

THE BULGARIAN-SWISS COOPERATION PROGRAMME

PROJECT PREPARATION FACILITY AGREEMENT

BETWEEN

**THE MONITORING OF EU FUNDS DIRECTORATE OF THE COUNCIL OF MINISTERS
OF THE REPUBLIC OF BULGARIA,
AS THE NATIONAL COORDINATION UNIT (NCU)**

AND

THE STATE SECRETARIAT FOR ECONOMIC AFFAIRS (SECO)

ON

**THE GRANT FOR THE
PROJECT PREPARATION FACILITY
TO BE IMPLEMENTED DURING THE PERIOD
15 MARCH 2011 - 7 JUNE 2014**

**IN ACCORDANCE WITH THE FRAMEWORK AGREEMENT BETWEEN THE
GOVERNMENT OF THE REPUBLIC OF BULGARIA AND THE SWISS FEDERAL
COUNCIL CONCERNING THE IMPLEMENTATION OF THE BULGARIAN-SWISS
COOPERATION PROGRAMME TO REDUCE ECONOMIC AND SOCIAL DISPARITIES
WITHIN THE ENLARGED EUROPEAN UNION, SIGNED ON 7 SEPTEMBER, 2010**

The Monitoring of EU Funds Directorate of the Council of Ministers,
as the National Coordination Unit (hereinafter referred to as "NCU") and

The State Secretariat for Economic Affairs of the Swiss Confederation (hereinafter referred to as
("SECO")),

Having regard to the friendly relations between the two countries,

Desirous of strengthening these relations and the fruitful co-operation between the two countries,

Intending to promote further the social and economic development in Bulgaria,

*Referring to the Framework Agreement between the Government of the Republic of Bulgaria and
the Swiss Federal Council concerning the implementation of the Bulgarian-Swiss Cooperation
Programme to reduce economic and social disparities within the enlarged European Union,
signed on 7 September 2010,*

*Considering the establishment of a Project Preparation Facility, in favour of Bulgaria in the context
of the Bulgarian-Swiss Cooperation Programme,*

have agreed as follows:

Article 1

Definitions

In this Project Preparation Facility Agreement, unless the context otherwise requires, the following terms shall have the following meaning:

- "Framework Agreement" means the Agreement between the Government of the Republic of Bulgaria and the Swiss Federal Council concerning the implementation of the Bulgarian-Swiss Cooperation Programme to reduce the economic and social disparities within the enlarged European Union, signed on 7 September 2010;
- "Contribution" means the non-reimbursable financial contribution granted by Switzerland under the Framework Agreement;
- "Project Preparation Facility Agreement" means the Agreement between the Monitoring of EU Funds Directorate, Council of Ministers, acting as the National Coordination Unit (NCU) and the State Secretariat for Economic Affairs (SECO) which lays down the rights and obligations of the Contracting Parties regarding the implementation of the Project Preparation Facility;
- "National Coordination Unit" (NCU) means the Bulgarian unit in charge of the coordination of the Bulgarian-Swiss Cooperation Programme. In reference to the Framework Agreement, Article 9, Bulgaria has authorized the Monitoring of EU Funds Directorate, Council of Ministers, to act on its behalf as the NCU for the Bulgarian-Swiss Cooperation Programme;
- "Grant" means the non-reimbursable financial contribution granted by Switzerland under this Project Preparation Facility Agreement;

- "Contracting Parties" of the Project Preparation Facility Agreement are the NCU and SECO;
- "Paying Authority" means the institution established in the Ministry of Finance of the Republic of Bulgaria ensuring on the Bulgarian side appropriate financial control within the Bulgarian-Swiss Cooperation Programme;
- "Intermediate Body" means any legal public or private entity appointed by the NCU which acts under the responsibility of the NCU or which carries out duties on behalf of the NCU with regard to Executing Agencies implementing projects;
- "Executing Agency" means any legal public or private entity as well as any organization recognized by the Contracting Parties and mandated to implement a specific project financed under this Project Preparation Facility Agreement;
- "Project Outline" means the project proposal submitted to Switzerland in view of the general appraisal of a project to be implemented in the framework of the Bulgarian-Swiss Cooperation Programme;
- "Final Project Proposal" means the project proposal submitted to Switzerland in view of the final approval of a project to be implemented in the framework of the Bulgarian-Swiss Cooperation Programme;
- "Applicant" means any Executing Agency that has submitted a request for financial support for the elaboration of the documentation of a Final Project Proposal under the Project Preparation Facility.

Article 2

Objective and Scope of the Project Preparation Facility

2.1 The objective of the Project Preparation Facility (hereinafter referred to as "the PPF") is to ensure the efficient preparation of Final Project Proposals as defined in Annex 3, chapter 1.3 of the Framework Agreement, by contributing to the costs incurred through their elaboration.

2.2 The PPF shall be used for the elaboration of the documentation for the Final Project Proposals resulting from Project Outlines approved by Switzerland.

2.3 The PPF shall be implemented by the NCU according to the Framework Agreement and its Annexes as well as to this Project Preparation Facility Agreement.

2.4 For all matters which are not settled in this Project Preparation Facility Agreement the relevant provisions of the Framework Agreement and its Annexes shall be applicable.

2.5 In case of discrepancy between the provisions of this Project Preparation Facility Agreement and the Framework Agreement, the provision of the Framework Agreement shall be applied.

Article 3

Amount and Utilization

3.1 Switzerland shall provide a Grant of maximum CHF 500'000.00 (five hundred thousand Swiss Francs) to Bulgaria to be used exclusively to finance the eligible costs as defined in Article 3.2 below.

3.2 The following costs incurred by the Applicant for the preparation of the Final Project Proposal are eligible for financing:

- a) Expenditures for mandates to external experts to support the preparation of comprehensive Final Project Proposals fulfilling the requirements stipulated in the Framework Agreement, Annex 3, Chapter 1 to be submitted to Switzerland for approval;
- b) Expenditures for mandates to competent experts for preparing studies, e.g. feasibility studies, environmental impact assessments, and/or any other document deemed appropriate to complement the Final Project Proposal in order to allow a thorough appraisal of the project.
- c) Translation costs into English of the documents cited under b).

The minimum amount to be financed by the PPF for the preparation of a Final Project Proposal shall be CHF 10'000 (ten thousand Swiss Francs). In justified cases and by mutual agreement between SECO and NCU this minimum amount can be lowered.

3.3 Not eligible are:

- a) All kinds of mandates that lie within the function and field of competence of the Applicant.
- b) All kind of customs and taxes, including VAT, required for the elaboration of the Final Project Proposal not directly linked with services.
- c) Costs incurred before the date of signing of this Agreement, as well as costs incurred after two months before the end of the commitment period of the Contribution. Therefore, the final date of eligibility of costs of the PPF is 6 October 2014.
- d) VAT, which is recoverable, by whatever means shall not be considered eligible even if it is not actually recovered by the NCU or the final recipient.

3.4 The financing by the PPF according to Article 3.2 of this Project Preparation Facility Agreement shall not exceed 85% of the total eligible actual costs for the preparation of a Final Project Proposal.

3.5 The Contracting Parties may decide before the end of the commitment period of the Contribution, if deemed appropriate, by mutual consent, either to allocate additional means to the PPF or to transfer the unutilized portion of the Grant for the financing of other expenses or projects within the Bulgarian-Swiss Cooperation Programme.

3.6 Any portion of the Grant unutilized at the end of the commitment period of the Contribution, shall not be available anymore for the Bulgarian-Swiss Cooperation Programme.

3.7 Costs of the NCU related to the implementation of the PPF, eligible for the financing under categories enumerated in Point B 2, Annex 5 to the Framework Agreement, shall be borne by the Bulgarian-Swiss Technical Assistance Fund.

Article 4

Procedures for a PPF application and award

4.1 The procedure for a PPF application shall fully comply with the procedures of project financing requests defined in the Framework Agreement, Annex 3, Chapter 1.

4.2 The Applicant submitting a Project Outline to the NCU may apply for financial support under the PPF for the preparation of the Final Project Proposal. For this purpose, the Applicant shall fill in the respective part of the Project Outline form provided by the NCU.

4.3 If accepted, the Project Outline shall be submitted by the NCU to Switzerland for approval.

4.4 The provision of financial support under the PPF is conditional on the approval of the Project Outline by Switzerland. Switzerland may make recommendations or request amendments to the proposed preparatory activities, including the scope, content, methodology and budget, to be financed under the PPF. These recommendations or requests for amendments shall be taken into account by the Applicant.

4.5 Switzerland shall communicate the award of funding under the PPF to the NCU together with the approval of the Project Outline.

4.6 Upon receipt of the decision by Switzerland to award funding under the PPF, the NCU shall inform the Applicant accordingly and make the necessary contractual arrangements with the Applicant for the provision and use of the awarded funds. The contractual arrangements between the NCU and the Applicant shall fully comply with this Project Preparation Facility Agreement.

Article 5

Reimbursement Procedures

5.1 The reimbursement procedure defined in the Framework Agreement, Annex 3, Chapter 3, shall fully apply to the PPF. All disbursements under the PPF shall be pre-financed by domestic sources of Bulgaria. Reimbursements by Switzerland of eligible actual expenditures shall be conditional upon receipt and approval by Switzerland of the reports pursuant to Article 9.2 of this Project Preparation Facility Agreement and be transmitted to Bulgaria within 40 calendar days.

5.2 The Paying Authority shall provide the account details to SECO.

5.3 Justified expenditures for the preparation of the Final Project Proposal and / or supporting documentation under the PPF shall be reimbursed by Switzerland even if the Final Project Proposal is not submitted (reserve list) or rejected.

5.4 The Reimbursement Requests sent to Switzerland by the Paying Authority shall be in Swiss Francs, whereas the Paying Authority shall convert the local currency into Swiss

Francs at the daily exchange rate of the Bulgarian National Bank prevailing at the date of issuance of the Reimbursement Request.

5.5 The equivalent value in local currency of each reimbursement made by Switzerland in Swiss Francs pursuant to the approval of the Reimbursement Requests will be recorded by the Paying Authority using the daily exchange rate prevailing at the date the reimbursement was received on the account of the Paying Authority.

5.6 All payments related to this Project Preparation Facility Agreement shall be transferred by Switzerland to the Government of the Republic of Bulgaria. Details of the bank account shall be provided to Switzerland in a separate declaration by the Paying Authority which shall constitute an integral part of this Project Preparation Facility Agreement.

5.7 The final date of eligibility of costs for the PPF is the following: 6 October 2014.

Article 6

Procurement

Procurement is to be made in accordance with the requirements provided in Annex 3 (cf. 2.3) of the Framework Agreement and in accordance with the Bulgarian law and regulations and in compliance with the EU directives.

Article 7

Responsibilities of the NCU

7.1 The NCU is responsible for the implementation, controlling and monitoring of the PPF. Furthermore, the NCU is responsible for reporting on the PPF according to Article 9 of this Project Preparation Facility Agreement. The NCU ensures that all activities undertaken under the PPF are compliant with this Project Preparation Facility Agreement as well as with the Framework Agreement and its Annexes.

7.2 The main tasks of the NCU include:

- Prepare and make available the Project Outline application form for including the PPF part;
- Decide on relevance and appropriateness of the requests for financial support under the PPF;
- Submit the applications for financial support under the PPF being a part of the respective Project Outline to Switzerland;
- Conclude contracting arrangements with the Applicants for the use of funds from the PPF that fully comply with this Project Preparation Facility Agreement;
- Ensure the verification of the invoices received from the Applicants;
- Submit certified payment claims to the Paying Authority;
- Ensure that there is no double-financing of any part of the Project by any other source of funds (see Article 3.4);
- Ensure the verification of the documents and approve the quality and completeness of the studies and documents prepared with the financial support under the PPF before payment to the Applicant of the eligible incurred expenditures;
- Report periodically to Switzerland;
- Ensure the efficient and correct use of the funds.

The NCU can delegate part of the tasks and responsibilities mentioned above to one or more Intermediate Bodies or Executing Agencies.

7.3 The NCU will at all time clearly state that it is acting within the framework of the Bulgarian-Swiss Cooperation Programme to reduce economic and social disparities within the enlarged European Union. The general public in Bulgaria will be informed adequately about the PPF and the support provided by Switzerland.

7.4 The NCU shall ensure efficient and prompt investigation of any suspected and actual cases of fraud and irregularity. The NCU shall immediately report to the Swiss authorities all suspected and actual cases of fraud and irregularity as well as all measures related thereto, taken by the competent national authorities.

Article 8

Monitoring and Review

The NCU shall ensure the establishment of a monitoring system that allows to assess periodically the status of achievement of the proposed objective of the Project Preparation Facility Agreement. Monitoring results and conclusions shall be part of the annual reporting as stipulated in Article 9.3 of this Project Preparation Facility Agreement.

Article 9

Reporting

9.1 Reports shall meet the requirements mentioned in Annex 3 of the Framework Agreement.

9.2 The NCU shall report at a period of maximum six months (Interim Reports) on the allocation of funds under the PPF, including the names of the Applicants and proposed projects as well as the names of the companies/experts mandated for carrying out the preparatory studies and documents. These Interim Reports shall include the amount, the scope and the purpose of the contract with such companies/experts as well as a list of all elaborated preparatory studies and documents. The reimbursements to the Government of the Republic of Bulgaria shall be conditional on the receipt and approval of the Interim Reports by Switzerland.

9.3 The NCU shall submit to Switzerland an Annual Report on the PPF not later than three months after the end of each calendar year. The first Annual Report on the PPF covering the years 2010 and 2011 is due not later than 31 March 2012. The content of the Annual Reports will include information about task realization, the number, budget and duration of the activities funded under the PPF and the financial data with respect to the PPF.

9.4 The NCU shall submit to Switzerland a Completion Report on the PPF not later than six months after the final date of eligibility of costs for the PPF, meaning not later than 6 April 2015. The final reimbursement shall be conditional on the receipt and approval by Switzerland of the Completion Report on the PPF and the conclusions of the Final Financial Audit on the PPF.

Article 10

Audits

10.1 Two years after the signing this Project Preparation Facility Agreement, an internal or an external certified Audit Organisation shall carry out an Intermediary Financial Audit of the PPF. The conclusions and recommendations have to be presented to Switzerland by the NCU at the latest three months after the respective two years.

10.2 At the completion of the PPF an internal or external certified Audit Organisation will carry out a closing Final Financial Audit of the PPF. The final conclusions and recommendations shall be transmitted to Switzerland by the NCU together with the Completion Report on the PPF, at the latest six months after the final date of eligibility of costs for the PPF, not later than 6 April 2015.

10.3 In case of an internal Financial Audit, the costs shall be borne by the respective internal Audit Units. In the case of an external Financial Audit, the costs shall be borne by the Bulgarian-Swiss Technical Assistance Fund.

10.4 The NCU shall communicate to Switzerland the Bulgarian decision under 10.3, respectively the appointed Audit Unit or Audit Organisation.

10.5 The objective of the audit regarding financial statements of Project Preparation Facility applicants is to enable the Audit Unit or Audit Organisation to express an opinion whether the applicants' financial statements are prepared, in all material respects, in accordance with an applicable financial reporting framework (ISA 200, point 3). Thus, financial statements need to be prepared in accordance with one, or a combination of the international accounting standards, the national accounting standards or another authoritative and comprehensive financial reporting framework which has been designed for use in financial reporting and is identified in the financial statements. The Audit Unit or Audit Organisation shall conduct the financial audit in accordance with International Standards on Auditing (ISA), issued by the International Auditing and Assurance Standards Board (IAASB) of the International Federation of Accountants (IFAC), to obtain reasonable assurance that the financial statements taken as a whole are free from material misstatement, whether due to fraud or error (ISA 200, point 11a). Results of any previous audits shall be taken into consideration. The Audit Unit or Audit Organisation shall take into account additional requirements that may be suggested by the NCU or by Switzerland.

10.6 In addition to the Audit Unit's or Audit Organisation's report on the financial statements, the Audit Unit or Audit Organisation is expected to provide the NCU and/or Executing Agency with a management letter concerning any material weaknesses in accounting and internal control systems detected by the Audit Unit or Audit Organisation. Audit arrangements with the Audit Unit or Audit Organisation shall be effective for the whole duration of the PPF unless it is terminated, amended or superseded with appropriate justifications.

10.7 The NCU and/or Executing Agency shall comment the results of the Audits as well as any recommendations proposed by the Audit Organisation. Furthermore, the NCU shall transmit the results and the proposed recommendations of the intermediary Financial Audit and the Final Financial Audit of the PPF to Switzerland.

10.8 Switzerland shall have the right to request additional external financial reviews. The costs of such financial reviews shall be borne by Switzerland.

Article 11

Delegation of Tasks and Responsibilities

The NCU can delegate part or all of the tasks and responsibilities stipulated in this Project Preparation Facility Agreement to the Intermediate Bodies and/or to the Executing Agencies.

Article 12

Right of Examination

SECO, as well as any third party appointed to act on behalf by it, shall have the right to conduct a comprehensive assessment or review of the activities implemented under the PPF, and shall be granted full access to all documents and information related to the PPF activities settled by this Project Preparation Facility Agreement, during its implementation and three years after its completion. The NCU shall, upon request, ensure that the representatives of Switzerland, as well as of any third party appointed by it are accompanied by the relevant personnel and are provided with the necessary assistance.

Article 13

Settlement of Disputes

If any dispute which may result from the application of this Project Preparation Facility Agreement occurs, Article 11.2 of the Framework Agreement shall be applied.

Article 14

Common Concern

The Contracting Parties share a common concern in accordance with Article 10 of the Framework Agreement.

Article 15

Irregularities Clause

15.1 In case of irregularities, as defined by the Bulgarian legislation, wilfully or negligently caused by the NCU regarding the execution of the Project Preparation Facility Agreement, SECO is entitled to:

- a) stop immediately reimbursements related to the Project Preparation Facility,
- b) instruct the NCU to stop payments related to the Project Preparation Facility,
- c) related to the Project Preparation Facility, ask repayment of illegitimately paid reimbursements at any stage of the activities.

15.2 Prior to making a decision on Article 15.1, SECO shall enter into a dialogue with the NCU to ensure that it is based on accurate and correct facts.

15.3 SECO shall immediately and in written form communicate the reasons for the respective instructions to the NCU and the other actors involved.

15.4. Related to this Project Preparation Facility Agreement, the cooperation between SECO and NCU shall return to normality when proper corrective measures have been accepted by SECO.

Article 16

Language

All correspondence with Switzerland, including operational, financial and audit reports as well as any other documents related to the PPF, shall be elaborated in English.

Article 17

Competent Authorities

17.1 On the Bulgarian side:

Monitoring of the EU Funds Directorate
Council of Ministers
1194, Sofia 1 "Dondukov" blvd
Bulgaria
Phone: ++359 2 940 2912
Fax: ++359 2 988 48 30
www.eufunds.bg

17.2 On the Swiss side:

State Secretariat for Economic Affairs (SECO)
Swiss Contribution (WEKO)
Holzikofenweg 36
3003 Bern
Switzerland

Embassy of Switzerland
Ul. Chipka 33
P.O. Box 132
1504 Sofia
Bulgaria
Phone: ++359 2 942 01 00
Fax: ++359 2 946 16 22

17.3 All communication to Switzerland with regard to this Project Preparation Facility Agreement shall be directed to the Swiss Embassy in Sofia, which generally represents Switzerland towards the NCU.

Article 18

Entry into Force, Amendments, Duration and Termination

18.1 This Project Preparation Facility Agreement shall enter into force on the date of its signing by the Contracting Parties and shall remain in force until all obligations under it have been fulfilled.

18.2 This Project Preparation Facility Agreement can be terminated at any time by one of the Contracting Parties upon a six-month prior written notice containing its justification. Prior to making such a decision, the Contracting Parties shall enter into a dialogue to ensure that it is based on accurate and correct facts. The Contracting Parties shall decide by mutual agreement on any consequences of the termination.

18.3 If either Contracting Party considers after having applied Article 11.2 of the Framework Agreement that the aims of the Project Preparation Facility Agreement can no longer be achieved or that the other Contracting Party is not meeting its obligations, it shall have the right to temporarily suspend the application of this Project Preparation Facility Agreement by giving the other Contracting Party a written notice on the grounds.

18.4 Any amendment to this Project Preparation Facility Agreement shall be made in writing with the mutual agreement of the Contracting Parties and according to their respective procedures.

18.5 Any increase of or reallocation from the PPF budget, any significant changes within the budget as well as any strategic changes or conceptual adjustments to the PPF shall be discussed with and approved by Switzerland.

18.6 The PPF shall be operational from the date of the signing of this Project Preparation Facility Agreement until 6 April 2015.

Done in Bulgaria, Sofia on 15 March 2011, in two originals in the English language.

For the National Coordination Unit

For the State Secretariat for
Economic Affairs

Tomislav Donchev
Minister of EU Funds Management

Béatrice Maser Mallor
Ambassador,
Head of Economic Cooperation and
Development