Hungarian	M. A. in Economics at Corvinus University of Budapest	Regulation, Economic data analysis, Econometrics, Microeconomics, distribution tariffs	Economic analyst	Hungarian Energy Office (HEO)	3		English (G) German (G)
Zoltán Edit FARKAS	Hungarian	Engineering industry economic engineer, Budapest University of Technology and Economics, Hungary	Incentive based gas price regulation	Head of Gas Pricing Department	Hungarian Energy Office (HEO)	18		English (G)
Evangelia GAZI	Greek	PhD Chemical Engineering	Regulation of energy markets, market design, international benchmarking analyses, reporting to international agencies	President's Office	Regulatory Authority for Energy (RAE), Greece	17	USA	English, French
Ákos HEITER	Hungarian	M. Sc. In Economics, Pannon University Hungary	Asset accounting, financial analysis, cost efficiency analysis, economic models	Gas industry analyst	Hungarian Energy Office (HEO)	3		English (G) German (G) French (F)
Konstantinos	Greek	Postgraduate	Electricity: Capacity assurance	Markets	Regulatory	10	Belgium	English (E)





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Name	Nationality	Education	Specialist knowledge	Present position	Employer	Years of experience	Experience abroad	Foreign languages
KANELLOPOULOS		Diploma Course, Fluid mechanics, Turbo machinery Compressor design, Von Karman Institute, Belgium	mechanism, CHP, long term energy planning, power station licensing requirements. Gas: Security of supply, LNG TPA schemes. Environment: EU ETS, Energy efficiency.	Monitoring and Competition Unit	Authority for Energy (RAE), Greece		France Italy Spain	French (G) Spanish (B) Italian (VG) German (B)
Demetrius LELOVITIS	Greek	Doctorate candidate, LLM in International Commercial Law, Democritus University of Thrace, Greece	European energy markets regulation; Expert knowledge of investment and competition law in the energy sector; energy policy assessment, international benchmarking analyses; amicable resolution of energy disputes	Legal Expert – International Affairs Unit	Regulatory Authority for Energy (RAE), Greece	8	Belgium	English (E), German (G)
Irene MASETTI	Italian	Master in Regulation and antitrust of public utilities, University of Rome "Tor Vergata", Italy	European Community Law; Public Law; energy regulation	Officer	Italian Regulatory Authority for Electricity and Gas (AEEG)	3	Ukraine	English (G) French (G)
Andrea MÖRCZ	Hungarian	M. Sc. In gas engineering, University of Miskolc, Hungary	Distribution tariffs, cost and asset review	Senior Advisor, Gas Pricing Department	Hungarian Energy Office (HEO)	10		English (G)
Angeliki MOURTZIKOU	Greek	MA in Science, Technology and Public Policy BSc in Chemical Engineering	Terms and tariffs for access to gas networks, gas market monitoring, petroleum stockholding, financing of energy projects, technology best practices for the natural gas industry	Natural Gas/Petroleum Expert	Regulatory Authority for Energy (RAE), Greece	15	Estonia Slovakia USA	English, (E) French (B)
Chiara PETRUZZO	Italian	PhD candidate on European Competition Law, University of Naples (Italy) in cooperation with University of Strasbourg, France	European Community Law	Legal consultancy – agent	Italian Regulatory Authority for Electricity and Gas (AEEG)	11	France Luxembourg	English (VG) French (E)



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Name	Nationality	Education	Specialist knowledge	Present position	Employer	Years of experience	Experience abroad	Foreign languages
Mirela PLESCA	Romanian	Bachelor's degree in Engineering and Master's degree in Management of natural resources from Polytechnic University of Bucharest.	Coordination of international and EU regulatory activities and application of Acquis communautaire. Gas sector engineering.	Director for Strategies and Programmes	Romanian Energy Regulatory Authority (ANRE)	19	Spain	English (VG) French (G) Spanish (G)
Diana Elena POPESCU	Romanian	Degree in Law from Ion Luca Caragiale National College	Legislation on consumer protection and gas company performance	Legal Advisor Commercial Gas Sector Regulation	Romanian Energy Regulatory Authority (ANRE)	10	Germany, Ireland, Italy	English (G)
Mihai Octavian RAMNICEANU	Romanian	Natural gas engineering at University of Oil and Gas Ploiești	Elaboration of technical norms for underground storage, transmission and distribution of natural gas	Director Licensing and Authorisations	Romanian Energy Regulatory Authority (ANRE)	15		English (E) French (E) Italian (W)
Victorel Florin RĂDOI	Romanian	Graduation certificate in <i>High Performance Management</i> , SC CODECS SA	Judicial and natural gas market regulations	Director of the Commercial Regulations Division	Romanian Energy Regulatory Authority (ANRE)	7		English (G)
Lemlem SAID ISSA	Italian	Ph.D. courses & Masters Degree, International Business, Management and Marketing, Political Science and Development Economics, Texas Tech University	Energy de-regulation and liberalization, Power sector review & reform, Public/Private Partnerships; Project Management of Infrastructure projects in energy & transport, Privatization Strategy, Technical Co-operation implementation	RTA, EU ENP-TACIS project to support the National Energy Regulatory Commission of Ukraine (gas sector)	MS Project Consortium on behalf of the EU Commission	23	Czech R. Slovak R. Albania Balkan region Hungary Romania Russia Slovenia Ukraine	Amharic (VG) Arabic (W) English (VG) French (VG) Portuguese (G) Spanish (G) Russian (W) Tigrinya (VG)
Aikaterini SARDI	Greek	PhD Fluid Mechanics and Combustion, Imperial College	Natural gas system operation code, LNG market, quality issues, remote areas energy planning, emissions trading, technical knowledge on low carbon power generation, RES,	Senior Expert, System Analysis Unit, Environment	Regulatory Authority for Energy (RAE),	17	Japan U.K.	English (VG) French (G) German (B)



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Name	Nationality	Education	Specialist knowledge	Present position	Employer	Years of experience	Experience abroad	Foreign languages
Cristian SELAVARDEANU	Romanian	London, U.K. Master's Degree in International trade and tourism, Academy of Economic Studies - Bucharest, Romania	emission abatement. Consulting activities for designing privatisation strategies for various Romanian companies; Implementation of PHARE technical assistance programs within ANRE; national and European energy regulation	Head of Programmes Office and Customer Protection Unit	Greece Romanian Energy Regulatory Authority (ANRE)	11		English (VG)
Konstantinos STAMATIS	Greek	MA Money Banking & Finance, Middlesex University, London, U.K.	Regulation of gas distribution companies, regulation of monopolistic activities, gas market monitoring.	Natural Gas Expert	Regulatory Authority for Energy (RAE), Greece	11		English (E) French (B)
Judit SZEKERES	Hungarian	Master of International Relations and Economics, Corvinus University of Budapest, Hungary	Gas prices and tariffs	Analyst at the field of gas industry	Hungarian Energy Office (HEO)	3		English (VG) French (E) German (W)
Alina Manuela TACHE	Romanian	Accounting and financial analysis, Academy of Economic Studies of Bucharest, Faculty of Trading	Monitoring of natural gas market; harmonization of regulatory framework; network code development; cost analysis for network tariffs	Director of Gas Market Regulation, Price and Tariffs Department	Romanian Energy Regulatory Authority (ANRE)	13		
Fabio TAMBONE	Italian	Executive MBA, MIP school of management, Politecnico di Milano, Italy	Energy regulation; Institutional relations	Head of international institutional relations	Italian Regulatory Authority for Electricity and Gas (AEEG)	14	Belgium USA	English (VG) French (VG) Spanish (W)
Michael THOMADAKIS	Greek	Mechanical Engineer Ph. D., National Technical University of Athens, Greece	Regulation of energy markets, gas transportation tariffs, gas supply chain, administration of supply contracts, including storage and LNG, regulatory development and international	Vice President	Regulatory Authority for Energy (RAE), Greece	22		English (E) French (B)



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Name	Nationality	Education	Specialist knowledge	Present position	Employer	Years of experience	Experience abroad	Foreign languages
Erika TOTH HOBOTHNE	Hungarian	Marketing Economist Budapest University of Economic Sciences	regulatory relations. Energy industry marketing and management; organisation of production process	International Affairs Officer	Hungarian Energy Office (HEO)	23		English (VG) Russian (W)
Alexia TROKOU DI	Greek	Master in Commercial-Banking Law (LLM), University Of Bristol, UK	EU energy legislation; unbundling; composition of primary and secondary legislation; energy markets restructuring and regulation	Head of Legal Department	Regulatory Authority for Energy (RAE), Greece	14		English (E)
Adele VITA	Italian	Master Degree in Scientific and Technological Policies, Bachelor Degree in Economics and UNICAMP, Brazil	Economics, Environmental Economics, Statistics and Project Analysis	Senior Project Manager, International Division	Studiare Sviluppo (Mandated Body) - StSv	10	Brazil	English (VG) Portuguese (E) Spanish (G) French (B)





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### Description of the BC Project leader, of the RTA Counterpart and of the BC Working Group Members

Name	Nationality	Education	Specialist knowledge	Present position	Employer	Years of experience	Experience abroad	Languages
Olena BONDARENKO	Ukrainian	Master Degree in Economics, National Technical University of Ukraine "Kyiv Polytechnic Institute"	Tariff Regulation Incentive based regulation; benchmarking Accounting;	Head of the division, Department of Strategic Planning and Energy Markets Development	National Electricity Regulatory Commission (NERC)	3.5		English (VG) German (W)
Iryna DANYLENKO	Ukrainian	1. Master Degree in philology, T. Shevchenko National University Kyiv 2. Master Degree in Foreign Economic Activity Management, Human Resource Management International Academy, Kyiv	International cooperation in the field of air transportation. Monitoring of cargo/passenger air transportations market. Gas sector legislation. Regulation of gas distribution companies, gas market monitoring.	Senior specialist of oil and gas sector regulation Department	National Electricity Regulatory Commission (NERC)	11		Russian (fluent) English (upper-intermediate) German, Bulgarian (elementary)
Iryna DENYSENKO	Ukrainian	Master in Economy of an Enterprise, Kyiv National University of Trade and Economics, Ukraine	Analyzing and monitoring tariffs for transport, distribution and supplying of natural gas for gas transport and gas supply companies	Economist	National Electricity Regulatory Commission (NERC)	3		Ukrainian Russian English (basic)
Tatiana DYGAS	Ukrainian	Kyiv National University "Kyiv Polytechnic Institute"	Gas market monitoring, development of normative-legal acts, regulation of relations in the oil and gas sector	Deputy chief of division of department of oil and gas sector regulation	National Electricity Regulatory Commission (NERC)	11		Ukrainian Russian English (basic)
Iryna KOROTKOVA	Ukrainian	1. Master Degree in Law, Academy of Municipal Administration 2. European University	Experience of cooperation in public procurement in Ukraine Regulation of gas distribution companies, gas market monitoring	Leading Specialist of department of oil and gas sector regulation	National Electricity Regulatory Commission (NERC)	5		Russian (fluent) English (elementary) Bulgarian (elementary)
Olexandr KOSYANCHUK	Ukrainian	Complete higher education National Aviation University	Work with consumers of natural gas, regulation of activity of gas distribution, gas transmission	Leading Specialist of department of	National Electricity Regulatory	7 month		Ukrainian Russian English



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Name	Nationality	Education	Specialist knowledge	Present position	Employer	Years of experience	Experience abroad	Languages
Andriy KOZHEVNIKOV	Ukrainian	Master of Finance (2005), Dnipropetrovsk State Financial Academy, the Ministry of Finance of Ukraine; Master of Public Administration (2011), National Academy of Public Administration, the President of Ukraine; Institute of Law at the Verkhovna Rada of Ukraine (Legislation Training course).	companies and gas supply, gas market monitoring, development of normative-legal acts  National Gas energy regulation; technical expertise for investment; monitoring of information in Oil and Gas Associate; writing of draft laws and other regulatory documents.	oil and gas sector regulation  Head of Sector of technical expertise for Tariff Methodology/Calculation and Monitoring Department of Price and Tariff policy in Oil and Gas Sector of NERC	Commission (NERC)  National Electricity Regulatory Commission (NERC)	5,5		(basic)  English (Intermediate level)
Veronika MARKOVA	Russian	Ivano-Frankivsk national technical university of oil and gas (specialist in gas extraction)	Gas sector legislation; Regulation of gas distribution companies, gas market monitoring.	Leading Specialist of the Oil and gas sector regulation Department	National Electricity Regulatory Commission (NERC)	1		English (elementary) Russian (fluent)
Victoria MOROZOVA	Ukrainian	Master Degree in Law, Kyiv National University named after T. Shevchenko	Energy market regulation; Ukrainian law, Development of primary and secondary energy legislation	Head of Legal Department	National Electricity Regulatory Commission (NERC)	11		English (W)
Viktor MERKUSHOV	Ukrainian	Candidate of technical science, Dnipropetrovsk Railway Transport Engineering Institute (Ukraine)	Supervision of NERC's activities that include Regulation and pricing policy in the oil and gas sector	Commissioner	National Electricity Regulatory Commission (NERC)	in NERC 9 years		Ukrainian Russian English (W,B)
Olexandr OKSANICH	Ukrainian	Master degree in economics and human resources management at the Inter-Regional Academy of Personnel Management		Senior specialist of the regulation of oil and gas complex	National Electricity Regulatory Commission (NERC)	7		Ukrainian, Russian, English
Olena OLIYNYK	Ukrainian	1. Master Degree in philology Taras Shevchenko's university Institute of Philology	Organization of the standing commission of communal property and Privatization of Kyiv	Leading Specialist of department of	National Electricity Regulatory	3		Russian (fluent) English



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Name	Nationality	Education	Specialist knowledge	Present position	Employer.	Years of experience	Experience abroad	Languages
		2. Master Degree in public Law Taras Shevchenko's university Institute of International Relations	Regional Council ; working with deputies of Kyiv Regional Council;  Department of International Relations; Regulation of gas distribution companies, gas market monitoring	oil and gas sector regulation	Commission( NERC)			(upper-intermediate) Italian (elementary)
Anna POTRAVKA	Ukrainian	Master of Arts in [receives] Economics at the Kyiv National Economic University in the name of Vadim Hetman ( Ukraine)	activities that include Regulation and tariff policy in the oil and gas sector	Head Specialist, Sector for tariff methodology, calculation and monitoring, Department for pricing and tariff policy in the oil and gas sector	National Electricity Regulatory Commission (NERC)	4		Ukrainian, Russian, English
Vadym PUSTOVOYT	Ukrainian	Kyiv technological institute of food industry, heat-power engineering	Regulation of gas distribution companies, gas market monitoring/  Tariff setting in the oil & gas sector	Head of the division of the Sector for tariff methodology, calculation and monitoring, Department for pricing and tariff policy in the oil and gas sector	National Electricity Regulatory Commission (NERC)	Energy – 20 years including 3 years work at NERC		Ukrainian Russian
Sergiy ROMANOV	Ukrainian	Master Degree in Law Kyiv institute of Internal Affairs	The State Commission on Securities and Stock Market (checking the activities of registrars, merchants and issuers; National Electricity Regulatory Commission	Deputy chief of division of department of oil and gas sector regulation	National Electricity Regulatory Commission( NERC)	8	Hungary	Russian (fluent) English (elementary)



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Name	Nationality	Education	Specialist knowledge	Present position	Employer	Years of experience	Experience abroad	Languages
Tetyana RYABUHA	Ukrainian	Master Degree in Law, Kyiv Pedagogic institute	Gas sector legislation; Regulation of gas distribution companies, gas market monitoring.	Head of Department of oil and gas sector regulation.	National Electricity Regulatory Commission (NERC)	17	-	English (B)
Anastasia SAKIVSKA	Ukrainian	Master at the Kyiv International University	Issues of consumer protection in the sphere of electricity; representation in the courts	Leading specialist, the Law department	National Electricity Regulatory Commission (NERC)	2	-	Ukrainian, Russian, English, Portuguese
Volodymyr SEMENETS	Ukrainian	National Technical University of Ukraine "Kyiv Polytechnic Institute", Engineer	Regulation of gas distribution companies; Tariff setting in the oil & gas sector	Head, Department of Price and Tariff policy in Oil and Gas Associate	National Electricity Regulatory Commission (NERC)	13	-	
Anna SHYINKARENKO	Ukrainian	Academy of labour and social relations of federation labour union of Ukraine, bachelor of Economics	Tariff setting in the oil & gas sector	Leading Specialist, Sector for tariff methodology, calculation and monitoring, Department for pricing and tariff policy in the oil and gas sector	National Electricity Regulatory Commission (NERC)	3	-	English (B)
Pavlo STANKEVICH	Ukrainian	Master Degree in electricity	National electricity regulatory commission of Ukraine	Head of division of oil and gas sector regulation Department	National electricity regulatory commission of Ukraine	7	-	Russian (fluent)
Valerii TSAPLIN	Ukrainian	Master of Arts in Economics, (Master's program in economics at the National University of "Kyiv-Mohyla Academy", funded by The Economics Education and Research Consortium (EERC)2001) Engineer, Physics of Metals,	Electricity and Gas Markets, Cost-Based and Incentive Regulation, Benchmarking, Quality of Service, EU Energy Legislation	Head, Department of Strategic Planning and Energy Markets Development	National Electricity Regulatory Commission (NERC)	14	-	Ukrainian, Russian, English





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Name	Nationality	Education	Specialist knowledge	Present position	Employer	Years of experience	Experience abroad	Languages
		(Physical-Engineering Department, Kyiv Polytechnical Institute, 1984))						



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**ARTICLE 7**

**MANAGEMENT AND MONITORING**

**7.1. Language**

The official language of the project will be English. All formal communication between the Beneficiary and the MS Partner will be in the English language, with translation to and from Ukrainian when necessary. All formal reports produced by the MS Team will be in English. Translation to Ukrainian will be undertaken for the Quarterly Interim Reports, the Minutes of the Steering Committee meetings and, when required, for the minutes of other Project meetings. Documentation produced in the course of Project execution (internal notes, reports, consultation documents, guidelines, draft NERC rulings, amendments to draft laws, etc.) will be translated to and from English and Ukrainian as required and if necessary for the efficient functioning of the Project.

**7.2. Project Steering Committee**

The Project Steering Committee (PSC) will have the overall supervision and control of the quality and timely achievement of mandatory results. The PSC will be coordinated by the BC and MS Project leaders and will meet regularly in Ukraine every three months to review progress in Project implementation, verify the achievement of the outputs and mandatory results and discuss actions to be undertaken in the following quarter. The Project Steering Committee will also discuss the draft of the quarterly report submitted to it beforehand, recommend corrections.

Official minutes of the PSC meetings, prepared by the RTA and the Ukrainian RTA Counterpart, will be kept in both English and Ukrainian.

The Steering Committee members will include the project leaders, the RTA, the Contracting Authority, the PAO and where applicable, representatives of the administrative office. The responsibility for the organisation of the Project Steering Committee meeting lies with both Project Leaders.

**7.3 Reporting**

Every three months, the MS Project Leader in co-operation with the BC Project Leader will submit Interim Quarterly Reports to the EC Delegation, and the PAO as instructed in Article 6.4 of the Twinning Manual. Each report will cover the preceding three month period calculated from the date of notification of endorsement of the contract by the Contracting Authority. The IQRs will be prepared under the RTA's responsibility, based on the MS Team's assessment of progress and on the Project Reports prepared by the MS Team, the GLAWG and the GRWG on the



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same three month basis. They will be prepared in conformity with the template detailed in Annex C4 to the Twinning Manual.

The IQRs will be distributed to the Project Steering Committee suitably in advance of its quarterly meetings. The first report will be due in the fourth month counting from the date of notification of endorsement of the Twinning Contract by the Contracting Authority. It is understood that failure to submit satisfactory reports in time may lead to the decision to suspend EU financing for the Project.

Official Minutes of the Steering Committee Meetings will be prepared by the RTA in both English and Ukrainian and made available to all parties involved within 15 days of the meetings.

During the final month of the Twinning Project, the MS and BC Project Leaders will jointly prepare, co-sign and submit to the EC Delegation and to the PAO a final report.

The Final Report will be accompanied by an Audit Certificate.

For the administration of the Beneficiary Country

*Mr Victor Merkushov - Commissioner,  
National Electricity Regulatory Commission of Ukraine*

*Signature*

*Date*

For the administration of the Member State

*Mr Carlo Crea - Head of International Affairs, Strategy & Development,  
Italian Regulatory Authority for Electricity and Gas*

*Signature*

*Date*



**ANNEX A2**  
**General Conditions applicable to European Union-financed grant contracts**  
**for external actions**

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## GENERAL AND ADMINISTRATIVE PROVISIONS<sup>1</sup>

### Article 1 - General obligations

- 1.1. The Beneficiary shall implement the Action under its own responsibility and in accordance with the Description of the Action in Annex A1 with a view to achieving the objectives laid down therein.
- 1.2. The Beneficiary shall implement the Action with the requisite care, efficiency, transparency and diligence, in line with best practice in the field concerned and in compliance with this Contract.

For this purpose the Beneficiary shall mobilise all the financial, human and material resources required for full implementation of the Action as specified in the Description of the Action.

- 1.3. The Beneficiary shall act alone or in partnership with one or more NGOs or other bodies identified in the Description of the Action. It may subcontract a limited portion of the Action. The bulk of the Action must, however, be undertaken by the Beneficiary and, where applicable, its partners.

Partners take part in the implementation of the Action, and the costs they incur are eligible in the same way as those incurred by the Beneficiary.

If implementation of the Action involves the conclusion of contracts by the Beneficiary, the contract-award procedures and rules of nationality and origin set out in Annex A4 shall apply.

The Contracting Authority does not acknowledge any contractual link between itself and the Beneficiary's partner(s) or subcontractors. The Beneficiary alone shall be accountable to the Contracting Authority for the implementation of the Action. It shall undertake that the conditions applicable to it under Articles 1,3,4,5,6,7,8,10,14,16 and 17 shall also apply to his partners, and those applicable under Articles 1,3,4,5,6,8 and 16 to all its contractors. It shall include provisions to that effect as appropriate in its contracts with them.

- 1.4. The Beneficiary and the Contracting Authority are the only parties (the "Parties") to this Contract. Where the European Commission is not the Contracting Authority, it is not Party to this Contract, which confers on it only the rights and obligations explicitly mentioned therein. Nevertheless it shall endorse the Contract to ensure the financing of the Contracting Authority's grant from the European Union's budget<sup>2</sup>, and the provisions in this Contract on visibility shall apply accordingly.

### Article 2 - Obligation to provide information and financial and narrative reports

- 2.1. The Beneficiary must provide the Contracting Authority with all required information on the implementation of the Action. To that end, the Beneficiary must draw up interim reports and a final report. These reports shall consist of a narrative section and a financial section and shall conform to the model in Annex C4. They shall cover the Action as a whole, regardless of which part of it is financed by the Contracting Authority. Each report must provide a full account of all aspects of the Action's implementation for the period covered. In case where, in accordance with article 15.6, no expenditure verification report is required the Beneficiary has

<sup>1</sup> Please note that the General Conditions applicable to European Union-financed grant contracts for external actions are subject to regular updates, the latest version of the Practical Guide is available on the Website of EuropeAid Cooperation Office:

[http://ec.europa.eu/europeaid/work/procedures/implementation/practical\\_guide/index\\_en.htm](http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm)

<sup>2</sup> Where a grant is financed by the European Development Fund, any mention of EU financing must be understood as referring to European Development Fund financing.



to provide a list detailing each item of expenditure incurred in the period covered by the report, and indicating for each its title, amount, relevant heading in the Budget of the Action and the reference of the justifying document, is annexed to it. The proofs of the transfers of ownership referred to in Art 0 are also annexed to the final report.

- 2.2. The Contracting Authority may request additional information at any time and that information must be supplied within 30 days of the request.
- 2.3. The reports shall be drafted in the language of the Contract. They shall be submitted to the Contracting Authority at the following intervals:

if payments are made in accordance with option 1 or option 3 of Article 15.1: a single final report shall be forwarded no later than three months after the implementation period as defined in Article 2 of the Special Conditions;

if payments are made in accordance with option 2 of Article 15.1:

- an interim report must accompany every request for payment;
- the final report shall be forwarded no later than three months after the implementation period as defined in Article 2 of the Special Conditions.

The deadline for submission of the final report is extended to six months where the Beneficiary does not have its headquarters in the country where the Action is implemented.

- 2.4. Any additional reporting requirement will be set out in the Special Conditions.
- 2.5. If the Beneficiary fails to supply the Contracting Authority with a final report by the final report deadline laid down in Article 2.3 and fails to furnish an acceptable and sufficient written explanation of the reasons why it is unable to comply with this obligation, the Contracting Authority may terminate the Contract in accordance with Article 12.2 a) and recover the amounts already paid and not substantiated.

Furthermore, where payments are made in accordance with option 2 of Article 15.1 and the Beneficiary fails to present an interim report and a request for payment by the end of each twelve-month period following the date laid down in Article 2.2 of the Special Conditions, the Beneficiary must inform the Contracting Authority of the reasons why it is unable to do so, and provide a summary of progress in the Action. If the Beneficiary fails to comply with this obligation, the Contracting Authority may terminate the Contract in accordance with Article 12.2 a) and recover the amounts already paid and not substantiated.

### **Article 3 - Liability**

- 3.1. The Contracting Authority cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the Beneficiary while the Action is being carried out or as a consequence of the Action. The Contracting Authority cannot therefore accept any claim for compensation or increases in payment in connection with such damage or injury.
- 3.2. The Beneficiary shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them while the Action is being carried out or as a consequence of the Action. The Beneficiary shall discharge the Contracting Authority of all liability arising from any claim or action brought as a result of an infringement by the Beneficiary or the Beneficiary's employees or individuals for whom those employees are responsible of rules or regulations, or as a result of violation of a third party's rights.



#### Article 4 - Conflict of interests

The Beneficiary undertakes to take all necessary precautions to avoid conflicts of interests and shall inform the Contracting Authority without delay of any situation constituting or likely to lead to any such conflict.

There is a conflict of interests where the impartial and objective exercise of the functions of any person under this Contract is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with another person.

#### Article 5 - Confidentiality

Subject to Article 16, the Contracting Authority and the Beneficiary undertake to preserve the confidentiality of any document, information or other material communicated to them in confidence until at least seven years after the final payment. Where the European Commission is not the Contracting Authority it shall still have access to all documents communicated to the Contracting Authority and will maintain the same confidentiality.

#### Article 6 - Visibility

- 6.1. Unless the European Commission agrees or requests otherwise, the Beneficiary must take all necessary steps to publicise the fact that the European Union has financed or cofinanced the Action. Such measures must comply with the Communication and Visibility Manual for EU External Actions laid down and published by the Commission.
- 6.2. In particular, the Beneficiary shall mention the Action and the European Union's financial contribution in information given to the final recipients of the Action, in its internal and annual reports, and in any dealings with the media. It shall display the EU logo wherever appropriate.
- 6.3. Any notice or publication by the Beneficiary concerning the Action, including those given at a conference or seminar, must specify that the Action has received EU funding. Any publication by the Beneficiary, in whatever form and by whatever medium, including the internet, must include the following statement: *"This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of < Beneficiary's name > and can under no circumstances be regarded as reflecting the position of the European Union."*
- 6.4. The Beneficiary authorises the Contracting Authority and the European Commission (where it is not the Contracting Authority) to publish its name and address, the purpose of the grant, the maximum amount of the grant and rate of funding of the Action's eligible costs, as laid down in the Article 3.2 of the Special Conditions. A derogation from publication of this information may be granted if it could endanger the Beneficiary or harm its commercial interests.

#### Article 7 - Ownership/use of results and equipment

- 7.1. Ownership of, and title and intellectual and industrial property rights to, the Action's results, reports and other documents relating to it shall be vested in the Beneficiary.
- 7.2. Notwithstanding the provisions of Article 7.1 and subject to Article 5, the Beneficiary grants the Contracting Authority (and the European Commission where it is not the Contracting Authority) the right to use freely and as it sees fit all documents deriving from the Action, whatever their form, provided it does not thereby breach existing industrial and intellectual property rights.



- 7.3. Where the Beneficiary does not have its headquarters in the country where the Action is implemented and unless otherwise specified in the Special Conditions, the equipment, vehicles and supplies paid for by the Budget for the Action must be transferred to any local partners of the Beneficiary and/or the final recipients of the Action, at the latest by the end of the implementation of the Action. Copies of the proofs of transfers of equipments and vehicles, the purchase cost of which was more than 5 000 euros per item, must be attached to the final report. Such proofs must be kept for control in all other cases.

#### **Article 8 – Evaluation/monitoring of the Action**

- 8.1. If the Commission carries out an interim or ex post evaluation or a monitoring mission, the Beneficiary shall undertake to provide it and/or the persons authorised by it with any document or information which will assist with the evaluation or monitoring mission, and grant them the access rights described in Article 16.2.
- 8.2. If either Party (or the European Commission) carries out or commissions an evaluation in the course of the Action, it must provide the other Party and the European Commission (or the Parties) with a copy of the evaluation report.

#### **Article 9 - Amendment of the Contract**

- 9.1. Any amendment to the Contract, including the annexes thereto, must be set out in writing in an addendum. This Contract can be modified only during the implementation period as stipulated in Article 2 of the Special Conditions.

If an amendment is requested by the Beneficiary, it must submit that request to the Contracting Authority one month before the date on which the amendment should enter into force, unless there are special circumstances duly substantiated by the Beneficiary and accepted by the Contracting Authority.

- 9.2. However, where the amendment to the Budget or Description of the Action does not affect the basic purpose of the Action and the financial impact is limited to a transfer between items within the same main budget heading, including cancellation or introduction of an item, or a transfer between main budget headings involving a variation of 15% or less of the amount originally entered (or as modified by addendum) in relation to each concerned main heading for eligible costs, the Beneficiary may apply the amendment and inform the Contracting Authority accordingly in writing. This method may not be used to amend the headings for administrative costs or the contingency reserve.

Changes of address, changes of bank account and changes of auditor may simply be notified, although this does not stop the Contracting Authority from opposing the Beneficiary's choice of bank account or auditor.

The Contracting Authority reserves the right to require that the auditor referred to in Article 5.2 of the Special Conditions be replaced if considerations which were unknown when the Contract was signed cast doubt on the auditor's independence or professional standards.

- 9.3. An addendum may not have the purpose or the effect of making changes to the Contract that would call into question the grant award decision or be contrary to the equal treatment of applicants. The maximum grant referred to in Article 3.2 of the Special Conditions may not be increased.

#### **Article 10 - Assignment**

The Contract and the payments attached to it may not be assigned to a third party in any manner whatsoever without the prior written consent of the Contracting Authority.





## Article 11 - Implementation period of the Action, extension, suspension, force majeure and end date

- 11.1. The implementation period of the Action is laid down in Article 2 of the Special Conditions. The Beneficiary must inform the Contracting Authority without delay of any circumstances likely to hamper or delay the implementation of the Action. The Beneficiary may request an extension of the Action's implementation period no later than one month before it ends. The request must be accompanied by all the supporting evidence needed for its appraisal.
- 11.2. The Beneficiary may suspend implementation of all or part of the Action if circumstances (chiefly force majeure) make it too difficult or dangerous to continue. The Beneficiary must inform the Contracting Authority without delay and provide all the necessary details. Each Party may terminate the Contract in accordance with Article 12.1. If the Contract is not terminated, the Beneficiary shall endeavour to minimise the time of its suspension and shall resume implementation once circumstances allow, and shall inform the Contracting Authority accordingly.
- 11.3. The Contracting Authority may request the Beneficiary to suspend implementation of all or part of the Action if circumstances (chiefly force majeure) make it too difficult or dangerous to continue. Each Party may terminate the Contract in accordance with Article 12.1. If the Contract is not terminated, the Beneficiary shall endeavour to minimise the time of its suspension and shall resume implementation once circumstances allow, after obtaining the prior written approval of the Contracting Authority.
- 11.4. The implementation period of the Action shall be extended by a period equivalent to the length of suspension, without prejudice to any amendment to the Contract that may be necessary to adapt the Action to the new implementing conditions.
- 11.5. Force majeure shall mean any unforeseeable exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their contractual obligations, is 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 contractual obligations if it is prevented from fulfilling them by force majeure. Without prejudice to Articles 11.2 and 11.3, the 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.
- 11.6. The payment obligations of the European Union under this Contract shall end 18 months after the implementation period laid down in Article 2 of the Special Conditions, unless the Contract is terminated under Article 12.

The Contracting Authority shall notify the Beneficiary of any postponement of the end date.

## Article 12 - Termination of the Contract

- 12.1. If a Party believes that the Contract can no longer be executed effectively or appropriately, it shall consult the other Party. Failing agreement on a solution, either Party may terminate the Contract by serving two months' written notice, without being required to pay compensation.
- 12.2. The Contracting Authority may terminate the Contract, without giving notice and without paying compensation of any kind:
  - a) where the Beneficiary fails, without justification, to fulfil any of the obligations incumbent on it and, after being given notice by letter to comply with those obligations, still fails to do so or to furnish a satisfactory explanation within 30 days of sending of the letter;



b) where the Beneficiary is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

c) where the Contracting Authority has evidence on the Beneficiary or any related entity or person, of grave professional misconduct; this also applies to partners and agents of the Beneficiary;

d) where the Contracting Authority has evidence on the Beneficiary or any related entity or person, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the EU's financial interests; this also applies to partners and agents of the Beneficiary;

e) where the Beneficiary changes legal personality, unless an addendum recording that fact is drawn up;

f) where the Beneficiary does not comply with Articles 4, 10 and 16;

g) where the Beneficiary makes false or incomplete statements to obtain the grant provided for in the Contract or provides reports that do not reflect reality;

h) where the Beneficiary has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established;

i) where the Contracting Authority has evidence on the Beneficiary or any related entity or person, of substantial errors, irregularities or fraud in the award procedure or the performance of the grant; this also applies to partners and agents of the Beneficiary;

In the cases referred to in points (c), (d) and (i) above, any related person shall mean any physical person with powers of representation, decision-making or control in relation to the Beneficiary. Any related entity shall mean in particular any entity which meets the criteria laid down by Article 1 of the Seventh Council Directive n° 83/349/EEC of 13 June 1983.

- 12.3. The Beneficiary who has made false declarations, has made substantial errors or committed irregularities and fraud, or has been found in serious breach of its contractual obligations may be excluded from all contracts financed by the Contracting authority for a maximum of five years from the date on which the infringement is established, as confirmed following the adversarial procedure with the Beneficiary. This period can be extended to 10 years in the event of a repeated offence within 5 years of the date referred above.
- 12.4. In the event of termination the Beneficiary shall be entitled to payment of the grant only for the part of the Action carried out, excluding costs connected with current commitments that would be implemented after termination. For this purpose the Beneficiary shall introduce a payment request and a final report in accordance with Article 2.
- 12.5. However, in the event of wrongful termination of the Contract by the Beneficiary under Article 12.1 and in the cases specified in points d), e) and g) of Article 12.2, the Contracting Authority may request full or partial repayment of sums already paid from the grant, in proportion to the gravity of the failings in question and after allowing the Beneficiary to submit its observations.
- 12.6. Prior to, or instead of, terminating the Contract as provided for in this Article, the Contracting Authority may suspend payments as a precautionary measure without prior notice.



- 12.7. This Contract shall be terminated automatically if it has not given rise to any payment by the Contracting Authority within three years of its signature.

### Article 13 - Applicable law and dispute settlement

- 13.1. This Contract shall be governed by the law of the Contracting Authority or, where the Contracting Authority is the European Commission, by the European Union law supplemented as appropriate by Belgian law.
- 13.2. The Parties shall do everything possible to settle amicably any dispute arising between them during implementation of this Contract. To that end, they shall communicate their positions and any solution that they consider possible in writing, and meet each other at either's request. A Party must reply to a request for an amicable settlement within 30 days. Once this period has expired, or if the attempt to reach amicable settlement has not produced agreement within 120 days of the first request, each Party may notify the other that it considers the procedure to have failed.
- 13.3. In the event of failure to reach an amicable agreement, the dispute may by common agreement of the Parties be submitted to the conciliation of the European Commission if it is not the Contracting Authority. If no settlement is reached within 120 days of the opening of the conciliation procedure, each Party may notify the other that it considers the procedure to have failed.
- 13.4. In the event of failure of the above procedures, each Party may submit the dispute to the courts of the country of the Contracting Authority, or to the Brussels courts where the Contracting Authority is the European Commission.



## FINANCIAL PROVISIONS

### Article 14 - Eligible costs

14.1. Eligible costs are costs actually incurred by the beneficiary of this grant which meet all the following criteria:

- a) they are incurred during the implementation of the action as specified in Article 2 of the Special Condition with the exception of costs relating to final reports, expenditure verification and evaluation of the action, whatever the time of actual disbursement by the Beneficiary and/or its partners. Eventual contracts for goods/services/works used/provided/delivered during the implementation period may have been awarded but not executed by the Beneficiary or its partners before the implementation period of the Action started, provided the provisions of Annex IV were respected.
- b) have to be indicated in the estimated overall budget of the action,
- c) have to be necessary for the implementation of the action which is the subject of the grant,
- d) must be identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary and determined according to the applicable accounting standards of the country where the beneficiary is established and according to the usual cost account practices of the beneficiary,
- e) have to be reasonable, justified and comply with the requirements of sound financial management, in particular regarding economy and efficiency,

14.2. Subject to the above and where relevant to the provisions of Annex A4 being respected, the following direct costs of the Beneficiary and its partners shall be eligible:

- the cost of staff assigned to the Action, corresponding to actual salaries plus social security charges and other remuneration-related costs; salaries and costs must not exceed those normally borne by the Beneficiary or its partners, as the case may be, unless it is justified by showing that it is essential to carry out the action;
- travel and subsistence costs for staff and other persons taking part in the Action, provided they do not exceed those normally borne by the Beneficiary or its partners, as the case may be. Any flat-rate reimbursement of the subsistence costs must not exceed the rates set out in Annex A3, which correspond to the scales published by the European Commission at the time of signing this contract;
- purchase or rental costs for equipment and supplies (new or used) specifically for the purposes of the Action, and costs of services, provided they correspond to market rates;
- costs of consumables;
- subcontracting expenditure;





- costs deriving directly from the requirements of the Contract (dissemination of information, evaluation specific to the Action, audits, translation, reproduction, insurance, etc.) including financial service costs (in particular the cost of transfers and financial guarantees);

14.3. A contingency reserve not exceeding 5 % of the direct eligible costs may be included in the Budget of the Action. It can be used only with the prior written authorisation of the Contracting Authority

14.4. A fixed percentage not exceeding 7% of the total amount of eligible costs of the Action may be claimed as indirect costs to cover the administrative overheads incurred by the Beneficiary for the Action, save where the beneficiary is in receipt of an operating grant financed from the European Union's budget. The flat-rate funding in respect of indirect costs does not need to be supported by accounting documents

Indirect costs are eligible provided that they do not include costs assigned to another heading of the budget of this Contract.

This Article 14.4 does not apply in the case of an operating grant.

14.5. Any contributions in kind, which must be listed separately at Annex A3, do not represent actual expenditure and are not eligible costs. Unless otherwise specified in the Special Conditions, the contributions in kind may not be treated as co-financing by the Beneficiary. The cost of staff assigned to the Action is not a contribution in kind and may be considered as co-financing in the Budget of the Action when paid by the Beneficiary or its partners.

Notwithstanding to the above, if the Description of the Action foresees the contributions in kind, such contributions have to be provided.

14.6. The following costs shall not be considered eligible:

- debts and provisions for losses or debts;
- interest owed;
- items already financed in another framework;
- purchases of land or buildings, except where necessary for the direct implementation of the Action, in which case ownership must be transferred to the final beneficiaries and/or local partners, at the latest at the end of the action;
- currency exchange losses;
- taxes, including VAT, unless the Beneficiary (or, where applicable, its partners) cannot reclaim and the applicable regulations authorise coverage of taxes;
- credits to third parties.



## Article 15 - Payment and interest on late payment

15.1. Payment procedures are set out in Article 4 of the Special Conditions and correspond to one of the three options below:

Option 1: Actions with an implementation period not exceeding 12 months or where the financing provided by the Contracting Authority does not exceed EUR 100 000

The Contracting Authority will pay the grant to the Beneficiary in the following manner:

- pre-financing of 80% of the sum referred to in Article 3.2 of the Special Conditions within 45 days of receipt by the Contracting Authority of:
  - the Contract signed by both parties,
  - a request for payment conforming to the model attached at Annex A5, and
  - a financial guarantee if required under Article 15.7
- the balance within 45 days of the Contracting Authority approving the final report in accordance with Article 15.2, accompanied by a request for payment of the balance conforming to the model in Annex A5.

Option 2: Actions with an implementation period of more than 12 months and where the financing provided by the Contracting Authority is more than EUR 100 000

The Contracting Authority shall pay the grant to the Beneficiary in the following manner:

- an initial pre-financing instalment of 80% of that part of the estimated budget for the first 12 months financed by the Contracting Authority, as specified in Article 4 of the Special Conditions, within 45 days of receipt by the Contracting Authority of:
  - the Contract signed by both Parties,
  - a request for payment conforming to the model in Annex A5, and
  - a financial guarantee if required under Article 15.7//following the provisions in Article 4.3 of the Special Conditions;
- further pre-financing instalments of the amount specified in Article 4 of the Special Conditions and designed to normally cover the Beneficiary's financing needs for each twelve month period of implementation of the Action, within 45 days of the Contracting Authority approving an interim report in accordance with Article 15.2, accompanied by:
  - a request for payment conforming to the model in Annex A5,
  - an expenditure verification report under Article 15.6, if required,
  - a financial guarantee if required under Article 15.7;
- the balance within 45 days of the Contracting Authority approving the final report in accordance with Article 15.2, accompanied by:
  - a request for payment of the balance conforming to the model in Annex A5,
  - an expenditure verification report in accordance with Article 15.6.



Further pre-financing may only be given if the part of the expenditure actually incurred which is financed by the Contracting Authority (by applying the percentage set out in Article 3.2 of the Special Conditions) stands at 70% at least of the previous payment (and at 100% of any previous payments) as supported by the corresponding interim report and, where applicable, by an expenditure verification report as specified in Article 15.6. Where the consumption of the previous pre-financing is less than 70%, the amount of the new pre-financing payment shall be reduced by the unused amounts of the previous pre-financing payment.

The total sum of pre-financing under the Contract may not exceed 90% of the amount referred to in Article 3.2 of the Special Conditions.



Option 3: All Actions

The grant shall be paid to the Beneficiary by the Contracting Authority in one payment within 45 days of the Contracting Authority approving the final report in accordance with Article 15.2, accompanied by:

- a request for payment of the balance conforming to the model in Annex A5,
- an expenditure verification report if required under Article 15.6.

- 15.2. Any report shall be considered approved if there is no written reply from the Contracting Authority within 45 days of its receipt accompanied by the required documents. Approval of the reports shall not imply recognition of their regularity nor of the authenticity, completeness and correctness of the declarations and information they contain.

The Contracting Authority may suspend the time-limit for approval of a report by notifying the Beneficiary that the report cannot be approved and that it finds it necessary to carry out additional checks. Suspension shall take effect when the notification is sent by the Contracting Authority. In such cases, the Contracting Authority may request clarification, alteration or additional information, which must be produced within 30 days of the request. The time-limit starts running again on the date the required information is received.

Reports shall be presented in accordance with Article 2.

- 15.3. The time-limit of 45 days for payment referred to in Article 15.1 above shall expire on the date on which the Contracting Authority's account is debited. Without prejudice to Article 12.5, the Contracting Authority may suspend this time-limit by notifying the Beneficiary that the request for payment is inadmissible, either because the amount in question is not due or because proper supporting documents have not been supplied or it thinks it necessary to conduct further checks, including on-the-spot checks, to make sure that the expenditure is eligible. Suspension shall take effect when the notification is sent by the Contracting Authority. The time-limit for payment shall start running again on the date on which a correctly formulated request for payment is recorded.

- 15.4. Once the time-limit referred to above has expired, the Beneficiary - unless the Beneficiary is a government department or public body in a EU Member State - may, within two months of receipt of the late payment, claim default interest:

- at the rediscount rate applied by the central bank of the country of the Contracting Authority if payments are in the currency of that country;
- at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, if payments are in euro,

on the first day of the month in which the time-limit expired, plus three and a half percentage points. The interest shall be payable for the time elapsed between the expiry of the payment deadline and the date on which the Contracting Authority's account is debited. This interest is not considered income for the purposes of Article 17.3. Any partial payments shall first cover the default interest thus established.

15.5 Where the award procedure or performance of the contract is vitiated by substantial errors or irregularities or by fraud attributable to the Beneficiary, the Contracting Authority may refuse to make payments or may recover amounts already paid, in proportion to the seriousness of the errors, irregularities or fraud. The Contracting Authority may also suspend payments in cases where there are suspected or established errors, irregularities or fraud committed by the Beneficiary in the performance of another contract funded by the general budget of the European Union or by budgets managed by it which are likely to affect the performance of the present contract.





15.6. A report on the verification of the Action's expenditure, produced by an approved auditor who meets the specific conditions of the Terms of Reference for expenditure verification, shall be attached to:

- any request for interim payments per financial year in case of grant of EUR 750 000 or more;
- any final report in the case of a grant of more than EUR 100 000.
- any request for payment of over EUR 100 000 for the financial year, in the case of an operating grant

The auditor examines whether the costs declared by the Beneficiary are real, exact and eligible in accordance with the Contract, as well as the revenue of the Action and issues an expenditure verification report conforming to the model in Annex A6.

The Beneficiary grants the auditor all access rights mentioned in Article 16.2.

The expenditure verification report accompanying a request for payment of the balance covers all expenditures not covered by any previous expenditure verification report.

Based on the expenditure verification report the Contracting Authority determines the total amount of eligible expenditure which may be deducted from the total sum of pre-financing under the Contract (clearance).

Where the Beneficiary is a government department or a public body of a Member State of the European Union, the Contracting Authority may exempt it from the expenditure verification requirement.

15.7. If the total sum of pre-financing paid under the Contract is more than 80% of the Contract amount, its payment must be fully covered by a financial guarantee. Where the Beneficiary is a non governmental organisation, such guarantee is requested if the total sum of pre-financing paid and not cleared at any point in time under the Contract is more than EUR 1 million or 90% of the Contract amount. The financial guarantee must be denominated in euro, conforming to the model in Annex VIII of the standard grant contract and, unless the Contracting Authority otherwise agrees, provided by an approved bank or financial institution established in one of the Member States of the European Union. This guarantee shall remain in force until its release by the Contracting Authority when the total amount of pre-financing under the Contract is once again less than EUR 1 million or after payment of the balance. This provision shall not apply if the Beneficiary is a government department or public body of a European Union Member State or an international organisation, unless otherwise stipulated in the Special Conditions.

15.8. The payments owed by the Contracting Authority shall be made to the bank account or sub-account referred to in the financial identification form in Annex A5, which identifies the funds paid by the Contracting Authority and allows to calculate the interests produced by such funds.

15.9. The Contracting Authority shall make payments in the currency of the country to which it belongs or in euro, in accordance with the Special Conditions. In the latter case, any conversion into euro of the real costs borne in other currencies shall be done at the rate made up by the average of the rates published in InforEuro for the months covered by the relevant report, unless otherwise provided in the Special Conditions.

In the event of an exceptional exchange-rate fluctuation, the Parties shall consult each other with a view to restructuring the Action in order to lessen the impact of such a fluctuation. Where necessary, the Contracting Authority may take additional measures.



15.10. Any interest or equivalent benefits accruing from pre-financing paid by the Contracting Authority to the Beneficiary shall be mentioned in the interim and final reports. Subject to the conditions laid down in the basic act, any interest accruing from pre-financing equal or below EUR 250 000 paid by the Contracting authority shall not be due to the Contracting authority and may be used by the Beneficiary for the Action. Any interest accruing from pre-financing of more than EUR 250 000 paid by the Contracting authority shall be assigned to the Action and deducted from the payment of the balance of the amounts due to the Beneficiary, unless the Contracting Authority requests the Beneficiary to reimburse the interest generated by pre-financing payments before the payment of the balance.

Interest shall not be due to the Contracting Authority for pre-financing paid to the EU Member States.

15.11 Subject to the conditions laid down in the basic act, in case of crisis management actions recognized as such by the Contracting authority, the interests accruing from pre-financing equal or below EUR 750 000 shall not be due to the Contracting authority and may be used by the Beneficiary for the Action. Any interest accruing from pre-financing of more than EUR 750 000 is due to the Contracting Authority.

15.12 The interests are not taken into account when calculating the total sum of pre-financing under the Contract and are not considered as revenue of the Action for the purposes of final amount as referred to in article 17.

15.13 Subject to the conditions laid down in basic act, the Contracting Authority shall recover for each reporting period the interests accruing from pre-financing of more than EUR 750 000 at the end of each financial year.

15.14 All references to days in this article 15 are to calendar days.

#### **Article 16 - Accounts and technical and financial checks**

16.1. The Beneficiary shall keep accurate and regular accounts of the implementation of the action using an appropriate accounting and double-entry book-keeping system. These systems may either be an integrated part of the Beneficiary's regular system or an adjunct to that system. This system shall be run in accordance with the accounting and bookkeeping policies and rules that apply in the country concerned. Accounts and expenditure relating to the Action must be easily identifiable and verifiable. This can be done by using separate accounts for the Action concerned or by ensuring that expenditure for the action concerned can be easily identified and traced to and within the Beneficiary's accounting and bookkeeping systems. Accounts must provide details of interest accruing on funds paid by the Contracting Authority.

The Beneficiary shall ensure that the Financial Report (both interim and final) as required under Article 2 can be properly and easily reconciled to the Beneficiary's accounting and bookkeeping system and to the underlying accounting and other relevant records. For this purpose the Beneficiary shall prepare and keep appropriate reconciliations, supporting schedules, analyses and breakdowns for inspection and verification.

16.2. The Beneficiary will allow the European Commission, the European Anti-Fraud Office, the Court of Auditors and any external auditor carrying out verifications as required per Article 15.6 to verify, by examining the documents or by means of on-the-spot checks, the implementation of the Action and conduct a full audit, if necessary, on the basis of supporting documents for the accounts, accounting documents and any other document relevant to the financing of the Action. These inspections may take place up to 7 years after the payment of the balance.



Furthermore, the Beneficiary will allow the European Anti-Fraud Office and any external auditor carrying out verifications as required per Article 15.6 to carry out checks and verification on the spot in accordance with the procedures set out in the European Union legislation for the protection of the financial interests of the European Union against fraud and other irregularities

To this end, the Beneficiary undertakes to give appropriate access to staff or agents of the European Commission, of the European Anti-Fraud Office and of the Court of Auditors as well as to any external auditor authorised by the Contracting Authority carrying out verifications as required per Article 15.6 to the sites and locations at which the Action is implemented, including its information systems, as well as all documents and databases concerning the technical and financial management of the Action and to take all steps to facilitate their work. Access given to agents of the European Commission, European Anti-Fraud Office and the Court of Auditors and to any external auditor carrying out verifications as required per Article 15.6 shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject. Documents must be easily accessible and filed so as to facilitate their examination and the Beneficiary must inform the Contracting Authority of their precise location.

The Contractor guarantees that the rights of the European Commission, of the European Anti-Fraud Office and of the Court of Auditors as well as of any external auditor authorised by the Contracting Authority carrying out verifications as required per Article 15.6 to carry out audits, checks and verification will be equally applicable, under the same conditions and according to the same rules as those set out in this Article 16, to the Beneficiary's partners and contractors. Where a partner or contractor is an international organisation, any verification agreement concluded between such organisation and the European Commission applies.

16.3. In addition to the reports mentioned in article 2, the documents referred to in Article 16.2 include:

- Accounting records (computerised or manual) from the Beneficiary's accounting system such as general ledger, sub ledgers and payroll accounts, fixed assets registers and other relevant accounting information;
- Proof of procurement procedures such as tendering documents, bids from tenderers and evaluation reports;
- Proof of commitments such as contracts and order forms;
- Proof of delivery of services such as approved reports, time sheets, transport tickets (including boarding passes), proof of attending seminars, conferences and training courses (including relevant documentation and material obtained, certificates), etc;
- Proof of receipt of goods such as delivery slips from suppliers;
- Proof of completion of works, such as acceptance certificates;
- Proof of purchase such as invoices and receipts.
- Proof of payment such as bank statements, debit notices, proof of settlement by the contractor;
- For fuel and oil expenses, a summary list of the distance covered, the average consumption of the vehicles used, fuel costs and maintenance costs;
- Staff and payroll records such as contracts, salary statements, time sheets. For local staff recruited on fixed-term contracts, details of remuneration paid, duly substantiated by the person in charge locally, broken down into gross salary, social security charges, insurance and net salary. For expatriate and/or European-based staff



(if the action is implemented in Europe) analyses and breakdowns of expenditure per month of actual work; assessed on the basis of unit prices per verifiable block of time worked and broken down into gross salary, social security charges, insurance and net salary.

#### Article 17 - Final amount of financing by the Contracting Authority

- 17.1. The total amount to be paid by the Contracting Authority to the Beneficiary may not exceed the maximum grant laid down in Article 3.2 of the Special Conditions, neither in terms of absolute amount nor in percentage of the total estimated costs of the action.
- 17.2. If the total costs of the Action at the end of the Action are less than the estimated total cost referred to in Article 3.1 of the Special Conditions, the Contracting Authority's contribution shall be limited to the amount obtained by applying the percentage laid down in Article 3.2 of the Special Conditions to the total costs of the Action approved by the Contracting Authority.
- 17.3. The Beneficiary accepts that the grant can under no circumstances result in a profit for itself and that it must be limited to the amount required to balance income and expenditure for the Action. Profit shall be defined as:
- In the case of a grant for an Action, a surplus of receipts over the actual costs of the Action in question when the request is made for payment of the balance. However, in the case of Actions designed specifically to strengthen the financial capacity of the Beneficiary, it is distribution to the members making up the beneficiary body of the surplus revenue resulting from its activity leading to their personal enrichment.
  - In the case of an operating grant, a surplus balance on the operating budget of the Beneficiary.

These provisions shall not apply to study, research or training scholarships paid to natural persons, nor in the case of prizes awarded following contests.

- 17.4. In addition and without prejudice to the right to terminate the Contract in accordance with Article 12.2, the Contracting Authority may, by a duly reasoned decision, if the Action is not implemented or is implemented poorly, partially or late, reduce the grant initially provided for in line with the actual implementation of the Action on the terms laid down in this Contract.

#### Article 18 - Recovery

- 18.1. The Beneficiary undertakes to repay any amounts paid in excess of the final amount due to the Contracting Authority within 45 days of the issuing of the debit note, the latter being the letter by which the Contracting Authority requests the amount owed by the beneficiary.
- 18.2. Should the Beneficiary fail to make repayment within the deadline set by the Contracting Authority, the Contracting Authority may (unless the Beneficiary is a government department or public body of a Member State of the European Union) increase the amounts due by adding interest:
- at the rediscount rate applied by the central bank of the country of the Contracting Authority if payments are in the currency of that country;
  - at the rate applied by the European Central Bank to its main refinancing transactions in euro where payments are in euro,

on the first day of the month in which the time-limit expired, plus three and a half percentage points. The default interest shall be incurred over the time which elapses between the date of the payment deadline set by the Contracting Authority and the date on which payment is actually made. Any partial payments shall first cover the interest thus established.





18.3. Amounts to be repaid to the Contracting Authority may be offset against amounts of any kind due to the Beneficiary. This shall not affect the Parties' right to agree on payment in instalments.

18.4. Bank charges incurred by the repayment of amounts due to the Contracting Authority shall be borne entirely by the Beneficiary.

18.5. Where necessary the European Union may as a donor subrogate itself to the Contracting Authority.



## ANNEX 3

### BUDGET

The Beneficiary Institution of Ukraine (hereinafter referred to as the Beneficiary Institution) represented by the National Electricity Regulatory Commission in the person of Victor Merkushev

on the one part, and

The Administration of Italy (hereinafter referred to as the "Member State" or Italy), represented by the Italian Regulatory Authority for Electricity and Gas, in the person of Carlo Crea, Secretary General, acting also on behalf of the Consortium partners: the Romanian Energy Regulatory Authority (ANRE), the Regulatory Authority for Energy of the Hellenic Republic (RAE) and the Hungarian Energy Office (HEO) and Studiare Sviluppo Srl (Italy)

on the other part,

HAVE AGREED ON THE FOLLOWING BUDGET:

Actions to be undertaken under the Twinning project	Responsibility (tick as appropriate)		Cost			
	BC	MS	Unit cost	No of units	Total MS cost	BC Co-financing
<b>1. Resident Twinning Advisor Remuneration (9 months)</b>						
Basic salary and non wage labour costs		x	10 300	9,0	92 700	
6% of salary and non-wage labour costs		x			5 562	
<b>Total RTA remuneration</b>					<b>98 262</b>	
<b>2. Resident Twinning Advisor Allowances</b>						
Daily allowances (50%)		x	153,50	273,0	41 906	
Allowances for RTA for first 30 days		x				
Health and accident insurance for RTA		x	200	9,0	1 800	
Accommodation (see appropriate ceiling for each BC)		x	2 000	9,0	18 000	
Estate Agent's Fee		x				
Travel to and from place of duty – RTA		x	650			
Monthly allowance for special economically priced return		x	650	8,0	5 200	
Excess baggage (max 50 kg for 2 trips)		x	1 600			
<b>Total RTA Allowances</b>					<b>66 906</b>	
<b>3. RTA Training</b>						
Return fare Brussels		x				
3 per diems BE		x				
<b>Total RTA Training</b>						
<b>4. RTA Assistants</b>						
Assistant salary		x	900	9,0	8 100	
Assistant Interpreter /Translator		x	1 500	9,0	13 500	
<b>Total RTA Assistant Costs</b>					<b>21 600</b>	
<b>5. Project Preparation</b>						
PL Leader fees		x	250			
'Project Management Costs'		x	375			
RTA fees		x	450			
'Project Management Costs'		x	675			
Per diems		x	280			
Air tickets		x	650			
<b>Total Preparation Costs</b>						
<b>6. Project Co-ordination Costs</b>						
Participation of PL in PSC meetings		x				
Fees		x	250	7,0	1 750	
'Project Management Costs'		x	375	7,0	2 625	
Per diems		x	307	8,0	2 456	
Airfare		x	650	4,0	2 600	
Visibility costs		x			2 000	
Audit certificate costs		x			2 000	
<b>Total Project Co-ordination Costs</b>					<b>13 431</b>	
<b>Total BC Co-financing</b>						



**PROJECT ACTIVITIES**

<b>7. COMPONENT 1: Criteria for selecting and appointing suppliers of last resort</b>						
<b>Activity 1.1: Review of functions, legislation and procedures in Ukraine and in the EU</b>						
Expert fees Civil Servants RADOI, PLESCA, SELAVARDEANU, PETRUZZO, MASETTI		x	250	16,0		4 000
'Project Management Costs'		x	375	16,0		6 000
Expert fees Class 1 mandated Body Experts		x	250	2,0		500
'Project Management Costs'		x	375	2,0		750
Expert fees Class 2 mandated Body Experts AVLONITIS, SARDI, TROKOUDI, BERNARDINI		x	350	9,0		3 150
'Project Management Costs'		x	525	9,0		4 725
Expert fees Class 3 mandated Body Experts THOMADAKIS		x	450	1,0		450
'Project Management Costs'		x	675	1,0		675
Per diems		x	307	34,0		10 438
Air tickets		x	650	12,0		7 800
Translation of relevant documents (17 pages)		x	10	17,0		170
<b>Activity 1.2: Training and Study Visits on the experience in the EU Member States on suppliers of last resort</b>						
Expert fees Civil Servants RADOI, PLESCA, SELAVARDEANU		x	250	3,0		750
'Project Management Costs'		x	375	3,0		1 125
Expert fees Class 2 Mandated Body Experts ASLANOGLU, AVLONITIS, GAZI, TROKOUDI, BERNARDINI		x	350	2,0		700
'Project Management Costs'		x	525	2,0		1 050
Per diems		x	307	6,0		1 842
Air tickets		x	650	2,0		1 300
Meeting venue and equipment	x					
Translation of relevant documents (14 pages)		x	10	14,0		140
<b>Activity 1.3: Proposal of a draft resolution to the Cabinet of Ministers</b>						
Expert fees Civil Servants RADOI, PLESCA, SELAVARDEANU, PETRUZZO, MASETTI		x	250	11,0		2 750
'Project Management Costs'		x	375	11,0		4 125
Expert fees Class 1 mandated Body Experts		x	250	2,0		500
'Project Management Costs'		x	375	2,0		750
Expert fees Class 2 mandated Body Experts AVLONITIS, SARDI, TROKOUDI, BERNARDINI		x	350	6,0		2 100
'Project Management Costs'		x	525	6,0		3 150
Expert fees Class 3 mandated Body Experts THOMADAKIS		x	450	1,0		450
'Project Management Costs'		x	675	1,0		675
Per diems		x	307	24,0		7 368
Air tickets		x	650	8,0		5 200
Translation of relevant documents (17 pages)		x	10	17,0		170
<b>Total Component 1</b>						<b>72 803</b>
						<b>Total BC Co-financing</b>
<b>COMPONENT 2: Criteria for identifying and certifying eligible customers</b>						
<b>Activity 2.1: Review of EU legislation and procedures for certification of eligibility</b>						
Expert fees Civil Servants RADOI, PLESCA, POPESCU, PETRUZZO		x	250	11,0		2 750
'Project Management Costs'		x	375	11,0		4 125
Expert fees Class 1 Mandated Body Experts		x	250	2,0		500
'Project Management Costs'		x	375	2,0		750
Expert fees Class 2 Mandated Body Experts ASLANOGLU, AVLONITIS, SARDI, TROKOUDI, BERNARDINI		x	350	6,0		2 100
'Project Management Costs'		x	525	6,0		3 150
Per diems		x	307	23,0		7 061
Air tickets		x	650	9,0		5 850
Translation of relevant documents (17 pages)		x	10	17,0		170
<b>Activity 2.2: Training and Study Visits on the experience of the EU Member States on identification and certification of the eligible</b>						
Expert fees Civil Servants PETRUZZO		x	250	3,0		750
'Project Management Costs'		x	375	3,0		1 125
Expert fees Class 2 Mandated Body Experts - AVLONITIS, GAZI, LELOVITIS, BERNARDINI, VITA		x	350	2,0		700
'Project Management Costs'		x	525	2,0		1 050
Expert fees Class 3 mandated Body Experts THOMADAKIS		x	450	1,0		450
'Project Management Costs'		x	675	1,0		675
Per diems		x	307	7,0		2 149



Air tickets		x	650	2,0	1 300
Meeting venue and equipment	x				
Translation of relevant documents (14 pages)		x	10	14,0	140
<b>Activity 2.3 Preparation of a draft NERC regulation</b>					
Expert fees Civil Servants RADOI, POPESCU, PLESCA, PETRUZZO		x	250	16,0	4 000
'Project Management Costs'		x	375	16,0	6 000
Expert fees Class 1 Mandated Body Experts		x	250	2,0	500
'Project Management Costs'		x	375	2,0	750
Expert fees Class 2 Mandated Body Experts AVLONITIS, MOURTZIKOU, SARDI, TROKOU DI, BERNARDINI		x	350	9,0	3 150
'Project Management Costs'		x	525	9,0	4 725
Per diems		x	307	32,0	9 824
Air tickets		x	650	12,0	7 800
Translation of relevant documents (17 pages)		x	10	17,0	170
<b>Total Component 2</b>					<b>71 714</b>
<b>Total BC Co-financing</b>					
<b>COMPONENT 3: Methodology for the determination of connection charges to gas network</b>					
<b>Activity 3.1 Review of methodologies applied in Ukraine and in the EU Member States</b>					
Expert fees Civil Servants ELIAS, FARKAS, HEITER, MORCZ, SZEKERES, RIMNICEAU, TACHE, ALICUS, DELPERO		x	250	13,0	3 250
'Project Management Costs'		x	375	13,0	4 875
Expert fees Class 1 Mandated Body Experts		x	250	2,0	500
'Project Management Costs'		x	375	2,0	750
Expert fees Class 2 Mandated Body Experts AVLONITIS, MOURTZIKOU, STAMATIS,		x	350	8,0	2 800
'Project Management Costs'		x	525	8,0	4 200
Expert fees Class 3 Mandated Body Experts THOMADAKIS		x	450	1,0	450
'Project Management Costs'		x	675	1,0	675
Per diems		x	307	29,0	8 903
Air tickets		x	650	10,0	6 500
Translation of relevant documents (17 pages)		x	10	17,0	170
<b>Activity 3.2 Training and Study Visits</b>					
Expert fees Civil Servants ELIAS, FARKAS, HEITER, MORCZ, SZEKERES, TOTH, DELPERO		x	250	3,0	750
'Project Management Costs'		x	375	3,0	1 125
Expert fees Class 2 Mandated Body Experts AVLONITIS, MOURTZIKOU, SARDI		x	350	2,0	700
'Project Management Costs'		x	525	2,0	1 050
Per diems		x	307	6,0	1 842
Air tickets		x	650	2,0	1 300
Meeting venue and equipment	x				
Translation of relevant documents (14 pages)		x	10	14,0	140
<b>Activity 3.3 Standard procedure for calculating connection charges</b>					
Expert fees Civil Servants ELIAS, FARKAS, HEITER, MORCZ, SZEKERES, RIMNICEANU, TACHE, ALICUS, DELPERO		x	250	16,0	4 000
'Project Management Costs'		x	375	16,0	6 000
Expert fees Class 1 Mandated Body Experts		x	250	2,0	500
'Project Management Costs'		x	375	2,0	750
Expert fees Class 2 Mandated Body Experts ASLANOGLU, AVLONITIS, SARDI, TROKOU DI		x	350	9,0	3 150
'Project Management Costs'		x	525	9,0	4 725
Per diems		x	307	32,0	9 824
Air tickets		x	650	12,0	7 800
Translation of relevant documents (17 pages)		x	10	17,0	170
<b>Total Component 3</b>					<b>76 899</b>
<b>Total BC Co-financing</b>					
<b>COMPONENT 4: Tariff design methodology</b>					
<b>Activity 4.1 Review of methodologies applied in the EU Member States</b>					
Expert fees Civil Servants TACHE, ELIAS, FARKAS, HEITER, MORCZ, SZEKERES, DELPERO		x	250	12,0	3 000
'Project Management Costs'		x	375	12,0	4 500
Expert fees Class 1 Mandated Body Experts		x	250	2,0	500
'Project Management Costs'		x	375	2,0	750





Expert fees Class 2 Mandated Body Experts AVLONITIS, GAZI, SARDI, STAMATIS, ASCARI		x	350	6,0	2 100
'Project Management Costs'		x	525	6,0	3 150
Per diems		x	307	24,0	7 368
Air tickets		x	650	9,0	5 850
Translation of relevant documents (17 pages)		x	10	17,0	170
<b>Activity 4.2 Training and Study Visits:</b>					
Expert fees Civil Servants TACHE, ELIAS, FARKAS, HEITER, MORCZ, SZEKERES		x	250	3,0	750
'Project Management Costs'		x	375	3,0	1 125
Expert fees Class 2 Mandated Body Experts AVLONITIS, MOURTZIKOU, SARDI, TROKOUDI, ASCARI, BASTIA		x	350	2,0	700
'Project Management Costs'		x	525	2,0	1 050
Per diems		x	307	6,0	1 842
Air tickets		x	650	3,0	1 950
Meeting venue and equipment	x				
Translation of relevant documents (14 pages)		x	10	14,0	140
<b>Activity 4.3 Development of a draft methodology for binominal tariff design:</b>					
Expert fees Civil Servants TACHE, ELIAS, FARKAS, HEITER, MORCZ, SZEKERES, DELPERO		x	250	16,0	4 000
'Project Management Costs'		x	375	16,0	6 000
Expert fees Class 1 Mandated Body Experts		x	250	2,0	500
'Project Management Costs'		x	375	2,0	750
Expert fees Class 2 Mandated Body Experts ASLANOGLOU, AVLONITIS, SARDI, BASTIA		x	350	9,0	3 150
'Project Management Costs'		x	525	9,0	4 725
Per diems		x	307	32,0	9 824
Air tickets		x	650	12,0	7 800
Translation of relevant documents (17 pages)		x	10	17,0	170
<b>Activity 4.4 Consultation with the Obligaz and other stakeholders:</b>					
Expert fees Civil Servants TACHE, ELIAS, FARKAS, HEITER, MORCZ, SZEKERES		x	250	6,0	1 500
'Project Management Costs'		x	375	6,0	2 250
Expert fees Class 1 Mandated Body Experts		x	250	1,0	250
'Project Management Costs'		x	375	1,0	375
Expert fees Class 2 Mandated Body Experts ASLANOGLOU, AVLONITIS, TROKOUDI		x	350	3,0	1 050
'Project Management Costs'		x	525	3,0	1 575
Expert fees Class 3 Mandated Body Experts THOMADAKIS		x	450	3,0	1 350
'Project Management Costs'		x	675	3,0	2 025
Per diems		x	307	16,0	4 912
Air tickets		x	650	5,0	3 250
Meeting venue and equipment	x				
Translation of relevant documents (12 pages)		x	10	12,0	120
Interpretation for final seminar		x	600	1	600
<b>Total Component 4</b>					<b>91 121</b>
<b>Total BC Co-financing</b>					
<b>COMPONENT 5:</b>					
<b>Activity 5.1 Coordination of technical meetings and activities at the ENCT Secretariat</b>					
Expert fees Civil Servants SAID ISSA		x	250	3,0	750
'Project Management Costs'		x	375	3,0	1 125
Expert fees Class 1 Mandated Body Experts		x	250	1,0	250
'Project Management Costs'		x	375	1,0	375
Expert fees Class 2 Mandated Body Experts		x	350	4,0	1 400
'Project Management Costs'		x	525	4,0	2 100
Per diems		x	307	10,0	3 070
Air tickets		x	650	4,0	2 600
Translation of relevant documents (11 pages)		x	10	11,0	110
<b>Activity 5.2 Dedicated training on Technical ENCT Terminology:</b>					
Language School (Course for 6 months)		x	1 450	6,0	8 700
<b>Total Component 5</b>					<b>20 480</b>
<b>Total BC Co-financing</b>					
<b>STUDY TOURS:</b>					
<b>Study visit to Italy:</b>					
<b>A one-week study tour to Italy for 6 BC staff</b>					



Per diems for BC participants (6 persons x 5 nights)	x	230	30.0	6,900
Air tickets for BC participants	x	650	6.0	3,900
Incidental costs (at 10 per participant/day)	x	10	30.0	300
Air tickets Assistant Interpreter	x	650	1.0	650
Per diems Assistant interpreter	x	230	5.0	1,150
<b>Study visit to Greece</b>				
<b>A one-week study tour to Greece for 6 BC staff</b>				
Per diems for BC participants (6 persons x 5 nights)	x	222	30.0	6,660
Air tickets for BC participants	x	650	6.0	3,900
Incidental costs (at 10 per participant/day)	x	10	30.0	300
Air tickets Assistant interpreter	x	650	1.0	650
Per diems Assistant interpreter	x	222	5.0	1,110
<b>Study visit to Romania</b>				
<b>A one-week study tour to Romania for 6 BC staff</b>				
Per diems for BC participants (6 persons x 5 nights)	x	222	30.0	6,660
Air tickets for BC participants	x	650	6.0	3,900
Incidental costs (at 10 per participant/day)	x	10	30.0	300
Air tickets Assistant interpreter	x	650	1.0	650
Per diems Assistant interpreter	x	222	5.0	1,110
<b>Study visit to Hungary</b>				
<b>A one-week study tour to Hungary for 6 BC staff</b>				
Per diems for BC participants (6 persons x 5 nights)	x	222	30.0	6,660
Air tickets for BC participants	x	650	6.0	3,900
Incidental costs (at 10 per participant/day)	x	10	30.0	300
Air tickets Assistant interpreter	x	650	1.0	650
Per diems Assistant interpreter	x	222	5.0	1,110
<b>Total Component Study Tours</b>				<b>50,760</b>
<b>Total BC Co-financing</b>				
<b>PROJECT SUB-TOTAL</b>				<b>583,975.50</b>
<b>Provision for changes in prices (at maximum 2.5% of sub-total)</b>				<b>14,589.50</b>
<b>PROJECT TOTAL</b>				<b>598,565.00</b>
<b>BC CO-FINANCING TOTAL</b>				

For the administration of the Beneficiary  
Country

*Mr Victor Merkushov - Commissioner,  
National Electricity Regulatory Commission of Ukraine*

Signature

Date

For the administration of the Member State  
*Mr Carlo Crea - Head of International Affairs, Strategy & Development,  
Italian Regulatory Authority for Electricity and Gas*

Signature

Date



ANNEX A5

Request for payment for Twinning Contract  
European Union external actions

[Date of the request for payment]

For the attention of  
[address of the Contracting Authority]  
[Financial unit indicated in the Contract]<sup>1</sup>

Reference number of the Twinning Contract: ...  
Title of the Twinning Contract: ...  
Name and address of the Beneficiary: ...  
Request for payment number: ...  
Period covered by the request for payment: ...

Dear Sir/Madam,

I hereby request *[[a further] pre-financing payment/payment of the balance]*<sup>2</sup> under the Twinning Contract mentioned above.

The amount requested is *[as indicated in Article 4(2) of the Special Conditions of the Contract/the following: ...]*.<sup>3</sup>

Please find attached the following supporting documents:

- *signed Twinning Contract (for the first pre-financing payment)*
- *expenditure verification report if required by Article 15.6 of the General Conditions of the Contract*
- *technical and financial interim report (for further pre-financing payments)*
- *final implementation report (for payment of the balance)*.<sup>4</sup>

The amount covered by the expenditure verification report and claimed for deduction from the total sum of pre-financing under the Twinning contract is the following: ...

The payment should be made to the following bank account: ...<sup>5</sup>

I hereby certify that the information contained in this request for payment is complete, faithful and reliable, that the costs incurred can be considered eligible in accordance with the Contract and that this request for payment is substantiated by adequate supporting documents that can be checked.

Yours faithfully,

[ signature ]

<sup>1</sup> If the Contracting Authority is a headquarters service of the European Commission, please do not forget to send a copy of this letter to the management unit and if appropriate to the Commission delegation mentioned in Article 5(1) of the Special Conditions of the Contract

<sup>2</sup> Delete the two options which do not apply.

<sup>3</sup> Delete the option which does not apply.

<sup>4</sup> Delete the items which do not apply.

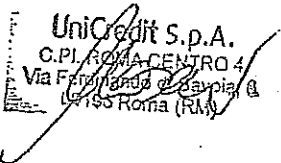


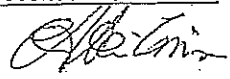
## FINANCIAL IDENTIFICATION

ACCOUNT HOLDER	
NAME	STUDIARE SVILUPPO SRL
ADDRESS	VIA VITORCHIANO 123
TOWN/CITY	ROME
POST CODE	00189
COUNTRY	ITALY
VAT NUMBER	07444831007
CONTACT PERSON	ANTONIO CASSINA
TELEPHONE	0039 06 69921659
FAX	+390669922173
E-MAIL	ACASSINA@STUDIARESVILUPPO.IT

BANK	
BANK NAME	UNICREDIT BANCA
BRANCH ADDRESS	VIA DEL CORSO 374
	AG. ROMA SEDE 745
TOWN/CITY	ROME
POST CODE	00186
COUNTRY	ITALY
ACCOUNT NUMBER	000401156959
IBAN	IT70J0200805154000401156959
SWIFT	UNCRITM1745

REMARKS:

BANK STAMP + SIGNATURE of BANK REPRESENTATIVE: (Both Obligatory)	
---	---

DATE + SIGNATURE of ACCOUNT HOLDER: (Obligatory)	
06 GIU. 2011	





## ANNEX A4 CONTRACT AWARD PROCEDURES<sup>1</sup>

In principle, Twinning projects are exclusively based on the transfer of **public sector expertise** and know-how to the beneficiary administration with a view to achieving a mandatory result. This entails that private sector input in the format of equipment or private sector services will only be required in **exceptional cases**, subject to due justification, and limited to the overall ceiling of €5.000 in the case of equipment and to €10.000 per budget item in case of services (see sections 5.10 and 5.11).

**Twining projects are in other words self-contained projects centred around public sector co-operation.**

In line with the provisions of Section 6.8 of the practical guide ( subcontracting in grants), the exceptionally required private sector inputs are in principle tendered by the MS partner, which applies the provisions included in Annex A4 to each Twinning contract .

An overview of the applicable rules:

### Supply of goods

up to 5.000€ per twinning project single tender by MS Project Leader

Examples: small equipment to ensure smooth implementation of the project (e.g. laboratory consumables or small measuring equipment)

Procedure: Direct award allowed, invoice included in the framework of quarterly financial report.

over 5.000€ per Twinning project :

Such investment **CANNOT** be financed by the Twinning budget. It can be mentioned *pro memoria* in the breakdown of cost only to signify the commitment of the BC that the relevant equipment will be available at that time of the work programme for the project.

Examples: equipment to measure air quality control, veterinary control materials.

### Supply of services

up to 10.000€ per budget item : single tender by Member state project Leader

<sup>1</sup> Please note that the Contract award procedures are subject to regular updates, the latest version of the Practical Guide is available on the Website of EuropeAid Cooperation Office: [http://ec.europa.eu/europeaid/work/procedures/implementation/practical\\_guide/index\\_en.htm](http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm)

Examples: travel costs, translation and interpretation services, software, training material, expert private sector inputs to training.

Procedure: MS Project Leader responsible for procurement and contracting.

Above 10.000€ per budget item : Subcontracting by Member State Partner subject to the provisions of the Annex A4 of the contract

Given (1) the fact that in some instances the Member State twinning partner is a public sector body not allowed to engage in commercial contracts and (2) the exceptional nature of private sector inputs, the Member State partner may ask the Administrative Office in a Beneficiary Country to manage the exceptionally requested private sector inputs (services above 10.000€) on its behalf. This may be appropriate especially where the contracting entails VAT charges which cannot be handled by the Member state partner. Examples of possible subcontracting: translation and interpretation services, software, training material, expert private sector inputs to training.

If the Member State partner avails of such assistance, amounts for private sector inputs above the ceiling of 10.000€ for supply of services will be contracted separately by the AO and will be included in the budget (Annex A3) of the Twinning Agreement with an annotation making clear that they will be contracted by the AO.

In this case, payments due to the Member State partner will obviously not include the private sector sub contracts entered into by the Administrative Office. See Section 7.2 for the payment procedure.

In any case, both the MS project leaders and, if applicable, the AO will apply the Practical Guide to govern the private sector sub-contracting.

## DETAILED CONTRACT AWARD PROCEDURES

### 1. General principles

If the implementation of an Action requires procurement by the Beneficiary, the contract must be awarded to the tender with the best value for money (ie, the tender offering the best price-quality ratio), in accordance with the principles of transparency and fair competition for potential contractors and taking care to avoid any conflicts of interest.

To this end, the Beneficiary must comply with the rules set out in sections 2 to 7 below, subject to section 8.

In the event of failure to comply with the rules referred to above, expenditure on the operations in question is not eligible for EU financing.

The Commission will carry out ex post checks on beneficiaries' compliance with the rules.

The provisions of this Annex apply mutatis mutandis to contracts to be concluded by the Beneficiary's partners.

## 2. Eligibility for contracts

### 2.1. The nationality rule

Participation in tender procedures administered by the Beneficiary is open on equal terms to all natural and legal persons of the Member States and the States and territories of regions expressly covered and/or allowed by the Financial Regulation, the Regulations on access to EU external assistance, the basic legislation or other instruments governing the aid programme under which the grant is being financed. Tenderers must state, in the tender, the country of which they are nationals by presenting the usual proof of nationality under their national legislation.

This rule does not apply to the experts proposed by service providers taking part in tender procedures or service contracts financed by the grant.

### 2.2. The rule of origin

If the Regulations on access to EU external assistance, the basic act or the other instruments applicable to the programme under which the grant is financed contain rules of origin for supplies acquired by the Beneficiary in the context of the grant, the tenderer must state the origin of supplies. For the purpose of this annex, the term "origin" is defined in articles 23 and 24 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the EU Customs Code and other EU legislation governing non-preferential origin. Contractors must present proof of origin to the Beneficiary no later than when the first invoice is presented, for equipments and vehicles of a unit cost on purchase of more than 5000 euro. The certificate of origin must be made out by the competent authorities of the country of origin of the supplies or supplier and must comply with the international agreements to which that country is a signatory or to the relevant EU legislation if it is an EU Member State.

Where the Regulations on access to EU external assistance, the basic act or other instruments applicable to the programme under which the grant is financed do not contain rules of origin for supplies acquired by the Beneficiary in the context of the grant, the origin of those supplies is free and no certificate of origin is required.

### 2.3. Exceptions to the rules on nationality and origin

Where an agreement on widening the market for procurement of goods or services applies, the procurement contracts must also be open to nationals of other countries under the conditions laid down in that agreement.

In addition, in duly substantiated exceptional cases, the Commission may allow nationals of countries other than those referred to in section 2.1 to tender for contracts (or supplies of goods originating in such countries) on the basis of the specific conditions laid down in the Regulations on access to EU external assistance, the basic act or other instrument governing the programme under which the grant is financed.

### 2.4. Grounds for exclusion from participation in procurement

Candidates or tenderers will be excluded from participation in a procurement procedure if:

- (1) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

- (2) they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;
- (3) they have been guilty of grave professional misconduct proven by any means which the Beneficiary can justify;
- (4) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Beneficiary or those of the country where the contract is to be performed;
- (5) they 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 European Union's financial interests;
- (6) they are currently subject to an administrative penalty referred to in section 2.3.5 of the Practical Guide to contract procedures for EC external actions.

Candidates or tenderers must certify that they are not in one of the situations listed above.

#### 2.5. Exclusion from award of contracts

Contracts may not be awarded to candidates or tenderers which, during the procurement procedure:

- (a) are subject to a conflict of interests;
- (b) are guilty of misrepresentation in supplying the information required by the Beneficiary as a condition of participation in the contract procedure or fail to supply this information.

### 3. Rules common to all tender procedures

The tender documents must be drafted in accordance with best international practice. If they do not have their own documents, grant beneficiaries may use the models published on the European Commission's web site relating to external actions. The European Commission will not publish the tender documents established by the Beneficiary.

The time-limits for receipt of tenders and requests to participate must be long enough to allow interested parties a reasonable and appropriate period to prepare and submit their tenders.

All requests to participate and tenders declared as satisfying the requirements must be evaluated and ranked by an evaluation committee on the basis of the exclusion, selection and award criteria announced in advance. This committee must have an odd number of members, at least three, with all the technical and administrative capacities necessary to give an informed opinion on the tenders.

#### **4. Rules applicable to service contracts**

##### **4.1. Contracts of €200 000 or more**

Service contracts worth EUR 200 000 or more must be awarded by means of an international restricted tender procedure following publication of a procurement notice.

The procurement notice is to be published in all appropriate media, in particular on the Beneficiary's web site, in the international press and the national press of the country in which the Action is being carried out, or in other specialist periodicals. It must state the number of candidates which will be invited to submit tenders within a range of four to eight candidates, and must be sufficient to ensure genuine competition.

All would-be service providers fulfilling the conditions referred to in section 2 may ask to participate but only candidates satisfying the published selection criteria and invited in writing by the Beneficiary may submit a tender.

##### **4.2. Contracts under €200 000**

Service contracts worth less than EUR 200 000 must be awarded by means of a negotiated procedure without publication, in which the Beneficiary consults at least three service providers of its choice and negotiates the terms of the contract with one or more of them.

For services of a value of EUR 10 000 or less, the Beneficiary may place orders on the basis of a single tender.

#### **5. Rules applicable to supply contracts**

##### **5.1. Contracts of €150 000 or more**

Supply contracts worth EUR 150 000 or more must be awarded by means of an international open tender procedure following publication of a procurement notice.

The procurement notice is to be published in all appropriate media, in particular on the Beneficiary's web site, in the international press and the national press of the country in which the Action is being carried out, or in other specialist periodicals.

Any would-be supplier which fulfils the conditions referred to in section 2 may submit a tender.

##### **5.2. Contracts between €60 000 and €150 000**

Such contracts are awarded by means of an open tender procedure published locally: the procurement notice is published in all appropriate media but only in the country in which the Action is being carried out.

A local open tender procedure must provide other eligible suppliers with the same opportunities as local firms.

##### **5.3. Contracts under €60 000**

Supply contracts worth less than EUR 60 000 must be awarded by means of a negotiated procedure without publication, in which the Beneficiary consults at least three suppliers of its choice and negotiates the terms of the contract with one or more of them.

For supplies of a value of EUR 5 000 or less, the Beneficiary may place orders on the basis of a single tender.

## 6. Rules applicable to works contracts

### 6.1. Contracts of €5 000 000 or more

Works contracts worth EUR 5 000 000 or more must be awarded by means of an international open tender procedure following publication of a procurement notice.

The procurement notice is to be published in all appropriate media, in particular on the Beneficiary's web site, in the international press and the national press of the country in which the Action is being carried out, or in other specialist periodicals.

Any contractor which fulfils the conditions referred to in section 2 may submit a tender.

### 6.2. Contracts of between €300 000 and €5 000 000

Such contracts are awarded by means of an open tender procedure published locally: the procurement notice is published in all appropriate media but only in the country in which the Action is being carried out.

A local open tender procedure must provide other eligible contractors with the same opportunities as local firms.

### 6.3. Contracts under €300 000

Works contracts worth less than EUR 300 000 must be awarded by means of a negotiated procedure without publication, in which the Beneficiary consults at least three contractors of its choice and negotiates the terms of the contract with one or more of them.

For works of a value of EUR 10 000 or less, the Beneficiary may place orders on the basis of a single tender.

## 7. Use of the negotiated procedure

The Beneficiary may use the negotiated procedure on the basis of a single tender in the following cases:

- (a) where, for reasons of extreme urgency brought about by events which the Beneficiary could not have foreseen and which can in no way be attributed to him, the time-limit for the procedures referred to in sections 3 to 6 cannot be kept. The circumstances invoked to justify extreme urgency must in no way be attributable to the Beneficiary.

Actions carried out in crisis situations identified by the Commission are considered to satisfy the test of extreme urgency. The Commission will inform the Beneficiary if a crisis situation exists and when it comes to an end.

- (b) where the services are entrusted to public-sector bodies or to non-profit institutions or associations and relate to activities of an institutional nature or designed to provide assistance to peoples in the social field;
- (c) where contracts extend activities already under way which are not included in the main contract but which, because of unforeseen circumstances, have become necessary to perform the contract, or which consist of the repetition of similar services entrusted to the contractor providing services under the initial contract;

- (d) for additional deliveries by the original supplier intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations, where a change of supplier would oblige the Beneficiary to acquire equipment having different technical characteristics which would result in either incompatibility or disproportionate technical difficulties in operation and maintenance;
- (e) for additional works not included in the initial contract concluded which have, through unforeseen circumstances, become necessary for carrying out the works;
- (f) where the tender procedure has been unsuccessful, that is where no qualitatively and/or financially worthwhile tender has been received. In such cases, after cancelling the tender procedure, the Beneficiary may negotiate with one or more tenderers of its choice, from among those that took part in the tender procedure, provided that the initial terms of the tender procedure are not substantially altered;
- (g) where the contract concerned follows a contest and must, under the rules applying, be awarded to the winner of the contest or to one of the winners of the contest, in which case, all winners shall be invited to participate in the negotiations;
- (h) where, for technical reasons, or for reasons connected with the protection of exclusive rights, the contract can be awarded only to a particular service provider;
- (i) where warranted by the nature or particular characteristics of the supplies, for example, where performance of the contract is exclusively reserved for the holders of patents or licences to use patents;
- (j) where the orders are placed with a humanitarian central buying office, recognised as such by the relevant service of the European Commission;
- (k) for the issue of the expenditure verification report and the financial guarantee where they are required under the Contract.
- (l) for contracts declared to be secret, or for contracts whose performance must be accompanied by special security measures or when the protection of the essential interests of the European Union or the beneficiary country so requires;
- (m) for contracts in respect of supplies quoted and purchased on a commodity market;
- (n) for contracts in respect of purchases on particularly advantageous terms, either from a supplier which is definitively winding up its business activities, or from the receivers or liquidators of a bankruptcy, an arrangement with creditors, or a similar procedure under national law.

## 8. Special cases

### 8.1. Co-financing

Where:

- the Action is cofinanced by several donors and

- one of the other donors, whose contribution to the total cost of the Action is greater than that of the Commission, imposes procurement rules on the Beneficiary that differ from those set out in sections 3 to 7,

the Beneficiary may apply the rules imposed by the other donor. In all cases, the general principles and rules on nationality and origin set out in sections 1 and 2 still apply.

#### 8.2. Public administrations of the Member States

Where the Beneficiary or a partner is a contracting authority and/or a contracting entity within the meaning of the EU Directives applicable to procurement procedures, it must apply the relevant provisions of those texts, in preference to the rules set out in 3 to 7. In all cases, the general principles and rules on nationality and origin set out in 2 still apply.

#### 8.3. International Organisations

Where a partner is an international organisation, it applies its own procurement rules if they offer guarantees equivalent to internationally accepted standards. If they don't or in specific cases, the Commission and the Beneficiary agree on the use of other procurement procedures which offer such guarantees. In all cases the general principles and rules on nationality and origin set out in point 2 still apply.

#### 8.4. Central Buying Offices

Where the Beneficiary uses a central buying office as service provider, he selects it in conformity with the procedures set out above for service contracts.

A central buying office for the purpose of point 7 (j) is a non-profit making, autonomous and professional structure, specialised in the technical and commercial management of supplies.

This central buying office applies the rules imposed on the Beneficiary. Where it is a humanitarian central buying office recognised as such by the relevant service of the European Commission (see [http://ec.europa.eu/echo/about/actors/procurement\\_en.htm](http://ec.europa.eu/echo/about/actors/procurement_en.htm)), it applies the rules agreed upon at the time of its approval, subject to the rules on nationality and origin set out in point 2 above.



**ANNEX A6**  
**EXPENDITURE VERIFICATION**

should be completed by the Member State Partner (MSP) and be agreed with the Auditor

should be provided by the Auditor

**Terms of Reference for an Expenditure Verification of a  
Twinning contract  
– External Actions of the European Commission –**

*HOW TO USE THIS TERMS OF REFERENCE MODEL? All text highlighted in yellow in this ToR model and its annex 1 and 2 is for instruction only and Member State Partner (MSP) Twinning contracts should remove it after use.*

*The parts of the ToR presented in <.....> (e.g. <name of the Member State Partner (MSP)> must be completed by the MSP*

The following are the terms of reference ('ToR') on which <name of the Member State Partner (MSP)> 'the Member State Partner (MSP)' agrees to engage < name of the audit firm> 'the Auditor' to perform an expenditure verification and to report in connection with an Institution Building Twinning contract financed by EU funds <reference of the Twinning contract> (the 'Twinning contract'). Where in these ToR the 'Contracting Authority' is mentioned this refers to <the European Commission or name of another contracting authority> which has signed the Twinning contract with the Member State Partner (MSP) and is providing the funding. The Contracting Authority is not a party to this engagement.

**1.1 Responsibilities of the Parties to the Engagement**

- 'The Member State Partner (MSP)' refers to the Member State administration that is receiving the Twinning funding and that has signed the Twinning contract with the Contracting Authority. The Member State Partner (MSP) is responsible for providing a Financial Report for the Action financed by the Twinning contract and for ensuring that this Financial Report can be properly reconciled to the Member State Partner (MSP)'s accounting and bookkeeping system and to the underlying accounts and records. The Member State Partner is responsible for providing sufficient and adequate information, both financial and non-financial, in support of the Financial Report.
- The Member State Partner (MSP) accepts that the ability of the Auditor to perform the procedures required by this engagement effectively depends upon the Member State Partner (MSP), and as the case may be his partners, providing full and free access to the Member State Partner (MSP)'s staff and its accounting and other relevant records.
- The Auditor' is responsible for performing the agreed-upon procedures as specified in these ToR, and for submitting a report of factual findings to the Member State Partner. 'Auditor' refers to the audit firm contracted for this engagement and in particular to the partner or other person in the audit firm who is responsible for the engagement and for the report that is issued on behalf of the firm, and who has the appropriate authority from a professional, legal or regulatory body.

By agreeing these ToR the Auditor confirms that he/she meets at least one of the following conditions:

- The Auditor and/or the firm is a member of a national accounting or auditing body or institution which in turn is member of the International Federation of Accountants (IFAC).

- The Auditor and/or the firm is a member of a national accounting or auditing body or institution. Although this organisation is not member of the IFAC, the Auditor commits him/herself to undertake this engagement in accordance with the IFAC standards and ethics set out in these ToR.
- The Auditor and/or the firm is registered as a statutory auditor in the public register of a public oversight body in an EU member state in accordance with the principles of public oversight set out in Directive 2006/43/EC of the European Parliament and of the Council (this applies to auditors and audit firms based in an EU member state)<sup>1</sup>.
- The Auditor and/or the firm is registered as a statutory auditor in the public register of a public oversight body in a third country and this register is subject to principles of public oversight as set out in the legislation of the country concerned (this applies to auditors and audit firms based in a third country).

## 1.2 Subject of the Engagement

The subject of this engagement is the Financial Report in connection with the Twinning contract for the period covering <dd Month yyyy to dd Month yyyy> and the action entitled <title of the Action>; the 'Action'.. Annex 1 to these ToR contains information about the Twinning contract.

## 1.3 Reason for the Engagement

The Member State Partner (MSP) is required to submit to the Contracting Authority an expenditure verification report produced by an external auditor in support of the payment requested by the Member State Partner (MSP) under Article 15 of the General Conditions of the Twinning contract. The Authorising Officer of the Contracting Authority requires this report as he makes the payment of expenditure requested by the Member State Partner (MSP) conditional on the factual findings of this report.

## 1.4 Engagement Type and Objective

This expenditure verification is an engagement to perform certain agreed-upon procedures with regard to an expenditure verification of a European Union financed Twinning Contract. The objective of this expenditure verification is for the Auditor to carry out the specific procedures listed in Annex 2A to these ToR and to submit to the Member State Partner (MSP) a report of factual findings with regard to the specific verification procedures performed. Verification means that the Auditor examines the factual information in the Financial Report of the Member State Partner and compares it with the terms and conditions of the Twinning Contract. As this engagement is not an assurance engagement the Auditor does not provide an audit opinion and expresses no assurance. The Contracting Authority assesses for itself the factual findings reported by the Auditor and draws its own conclusions from these factual findings.

## 1.5 Standards and Ethics

The Auditor shall undertake this engagement in accordance with:

- the International Standard on Related Services ('ISRS') 4400 *Engagements to perform Agreed-upon Procedures regarding Financial Information* as promulgated by the IFAC;
- the *Code of Ethics for Professional Accountants* issued by the IFAC. Although ISRS 4400 provides that independence is not a requirement for agreed-upon procedures

<sup>1</sup> Directive 2006/43 of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253 EEC.

engagements, the Contracting Authority requires that the auditor also complies with the independence requirements of the *Code of Ethics for Professional Accountants*.

#### 1.6 Procedures, Evidence and Documentation

The Auditor plans the work so that an effective expenditure verification can be performed. The Auditor performs the procedures listed in Annex 2A of these ToR ('Listing of specific procedures to be performed') and applies the guidelines in Annex 2B (Guidelines for specific procedures to be performed). The evidence to be used for performing the procedures in Annex 2A is all financial and non-financial information which makes it possible to examine the expenditure claimed by the Member State Partner (MSP) in the Financial Report. The Auditor uses the evidence obtained from these procedures as the basis for the report of factual findings. The Auditor documents matters which are important in providing evidence to support the report of factual findings, and evidence that the work was carried out in accordance with ISRS 4400 and these ToR.

#### 1.7 Reporting

The report on this expenditure verification should describe the purpose, the agreed-upon procedures and the factual findings of the engagement in sufficient detail in order to enable the Member State Partner (MSP) and the Contracting Authority to understand the nature and extent of the procedures performed by the Auditor and the factual findings reported by the Auditor.

The use of the Model Report for an Expenditure Verification of an EC Twinning Contract in Annex 3 of these ToR is compulsory. This report should be provided by the Auditor to *<name of the Member State Partner (MSP)>* within *<xx; number of working days to be indicated by the Member State Partner (MSP)>* working days after the day of signature of these ToR.

#### 1.8 Other Terms

The fee for this engagement shall be *<fee amount and currency>* *<The Member State Partner (MSP) may want to agree a fixed fee for the engagement or otherwise. The Member State Partner (MSP) and the Auditor may want to agree specific terms if the Auditor needs to extend verification coverage from 65% to 85%. The Member State Partner (MSP) should specify any reimbursable expenses and allowances (e.g. travelling, other) agreed with the Auditor and whether VAT and/or other relevant taxes are included in the fees/expenses.>*

*[The Member State Partner (MSP) and the Auditor can use this section to agree any other specific terms]*

- Annex 1 Information about the Twinning Contract
- Annex 2A Listing of specific procedures to be performed
- Annex 2B Guidelines for specific procedures to be performed
- Annex 3 Model report for an expenditure verification of an EC grant contract

For the Member State Partner:

For the Auditor:

Signature

Signature

*<name and capacity>*

*<name and capacity>*

*<date>*

*<date>*