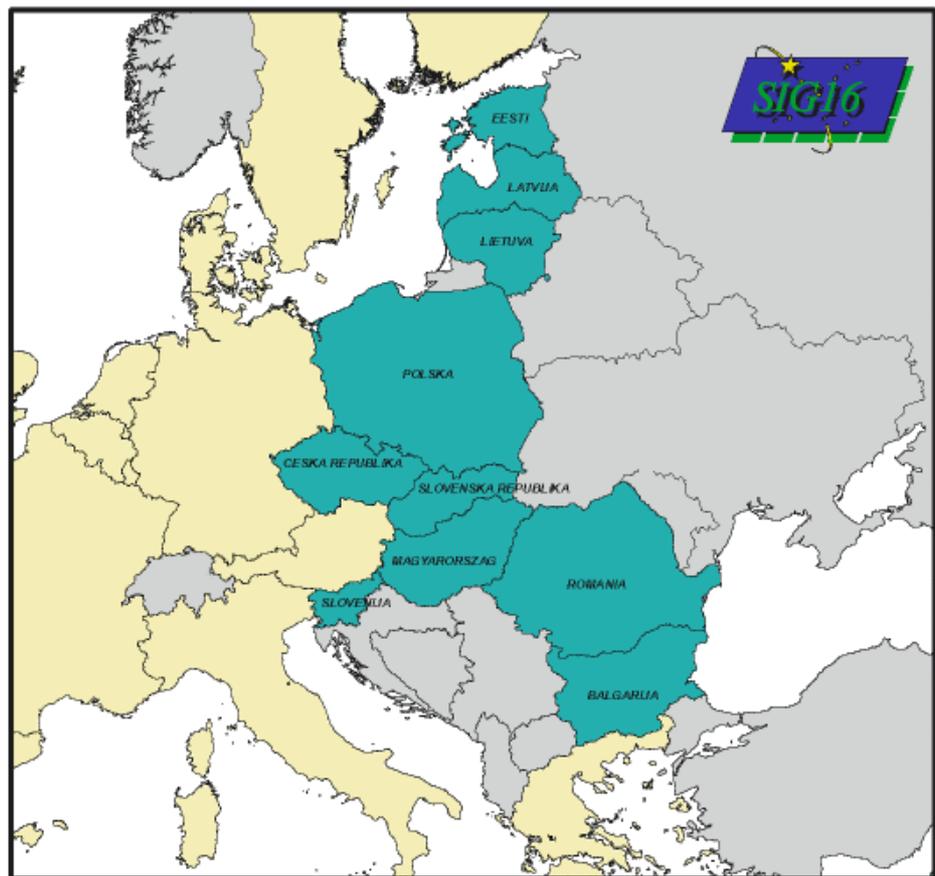


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ISPA Manual

Working document



The "Instrument for Structural Policies for Pre-accession" (ISPA) is the European Community's financial instrument set up in order to assist the ten Central and East European candidate countries prepare for accession in the fields of environment and transport.

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PREFACE

The "Instrument for Structural Policies for Pre-accession" (ISPA) is one of the European Community's financial instruments, set up to assist the ten Central and Eastern European candidate countries prepare for accession. ISPA provides financial support for investment in the areas of environment and transport, in order to speed up the compliance of accession countries with the European legislation currently in force in these two sectors.

ISPA is a hybrid instrument designed to serve as a transition from the EU financial support given to third countries (cf. PHARE) to the financial support offered Member States (cf. Cohesion Fund). This implies firstly, that ISPA incorporates characteristics of both types of assistance, and secondly, that it will evolve, resembling the Cohesion Fund more closely as accession approaches.

The purpose of this present manual is to ensure that ISPA programming and implementation are undertaken in an orderly manner and follow the same principles in each country. Various documents have already been developed and distributed to guide the programming and implementation of ISPA; these include the environment and transport framework papers, the ISPA application forms, the draft ISPA Financing Memorandum with its annexes.

This manual covers the whole project cycle, and should serve as a reference for national authorities. It provides a working or practical but never legal interpretation of the ISPA and Co-ordination Regulations, it explains how the various documents already issued by the Commission hang together, and it aims at ensuring coherence between the documentation and filling possible gaps. However, this manual cannot substitute for ISPA regulation. In cases of doubt, the legal texts have precedence. The ISPA-Fund managing service, DG REGIO, may seek an opinion from the Commission's legal service, when needed.

The manual will be updated and complemented as needed in the light of practical experience gained in implementing ISPA. Therefore, the manual maintains the character of an evolving document and is subject to possible modifications at irregular intervals. Updates will be made available on DG REGIO Inforegio website (http://europa.eu.int/comm/regional_policy/funds/ispa/ispa_en.htm). Users are therefore requested to consult this site regularly.

I. INTRODUCTION

1. WHAT IS ISPA? DEFINITION AND OBJECTIVE

The "Instrument for Structural Policies for Pre-accession"(ISPA) is the European Community's financial instrument set up in order to assist the ten Central and East European candidate countries prepare for accession in the fields of environment and transport. ISPA, which has a budget covering the period 2000-2006 (cf. section 1.3 below), is managed by the European Commission.

According to the "ISPA Regulation" (Council Regulation (EC) N° 1267/1999 of 21 June 1999 establishing an Instrument for Structural Policies for Pre-accession):

"ISPA shall provide assistance to contribute to the preparation for accession to the European Union of the following applicant countries: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia (referred to as "beneficiary countries"), in the area of economic and social cohesion, concerning environment and transport policies [...]"

ISPA is executed in accordance with the Accession Partnerships and the National Programmes for the Adoption of the *Acquis*, following an approach similar to that of the Cohesion Fund, and operates in the fields of environment and transport.

It should be noted that, in contrast to the Cohesion Fund, ISPA applies the ex-ante approval by the Commission of tendering and contracting and a very close monitoring of implementation. However, this approach is intended to be transitional and is foreseen to evolve towards full decentralisation for the implementation of ISPA assistance in the beneficiary countries¹.

The ISPA Regulations stipulates that:

"The Community assistance granted under ISPA shall contribute to the objectives laid down in the Accession Partnership for each beneficiary country and to corresponding national programmes for the improvement of the environment and of transport infrastructure sectors."

In addition, ISPA assistance is implemented in co-ordination with other Community programmes, which have been created to facilitate enlargement (i.e. PHARE and SAPARD).²

NB: The terms "measure" and "project" both refer to the assistance granted to the beneficiary countries and are used interchangeably in this document. More precise explanations are in part 1 of ART 2 of the ISPA Regulation.

¹ On a case by case basis, where a beneficiary country can demonstrate that the relevant implementing agencies satisfy certain minimum criteria (art 12(2) fo CR 1266/99) the Commission may waive the ex-ante approval requirements and confer management of aid on a decentralised basis to national authorities.

² [According to the Regulation \(EC\) 1266/99](#)

1.1. ACTIVITIES BENEFITING FROM ISPA ASSISTANCE

▪ ENVIRONMENT - BRINGING THE CANDIDATE COUNTRIES UP TO EU STANDARDS

Candidate Countries will need to undertake very significant investments, in order to fully implement the EU environmental legislation and meet the environmental standards of the Community. For the time being, ISPA will concentrate on the most "investment-heavy" environmental directives³, which are very costly to implement.

Table 1: Key ‘Investment-Heavy’ Directives

Water Supply/Wastewater Treatment Urban Wastewater Treatment Directive Drinking Water Directive Dangerous Substances into Water Directives Nitrates Directive	Waste Management Landfill Directive Municipal Waste Incineration Directives Hazardous Waste Incineration Directive Packaging Waste Directive
Air Pollution Control Large Combustion Plants Directive Fuel Quality Directives Air Quality Directives	Industrial Pollution Control IPPC Directive VOC Solvents Directive

The implementation of these directives is closely related to the improvement of the health and quality of life of citizens and has a direct, positive impact on the economic and social cohesion of the beneficiary countries.

▪ TRANSPORT: EXTENDING THE TRANS-EUROPEAN TRANSPORT NETWORKS (TEN-T) TO THE CANDIDATE COUNTRIES

There is an urgent need to build and rehabilitate transport infrastructure in the candidate countries and to link it to the Union's transport networks. This is a key element of the economic development strategies in the Candidate Countries, and will be a crucial element in the successful integration of the Candidate Countries into the internal market and the promotion of the effectiveness and efficiency of that market.

ISPA seeks to promote projects that encourage sustainable forms of transportation infrastructure. In particular, projects selected are of Community interest (the ten Pan-European Transport Corridors) and that enable the countries concerned to meet the objectives of the Accession Partnerships. This includes projects aimed at extending the TEN-T (Trans-European Transport Networks) to the TINA (Transport Infrastructure Needs Assessment) network in the Candidate Countries.

▪ TECHNICAL ASSISTANCE

The ISPA budget may also be used to fund preparatory studies and technical assistance. However, these measures must demonstrate a clear link to the investments funded by ISPA. Technical assistance ensures a high level of project quality, in terms of preparation, management and impact.

³ See also Annex A6

1.2. ELIGIBILITY OF MEASURES

Similarly to the Cohesion Fund, ISPA finances pre-identified measures. These have been defined as "projects", "stages of a project", "groups of projects" or "project schemes". These measures must be of high quality and of a sufficient scale to have a significant impact in the field of environmental protection or the improvement of transport networks. (Cf. section 2.2. below for definitions and further details on eligibility.)

1.3. FINANCIAL RESOURCES

A medium term programming period and a fair, transparent allocation are the base for sustainability. Over the period 2000 to 2006, a total budget of €1040 million per year⁴ (at 1999 prices) will be divided equally between environmental and transport infrastructure projects. At the initiative of the Commission, up to two percent of it can be used for technical assistance⁵.

The allocation of ISPA resources among the beneficiary countries has been decided by the Commission, using the following three criteria: population size, per capita GDP (in purchasing power parity terms) and land surface area. In order to encourage the beneficiary countries to propose high quality projects and to have some flexibility in the management of ISPA funding, the overall allocations are given as ranges.

Table 2. Ranges for ISPA fund allocation per beneficiary country⁶

Bulgaria	8.0% - 12.0%
Czech Republic	5.5% - 8.0%
Estonia	2.0% - 3.5%
Hungary	7.0% - 10.0%
Lithuania	4.0% - 6.0%
Latvia	3.5% - 5.5%
Poland	30.0% - 37.0%
Romania	20.0% - 26.0%
Slovenia	1.0% - 2.0%
Slovakia	3.5% - 5.5%

Published in the Official Journal L72, 21 March 2000, p. 21.

The Commission aims to achieve the average of the range for each country over a period of several years. According to Article 15 of the ISPA Regulation:

"...on accession to the European Union, a country shall lose its entitlement to support under this Regulation. Resources made available as a result of an applicant country acceding to the European Union shall be reallocated to other applicant countries...based on applicant countries' need and capacity for absorbing assistance and on the criteria laid down in Article 4."

⁴ Comprising up to 27 to be used at the initiative and on the needs identified by the Commission.

⁵ The allocation for this budget depends on the need identified by the Commission.

⁶ Refers to the percentage of the ISPA budget minus the share for horizontal technical assistance.

Chart 1: The ISPA project cycle overview

WHAT	WHO	REMARKS (more detailed information is provided in the document)
	PROGRAMMING	
<i>Memorandum of Understanding</i>	EC and Candidate Country (usually National ISPA Co-ordinator (NIC) or National Authorising Officer (NAO))	Signed only once by both parties it includes provisions for a Financing Agreement between the National authorising Officer in the CC and the various Implementing Agencies involved in ISPA projects.
<u>NATIONAL ISPA STRATEGIES</u> by sector	Authorities in Candidate Country	Derived from the AP, NPAA, and National Development Plan also with reference to broader programming documents (TINA); Document and/or ISPA strategy papers.
<u>IDENTIFICATION OF PROJECTS</u>	Candidate Country authorities (sector co-ordinators)	A co-ordinated approach can be ensured with discussions on concept papers before the necessary feasibility studies, Environment Impact Assessment, are carried out. Beneficiary countries can draw on ISPA funding for the identification.
	PROJECT PREPARATION	
<u>PROJECT APPLICATION</u>	NICs in the Candidate Countries	Standard Form + Supporting documents: feasibility study, maps, drawings and designs, cost/benefit and financial analysis, Environmental Impact Assessment, to describe, substantiate and justify the proposal including supervision and quality control mechanisms
<i>Preliminary acceptance of the application</i>	EC	The EC accepts the proposal as a candidate project for ISPA appraisal.
<u>APPRAISAL</u> Eligibility, Priority, Compatibility, Economic & Financial assessments	EC Through 2 Inter-service consultations	TA can be used by the EC to appraise the application. Draft FINANCING MEMORANDUM completed. Annexes are prepared. CCs are consulted throughout the process prior to the submission to ISPA Management Committee.
<i>Compulsory opinion</i>	ISPA Management Committee (MC)	The Member States represented in the MC express an opinion on the project appraised by the EC.
<u>COMMISSION DECISION</u>	EC	It marks the commitment of specific funds.
<i>Signature of Financing Memorandum</i>	EC and NAO or NIC ⁷ in the Candidate Countries	The signature of the EC signals the start of the implementation.

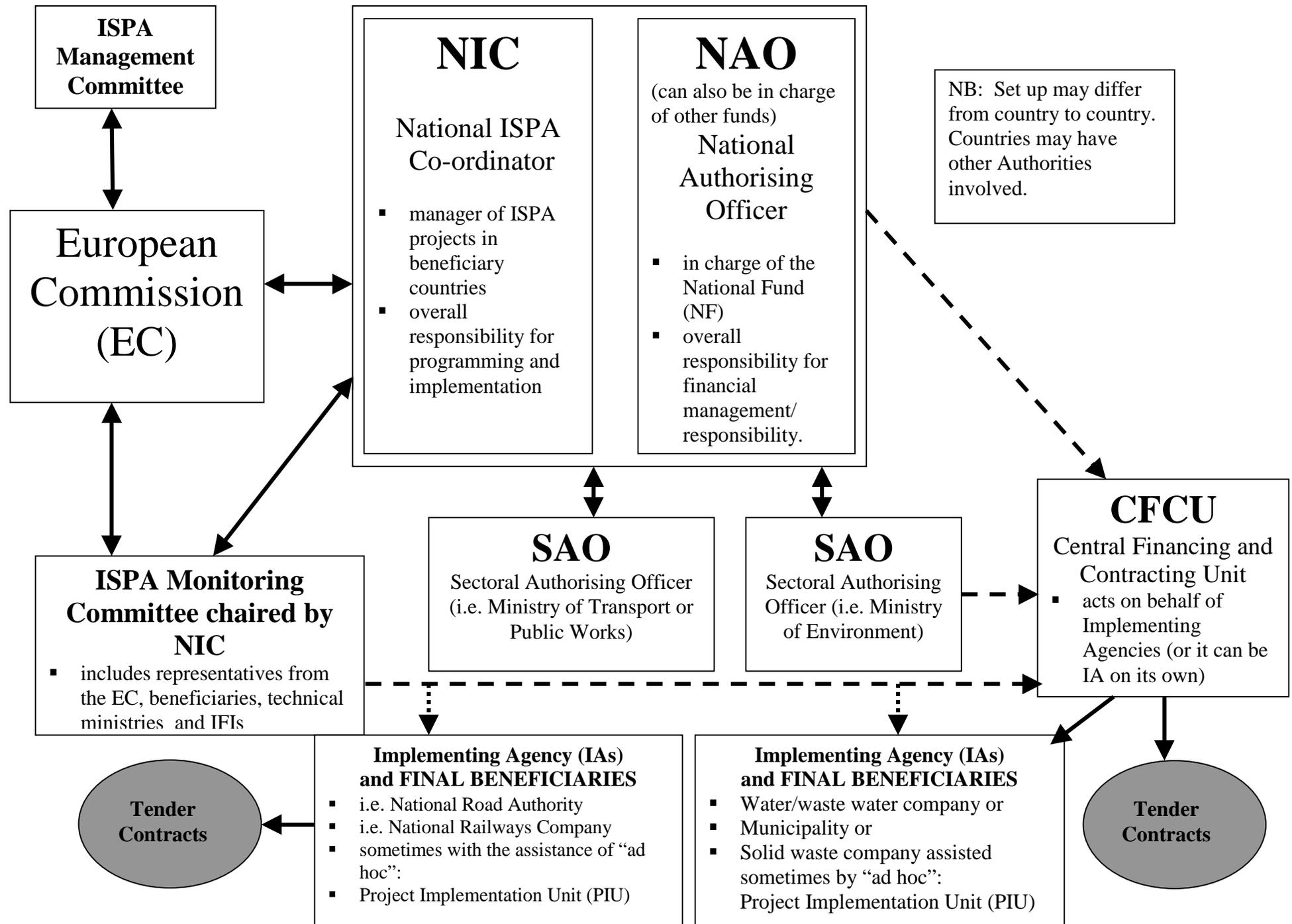
⁷ Or NAC in the case of Czech Republic

WHAT	WHO	REMARKS (more detailed information is provided in the document)
	IMPLEMENTATION	The EC checks that procedures and systems that comply with art. 9 and Annex A3 of CR 1267/99 at the National Fund exist, are fully documented and satisfy the requirements in full.
<u>ADVANCE PAYMENT</u> (1 st Part)	EC to National Fund	After the signing by both parties of the Financing Memorandum (FM), 10 % of ISPA contribution in the FM may be provided on request upon the provision of bank account details.
<i>Tendering preparation</i>	Implementing Agencies/Beneficiaries	Done by the Beneficiary Country Implementing Agencies (IAs) in liaison with final beneficiaries, possibly with TA (Technical Assistance), co-ordinated by the NIC.
<i>Checking/ Endorsement</i>	Ex-ante approval by EC (until extended decentralisation)	According to current practice, procurement procedures from the Practical Guide (PRAG) ⁸ , and conditions of works contracts as per FIDIC. The tender dossiers, procedures and awards are approved individually and ex-ante by the EC (usually 4 to 6 weeks).
<u>CONTRACTING</u>	Implementing Agencies (IAs) or final Beneficiaries if so agreed.	The cash flows in the contracts between the IAs and contractors are regulated among the contracting parties, and are independent from the FM-linked payments to the NF.
<u>ADVANCE PAYMENT</u> (2 nd Part)	EC to National Fund	Upon request from the CCs, up to a further 10 % ⁹ of ISPA contribution can be made following the signature of the main contract and fulfilment of conditions as stipulated in FM and its annex. It is up to NAO and NF to ensure cash flows to IAs.
<u>INTERMEDIATE PAYMENTS</u>	EC to National Fund	Intermediate payments are made upon request from the CCs, on the basis of supporting evidence of funds effectively spent, and of financial reports.
<u>MONITORING</u> Monitoring Committees Visits Financial audits	-Monitoring Committees -EC -EC and EU-Court of Auditors officials	The NIC chairs the Monitoring Committee and provides progress reports to it, at least twice a year; ad hoc site visits possible. TA can be used to support Monitoring Committees if needed.
<u>FINAL REPORT</u>	CC Authorities including opinion of the Monitoring Committees	Examined by the EC and presented for information to the Management committee for final approval
<u>PAYMENT OF BALANCE</u>	EC to Candidate Countries	On the basis of the final consolidated documentation to be received in the shortest possible delay after the completion of the project.
	Ex-POST EVALUATIONS	
<i>Ex-Post Evaluation</i>	EC + appropriate authority of CC	To enable the acquisition of lesson learnt and derive guidelines for further improvement. EC informs the Management Committee of results.

⁸ see: http://europa.eu.int/comm/europeaid/tender/gestion/pg/pg_phare_en.pdf and find the related annexes of this document on the following website : http://europa.eu.int/comm/europeaid/tender/gestion/pg/index_en.htm

⁹ For certain TA projects, on a case by case basis, the overall advance may be increased

Chart 2: Typical Project Implementation Process – Who’s Who in ISPA



II. PROGRAMMING DECISIONS FOR ISPA PROJECTS

2. GENERAL ASPECTS

ISPA ASSISTANCE IN TRANSPORT AND ENVIRONMENT IS PART OF A BROADER, CO-ORDINATED ENLARGEMENT FRAMEWORK.

2.1. COMPLEMENTARITY AND CO-ORDINATION WITH OTHER COMMUNITY PRE-ACCESSION INSTRUMENTS

Complementarity

The Co-ordination Regulation (Council Regulation (EC) N° 1266/1999 of 21 June 1999 – OJ L161/60 of 26.6.99) aims to ensure complementarity and co-ordination between the three Community pre-accession instruments. The three pre-accession instruments have the following **complementary** areas of intervention:

- **PHARE**
PHARE focuses on the main priorities for the adoption of the *acquis communautaire*, i.e. building up the administrative and institutional capacities of the Candidate Countries and financing investments, except for the types of investments financed by SAPARD and ISPA. According to Art. 4.3 of the Co-ordination Regulation, PHARE funding may, however, be used "to finance measures in the fields of environment, transport and agriculture and rural development, which form an incidental but indispensable part of integrated industrial reconstruction or regional development programmes." This is all the more important, as ISPA covers only some parts of the transport and environmental fields.
- **SAPARD**
SAPARD finances "measures to support agriculture and rural development."
- **ISPA**
ISPA finances investment projects in :
 - **Environmental infrastructure**, enabling Candidate Countries to comply with the requirements of Community environmental legislation and with the objectives of the Accession Partnerships;
 - **And transport infrastructure**, promoting sustainable mobility, and in particular those projects, which constitute a common interest for the Community, based on the criteria of Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the Trans-European transport network,¹⁰ and those which enable the beneficiary countries to comply with the objectives of the Accession Partnership. This includes inter-connection and inter-operability of national networks and the Trans-European Transport Networks (TENs), together with access to these networks.

The ISPA Regulation adds some further specifications:

- the minimum total cost of measures must be greater than €5 million¹¹;

¹⁰ See: http://www.europa.eu.int/eur-lex/en/lif/dat/1996/en_396D1692.html, for more details.

¹¹ Except for duly justified cases (art 2, 2 of CR 1267/99)

- measures must be balanced between environment and transport;

Co-ordination

In accordance with Article 9 of the Co-ordination Regulation, the **Commission**, assisted by the PHARE Management Committee (composed of representatives of the EU Member States), is in charge of the overall **co-ordination** of the three pre-accession instruments.

- The Commission produces a **General Assistance Document**¹² for each of the candidate countries, setting out the financing priorities for programming each of the three instruments.
- Since PHARE may also support measures in the fields of environment and transport, when such measures form a part of integrated industrial reconstruction or regional development programmes, close co-ordination with ISPA must be ensured.
- Coherence and co-ordination must be ensured at three levels:
 1. Pre-accession instruments and Community policies;
 2. Between various forms of Community financing;
 3. Between Community financial instruments and other sources of financing.

Actual co-ordination between Commission services takes place in the context of inter-service consultation (ISC) for each project, and in the context of the Co-ordination Committee at Directives level of the DGs concerned. Regarding co-ordination inside the Country along with ISPA FMs, each Phare Financing Memorandum includes a standard clause mentioning the joint responsibility of the NAO and the NAC.

ISPA and International Financial Institutions (such as EBRD and EIB) frequently co-finance projects. In such cases, the entire framework of the procurement process (i.e. the area of eligibility and country of origin) requires careful co-ordination. In order to have effective complementarity, it is important that co-ordination takes place at an early stage in the programming cycle¹³.

The (PHARE) **Joint Monitoring Committee**, which consists of representatives of various national stakeholders and the Commission, is responsible for co-ordinating the monitoring of the pre-accession instruments (PHARE, SAPARD and ISPA) and for assessing the overall progress of EU-funded assistance to the beneficiary country. The decentralisation effort is co-ordinated, in as much as it involves structures and systems that have to deal with PHARE, SAPARD and ISPA issues.

Decentralisation

Good co-ordination also requires that well-functioning planning and reporting system on decentralised implementation exists at the implementation level.

According to the modalities defined in the co-ordination regulation, ISPA pursues decentralisation by instituting a framework similar to that of the Cohesion Fund, where the implementation process is totally decentralised to the Member State concerned.

¹² The General Assistance Documents for all countries are prepared every year for the PHARE Management Committee.

¹³ In order to improve co-ordination and complementarity, the ISPA Regulation has been amended with Reg. EC 2382/2001 of 04.12.2001 in order to allow for easier co-financing with IFIs.

2.2. ELIGIBLE MEASURES

According to the ISPA Regulation, the eligible measures in the fields of environment and transport include standard projects, either as stages of a project, groups of projects or project schemes, and technical assistance. Projects are to be selected and approved on the basis of national ISPA strategies (which the CCs must submit for approval by the Commission) for transport or environment; this must comply with the Accession Partnerships and the National Programmes for the Adoption of the *Acquis*.

2.2.1. Projects

A project is an economically indivisible series of activities for a precise technical function and with identified objectives.

- **Stage of a project:** is a technically and financially independent stage of a broader project, which may also cover preliminary feasibility and technical studies and which can be identified as operational independent of other aspects of the project.
- **Groups of projects:** projects that meet the following three criteria may be grouped:
 1. They must be located in the same area or situated along the same transport corridor;
 2. They must be carried out under an overall plan for the area (e.g. water shed, catchment area, or transport corridors)
 3. They must fall under the responsibility of a single authority responsible for co-ordination and monitoring.
- **Project schemes:** is defined as a facility for financing small projects through intermediary institutions according to precise, agreed, and fixed principles as well as modalities (to be cleared along the main ISPA decision makers according to the Regulation). Intermediaries could be state agencies, for example environmental funds. The project schemes could be tailored to provide grants and subsidies to cover interest on loans, or other forms of assistance for investments in the environmental sector . They can be very useful:
 - providing small countries with the ability to finance a certain number of small projects, which cannot be included in groups of projects defined *a priori*;
 - establishing co-operation with national environmental funds; these funds will become increasingly involved in the financing of environmental projects;
 - including the private sector (e.g. grants for investments of enterprises, for example for air pollution prevention measures);
 - enhancing flexibility in grant rate and increase leverage in projects.

In light of the experience with the Cohesion Fund, and in particular to avoid disproportionate administrative burdens, projects should have a minimum total measure cost of €5 million¹⁴. Experience shows that projects which are normally significantly larger than this minimum size.

¹⁴ This minimum total cost does not apply to technical assistance measures.

2.2.2. Technical assistance

According to the ISPA Regulation and in the framework of measures of possible ISPA financing, technical assistance funds may also be granted in order to accomplish, among others, the following tasks:

- Preliminary and preparatory studies;
- Assistance for the implementation of ISPA projects through support for tender preparation evaluation, project management, supervision, and monitoring;
- Measures, which develop methodologies on appraisal and assistance for decision makers (e.g. finance engineering, Public Private Partnership (PPP), Concession regimes, etc.);
- Measures ensuring co-ordination and consistency with the Accession Partnership;
- Information and publicity measures.

There are two types of TA measures:

The beneficiary country may contract Technical Assistance measures¹⁵. Technical assistance (TAs) should mainly aim at building up the project pipeline through strategy studies, project preparation, assistance for the creation of implementing agencies, etc. However, information and publicity measures can be financed in this way. Within the national allocation each year, a reasonable part (as an indicative guideline, approximately 5%) will be earmarked for this purpose. There may be reasons to dedicate a larger share of the national allocations to technical assistance in the early years of the implementation of ISPA, in order to develop a project pipeline, including a robust project preparation methodology, where needed.

Institution building support schemes for specific projects not financed by ISPA, such as the organisation of implementing agencies (or other invested parties for the ISPA project), may be set-up by the beneficiary countries concerned. These schemes are co-ordinated, *inter-alia*, through the twinning arrangements made by the PHARE-financed Special Preparatory Programme (SPP) or other relevant programmes, including bilateral assistance. This issue becomes more important in the context of decentralisation

Technical assistance may be contracted by the Commission on its own initiative or on its behalf¹⁶, in order to support the Commission in its monitoring and supervisory role as well as for information and publicity measures. -Such assistance will in principle be of two kinds:

- External, through proper technical assistance actions and contracts (appraisal, technical expertise, PPP, development of guidelines and methodologies);
- Internal, through reinforcement of Commission resources to deal with the increased workload.

The ISPA Regulation states that total expenditure carried out at the Commission's initiative or on behalf of the Commission may not exceed two percent of the total allocation of ISPA (Article 6.4 of the ISPA Regulation). All technical assistance contracted at the initiative of the Commission is grouped in one Framework

¹⁵ This TA will be paid from the country allocation of ISPA funds.

¹⁶ This TA is to be funded by the allocation of ISPA funding designated for horizontal programming.

document, and presented each year to the ISPA Management Committee, together with an explanation of the purpose of the planned technical assistance. Good co-ordination and complementarity is ensured with TA actions eligible under Phare with particular regard to Institution building.

3. THE PROGRAMMING CYCLE FOR ISPA PROJECTS

3.1. NATIONAL ISPA STRATEGIES

THE PRODUCTION OF STRATEGIC DOCUMENTS IS NOT ONLY CONDUCTIVE TO A BETTER ADOPTION OF THE *ACQUIS COMMUNAUTAIRE*, BUT ALSO TO A MORE PROFOUND UNDERSTANDING OF THE PROJECT OBJECTIVES AND FASTER APPROVAL FROM ISPA.

Although ISPA is an instrument for financing projects, the approval of individual projects was preceded by the production of two sets of strategic documents:

- the framework documents for ISPA Funding by the Commission
- the national sectoral ISPA strategies submitted by the beneficiary countries

ISPA Framework Documents

The Commission has prepared **framework documents for ISPA funding**¹⁷ in the fields of environment and transport, in order to specify the field of intervention for ISPA funding (e.g. investment-heavy directives for the environment sector), and to guide the drafting of the national ISPA strategies.

The key issues include:

- Community dimension of investments;
- Compliance with the *acquis communautaire*;
- Concentration on projects with impact on a maximum number of people;
- Maximisation of financial leverage.

These framework documents were discussed by the ISPA Management Committee and made available to the beneficiary countries.

National Sectoral ISPA Strategies

Using the framework documents as “grids”, the purpose of the national ISPA strategies is to define the priority objectives in the transport and environment sectors, and to identify the resources needed. The national ISPA strategies provide the framework for project identification and set out the criteria to be used to select and appraise proposed projects. Effective project identification requires a strategy that defines the priority objectives as well as the structures and systems justifying the adequate resources to achieve the stated objectives. Each beneficiary country defines a national ISPA transport strategy and a national ISPA environment strategy. These strategies, within the context of the broader planning documents, constitute a framework for ISPA assistance to the beneficiary country, and can be reviewed and revised as appropriate.

The national ISPA strategies concentrate on investment planning. They should address the programming exercise from three perspectives :

1. Sector and sub-sector priorities;
2. Geographical priorities (transport bottlenecks, environmental black spots, etc);
3. Financial engineering (best use of grants in combination with other resources).

¹⁷ See Annexes A5 through A10, (particularly Annex A6 for strategy in Environment and Annex A5 for strategy in Transport.)

The national ISPA strategies should be based on and make reference to the Accession Partnerships and on the National Programmes for the Adoption of the *Acquis*. They should also draw on relevant national planning documents. The documents must be consistent with the National Development Plans and can be regarded as an Annex to these documents, focusing on specific infrastructure needs that fall within the scope of ISPA. The ISPA strategies remain a national responsibility, but they must take full account of EU priorities and legislation (as defined in the framework documents for ISPA funding). They should also be coherent with the position papers on environment and transport presented by the respective candidate country in the framework of its accession negotiations with the EU.

The national ISPA strategies are not intended to be legal documents, but rather as tools in the selection of ISPA projects. In order to perform this role coherently, the strategies need to be based on a strong and detailed sector-wide analysis, linking the objectives and priorities identified to specific project proposals, with their possible financing. Prior to the finalisation of the document, national authorities and the Commission must discuss and agree on a final draft.

The ISPA transport strategy and the ISPA environment strategy must be prepared by the competent bodies (normally ministerial departments) and transmitted to the Commission **through the National ISPA Co-ordinator**.

The Commission presents the various national ISPA strategy documents to the ISPA Management Committee for information, in order to provide the context within which individual projects are proposed. This provides the members of the Committee with a better understanding of the transport and environment needs of the beneficiary countries, as well as the logic behind various ISPA priorities.

The Commission's agreement to the ISPA strategies does not imply its approval of all the projects identified within these documents. The existence of a coherent policy framework ensures that the country has followed a sector-wide approach, setting directions for developments, in which the projects can be fruitfully designed. All measures have to be individually proposed and submitted to the Commission for consideration under the normal ISPA procedures. In all cases, project proposals are submitted by the Commission to the ISPA Management Committee for its opinion, before a Commission financing decision is taken.

3.2. PROJECT IDENTIFICATION

PROJECT IDENTIFICATION IS CRUCIAL FOR ALL SUBSEQUENT PHASES OF THE PROJECT CYCLE, GIVEN THE OBVIOUS POTENTIAL BENEFITS DERIVED FROM A CLEAR FORMULATION OF OBJECTIVES AND MOBILISATION OF ALL PARTIES INVOLVED. THIS ALLOWS FOR OPTIMAL UTILISATION OF ALL RESOURCES AVAILABLE IN PROJECT PREPARATION AND THE CONCRETE PRIORITISATION OF INVESTMENTS.

According to the national ISPA sector strategy, "project identification" is a joint process conducted by the beneficiary country and the Commission services. The beneficiary country ensures that all relevant services concerned with technical or/and financial aspects of ISPA are involved in the process.

The Commission works on the basis of projects proposed by the national authorities; however, it can also take a more proactive role, if it considers that certain important potential projects have not been considered or that main objectives have not been tackled. Beneficiary countries introduce formal applications for projects identified, through the National ISPA Co-ordinator¹⁸.

3.3. SUBMISSION OF THE ISPA PROJECT APPLICATION FORM

THE TIMELY APPRAISAL AND THE APPROVAL OF A PROJECT IS DEPENDENT ON THE QUALITY OF THE APPLICATION, AS WELL AS ON THE RESULTS FORECASTED; THESE MUST BE SUPPORTED AND JUSTIFIED IN THE SUPPORTING DOCUMENTS/STUDIES PRESENTED. THEREFORE, THE SUBMISSION OF THE APPLICATION AND ITS APPRAISAL ARE INEVITABLY LINKED. IF NOT COMPLETE, THE COMMISSION CAN REJECT A SUBMISSION.

The project (project stage/group of projects) is formally recognised as a candidate for ISPA financing through the formal submission of the completed ISPA project application form to the Commission, and its acceptance by the Commission. The information contained in the application form (and its annexes) is the basis for the appraisal of the project. The form presently exists¹⁹ in three versions:

- an application form for transport projects;
- an application form for environment projects;
- an application form for technical assistance.²⁰

Project applications consist of the completed form, supplemented by a number of annexes and supporting documents. The application form includes information on the essential administrative, technical, economic and financial aspects of the project. It should be signed and submitted by the National ISPA Co-ordinator directly to the Commission. The EC acknowledges the receipt of an application by sending a first reply via a standard letter.

The preliminary acceptance by the Commission of the application form is determined by two factors:

- the coherence of the project with the priorities defined in the Accession partnership and the national ISPA transport or environment strategy and the ISPA Regulation,
- the completeness of the information transmitted.

When the application form has been screened and is considered “acceptable”, i.e. that the application form contains sufficient information to begin the project appraisal process, (normally a period of 3 weeks), the EC sends a second reply through a standard letter, confirming acceptability of the application form. A unique reference number is assigned to each second standard letter. Similarly, if a project requires additional clarification, a request for additional information is forwarded to the

¹⁸ The NIC is the person or body who signs the ISPA application and has overall responsibility on ISPA projects.

¹⁹ Application forms exist in electronic form and should be filled and transmitted in this way, if possible, in order to facilitate processing and ease possible modifications.

²⁰ The forms are available online at http://europa.eu.int/comm/regional_policy/funds/ispa/howto_en.htm

national authorities. This dialogue to resolve any pending difficulties, is conducted between the Commission and the relevant national authorities. This initiates an internal procedure of appraisal including Commission inter-service consultations. In the event that the application is not considered acceptable, a letter of explanation will be sent to the national authorities, outlining the reasons for refusal.

The essential information to be transmitted in the application form, is determined in the ISPA Regulation (Article 7 and Annex A1). As the appraisal will start on the documents presented special attention needs to be paid to:

- The **compatibility** of the proposed project with the **national ISPA environmental/ transport strategy**. This criteria is of the utmost importance, as compatibility will initially determine the acceptability of the project by the EC;
- The **financial analysis** is the assessment of the financial viability of the project, its revenue generating capacity, and the need for grant assistance. Financial analysis through Discounted Cash Flow (DCF) methods, utilising certain assumptions on discount rates, inflation, and therefore macro-economic factors, leads to a net present value (NPV) and an internal financial rate of return (IRR) different from the rates established by the socio-economic cost benefit analysis. The financial IRR and the financial NPV are exclusively based on investment cost and the anticipated cash flows of a measure over the lifetime of the investment; these normally involving only the cash flows to the final beneficiary. In accordance with Article 6 (2) b of CR 1267/99, the Commission may take the revenue generation capacity into account, when assessing the future cash flow.²¹ In addition, good financial analysis must take the possible opportunity costs related to a project or parts of it into account.²² Other approaches to Financial analysis (particularly for environmental projects) may include the assessment of cost recovery (with application of the Polluter Pays Principle) up to acceptable and affordable limits for tariffs, suggesting a rate for the ISPA assistance. Non-projects related needs are also considered as the beneficiary shall be sustainable.
- The **cost-benefit** analysis, with regards to social, environmental, and economic aspects: this analysis should be carried out utilising a recognised “state of the art” methodology. For environmental projects, either the standard cost-benefit analysis (stating the assumptions underlying the calculation) or a “cost-effectiveness” methodology can be used²³. In all cases, the impact of the project in social and economic areas must be clearly developed, using quantitative methods and techniques; this analysis could possibly result in an economic rate of return that accounts for the said impacts of the project.²⁴

Important parts in any good financial analysis, as well as in cost benefit analysis, are sensitivity and scenario analysis . The robustness of the results of all financial

²¹ Since the financial analysis takes full account of the initial investment, cost imputed items such as capital depreciation do not enter into the DCF tables. In a similar way, sunk cost (i.e. expenditure already incurred in the project before the ISPA application) are also not considered. Depreciation can be always considered to appraise the company as a whole.

²² A sewerage treatment plant should not be constructed on a highly priced land, even should it is already public property. The sale of such land and the purchase of a new site could be a more cost-effective solution.

²³ I.e. analysis of alternatives and comparison to determine the least cost approach.

²⁴ This requirement does not apply to technical assistance projects.

analysis must be cross-checked by either altering individual parameters by small quantities, in order to establish how sensitive the financial results are to a given variable (sensitivity analysis), or conversely, by altering the entire set of assumptions used in order to explore the results in a total different scenario (scenario analysis). In this context, it is standard practice to analyse how the financial NPV reacts to variations in the discount rate. Currently, the Commission recommends the use of discount rates of up to 8%. Future costs and revenues and assumptions of income development should be presented in real terms.²⁵

The appraisal of the financial viability of a measure will also consider, even in the cases of non-revenue generating projects, information on arrangements ensuring efficient use and maintenance of infrastructure. This is linked with the “viability” of the project mentioned in the application form. Apart from the necessary resources to operate and maintain the equipment, information needs to be given on the organisational aspects of operation and maintenance and on a broader institutional framework:

- The **institutional capacity** of the beneficiary organisation involves several criteria and it is a complex assessment exercise country and sector specific. Just to mention a possible approach, this institution must have the capacity to manage the execution of a project both under the current conditions (ex-ante approval from the Commission) and under a decentralised system, which would require full responsibility and autonomy. The capacity of the institution to handle operations in a sound efficient, cost recovery basis must also take into account future investment needs.
- **Environment integration measures:** for projects falling under the scope of the EU Environmental Impact Assessment (EIA) Directive (85/337/EEC as amended by 97/11/EC), a similar procedure to the EU standard procedure is required. It is important to note that the construction of transport and environmental infrastructure eligible for ISPA is covered by Annex I (under which an EIA is compulsory) or Annex II (under which national authorities have to decide whether a full EIA is necessary, on the basis of pre-defined criteria) of this directive. An important requirement of the EU Environment Impact Assessment Directives is the consultation of the population concerned, as well as relevant environmental authorities. From the outset, the Commission insisted on some minimum standards²⁶ in this respect. In addition during the course of 2001, most countries will have completed full transposition of the EIA Directive (97/II/EC). The significant impact of pollution reduction measures both on public health spending and within the broad economic framework must also be considered. Mitigating measures are eligible under the scope of each project.
- The **compatibility of the measures with Community policies**, in particular compliance with competition and public procurement rules, refers to the principles concerning “state aids” and of tendering rules (equal treatment of competitors, fair competition). In the absence of the transposition and application of the relevant “*acquis communautaire*”²⁷ in the legislation of the

²⁵ Even considering that assumptions on inflation figures can be extremely fallacious and that different items may have a very diverse inflation rate in the cash flow table.

²⁶ The reference to standards is here to the complex body of EU legislation (see Annexes)

²⁷ For ENVIRONMENT see Annex A6, and for TRANSPORT see Annex A5.

beneficiary country, the principles, as laid down in the provisions of “Title IX” of the Financial Regulation,²⁸ apply. Other Community policies also apply (compliance with EU environmental standards, transport and Trans-European Transport Networks, etc.). Project proposals must take into account the safety of the workers during construction as well as the safety of the end-users of the completed infrastructure. The economic benefits deriving from increased safety shall be factored in the feasibility studies.

- The **financing plan** makes a distinction between the total cost of the investment and the eligible costs, on the basis of which the ISPA grant is calculated. Proposed by the national authorities in the application, it presents the total financing of the measure over its period of implementation, according to the source of funding; this requires information on the anticipated supply of ISPA funds, the national counterpart funds (national, regional and local), as well as the amount and terms of co-financing sought from other sources (EIB, EBRD, IBRD, NEFCO, etc.), including private sources or bilateral donors.

The Commission regards the co-financing suggested in the ISPA application only as a proposal. Consequently, the policy is comprised of two goals: the need to continue reforms, which ensure the highest degree of acceptability for the society at large (tariffs, cost-recovery approaches facing inefficiencies); and the need to attract commercial loans and private funding, as well as managerial skills necessary to address the long-term sustainability in open, transparent, and market-oriented public utilities²⁹.

As the financing plan proposed by the Commission relates to commitments of the Community budget (for details cf. Section 4.3), it is essential to know the forecast payments flow (and its under-lying assumptions) during implementation of the project. The financing and procurement plans submitted in the application are linked to the estimated future payments flow, and are the baseline for the monitoring; these are updated periodically through the monitoring sheets completed for each project.

- The **procurement plan**, must provide an overview of the different types of contracts to be tendered and entered into by the Implementing Authority. The information presented relates to :
 - the type and the rules of procurement process to be followed (e.g. tender open or restricted, with or without pre-qualification);
 - the type of contract - services, supplies, works;
 - the timing of the various publications related to the procurement process;
 - the estimates for the financial envelopes of the different contracts;
 - proposed financial sources.

It is normal practice for works contracts to be accompanied by a supervisory contract, which must also be tendered. The rule is that the supervisory engineer is independent from the contracting authorities. Information provided in the financial analysis, in the financing plan and in the procurement plan will then be

²⁸ See Title IX of the Financial Regulation of the European Communities at <http://europa.eu.int/comm/budget/pdf/execution/execution/financialreg/en.pdf>

²⁹ In the complex area of finance engineering, treatment of revenue generating projects and Public Private Partnership specific guidelines will follow.

used by the Commission in its appraisal and is the basis for a proposition of the ISPA rate of assistance and for the commitment plan relating to the Community budget.

3.4. PROJECT APPRAISAL

THE APPRAISAL PROCESS IS A CRUCIAL STAGE OF PROGRAMMING; ALL ELEMENTS OF THE PROJECT MUST CONVINCe THE EC, BEFORE IT WILL ASK FOR THE COMMITMENT OF THE COMMUNITY TAXPAYERS TO FINANCE ISPA PROJECTS.

If an ISPA project application is accepted, the Commission conducts a thorough appraisal of the project, in order to assess the measure's compliance with detailed criteria. The project appraisal will be conducted using the procedure established for the Cohesion Fund. The general indications developed in this Manual to date apply for the appraisal procedure, and are outlined below (for more information on co-financing, please see section 3.5.4.):

1. The project application is submitted to a first inter-service consultation, in order to give the Commission services concerned the opportunity to make fundamental remarks about the proposal. This leads to further analysis and discussion with the authorities in the beneficiary country, in order to clarify some aspects of the project or to modify the project concept. This results in a draft Financing Memorandum and draft Commission Decision, which forms the basis of the second inter-service consultation.
2. At this stage any important change is submitted to CC authorities for review and approval.
3. The second inter-service consultation ensures the agreement of all Commission services concerned. The document submitted to the second inter-service consultation consists of a draft Commission Decision, with annexes, and a draft Financing Memorandum, with annexes.

Appraisal of measures is a necessary component of their adoption. Art. 2 and Art. 7 of the ISPA Regulation, in the requirement for appraisal and Annex II, specifies the criteria to be applied :

- a) their economic and social benefits, including their potential for leveraging private financing, against the resources to be deployed; assessments are made in the light of a cost-benefit analysis;
- b) the arrangements ensuring effective management of the measures;
- c) the priorities established by the Accession Partnerships;
- d) the contribution made by the measures to the implementation of Community Environmental policy, and the results of the environmental impact assessment;
- e) the contribution made by measures to the Trans-European networks and common transport policies;
- f) the maintenance of an appropriate balance between the fields of the environment and transport infrastructure;
- g) the consideration of possible alternative forms of financing.

In order to improve and standardise the required "cost-benefit analysis" mentioned in item (a), the following guidelines are proposed:

- For environment projects: ISPA projects are required to fulfil all conditions of Community legislation. Establishing the priority ranking of a project is a

matter of strategy rather than of cost-benefit analysis. Preferably, several technical variants should be considered. In such circumstances, a cost-effectiveness analysis will determine which technical solution to adopt.³⁰

- For transport projects: all ISPA projects should normally be part of the Pan European Corridors (or connecting links identified) and the TINA network. Identified bottlenecks will help determine the priority ranking within the corridors. Generally, a cost-benefit analysis, following a standard methodology, is carried out. The values of the main parameters used in the analysis will be defined so that the results can be correctly interpreted. The cost-benefit indicators of the alternatives will be compared, where appropriate.
- The financial analysis for calculating the optimal rate of assistance for revenue generating projects should be used and the results presented in a standardised form.

During the appraisal process, and before the second inter-service consultation, the Commission services formulate the proposal for the **ISPA contribution** to the project.

3.5. DESIGNATION AND STRUCTURING OF ISPA'S FINANCIAL CONTRIBUTION TO THE PROJECT

CO-FINANCING IS COMPULSORY. IT PROMOTES THE SUSTAINABILITY NECESSARY FOR SUCCESSFUL PROJECTS, BY MERGING THE INTERESTS OF DIFFERENT STAKEHOLDERS INTO A COMMON OBJECTIVE.

Increasingly, public support and consumer satisfaction are achieved by ensuring autonomy of operation, and independent capacity for public utilities to plan and operate on sustainable financial assumptions, based on revenues from operations.

3.5.1. Forms of ISPA assistance

According to Art 6.1 of the ISPA Regulation: "*Community assistance under ISPA may take the form of non-repayable direct assistance, repayable assistance or any other form of assistance.*" Assistance repaid by the implementing agency or another public authority can be reapplied for the same project or the same type of project. The detailed provisions on this matter³¹ shall be clearly indicated in the Financing Memorandum. It should be noted that ISPA assistance *cannot* be combined with other Community pre-accession assistance (PHARE or SAPARD) for the same stage of a project (cf. Co-ordination Regulation, Article 5).

3.5.2. Rate of assistance from ISPA

According to article 6.2 of the ISPA Regulation, the rate of Community assistance granted under ISPA may be up to 75 % of public or equivalent expenditure; this includes expenditure by bodies whose activities are undertaken within an

³⁰ Very small facilities, such as wastewater treatment plants for populations of under 2000 persons, do not fall under the scope of the Urban Waste Water Directive (91/271/EEC), and the initial position of ISPA is not to fund the construction or rehabilitation of such facilities, as they are not required under the existing acquis. The use of pre-accession funds for such purposes would be difficult to justify, considering that some Candidate Countries have requested long transition periods for the implementation of such Directives.

³¹ Guidelines on repayable ISPA assistance still need to be broadly discussed.

administrative or legal framework by virtue of which they are regarded as the equivalent of public bodies. In some cases, the rate of assistance can be increased up to 85 %, in particular where the Commission considers that a higher rate is required for realising projects central to the general objectives of ISPA. Except in the case of repayable assistance or when there is a substantial Community interest in the project, the rate of assistance shall not reach the maximum rate mentioned above, taking into account:

- the availability of co-financing;
- the capacity of the project to generate revenues (cf. section 3.5.5 below); and
- the application of the polluter-pays principle (cf. section 3.5.6 below).

Accordingly, the ISPA contribution to a project cannot be higher than:

- 75 % (85 %) of the eligible public or equivalent expenditure of the project;
- the amount of eligible expenditure which cannot be covered by contributions from other sources of financing; and
- the amount of eligible expenditure not expected to be covered by revenues to be generated by the project. Whichever amount is lowest determines the ISPA contribution to the project.

However, preliminary studies and technical support measures may be financed at 100 % of the total cost, in exceptional cases.

3.5.3. Eligible expenditure and calculation of total ISPA contribution

The ISPA assistance rate is applied to the amount of *eligible expenditure* per project, in order to calculate the total ISPA contribution to the project. As several categories of expenditure are excluded from ISPA support, ISPA's share of the total project cost may differ significantly from the ISPA assistance rate applied to the eligible costs.

The most important types of expenditure ineligible for ISPA financing are identified in the ISPA Financing Memorandum. These may be *land purchase or VAT* and, as a general rule, *expenditure incurred before the Commission's signature of the Financing Memorandum*. (Cf. further 4.2 and annex III.2 of ISPA Financing Memorandum.)

3.5.4. Co-financing

The Co-ordination Regulation (Art 7) indicates that *beneficiary states shall contribute to the financing of investments*. This national contribution can be financed in several ways, namely:

- by national public sources;
- by loans from the European Investment Bank (EIB) or an International Financial Institution (IFI) (whether a public loan with state guarantee or a commercial loan to a public company);
- by commercial sources of funds.

Wherever possible EC procurements rules (as spelled out in 5.2) apply also to co-financed components.

Funding from national public sources can be made available by the national, regional or local authorities; in addition a public company, or beneficiary of the project can also make the funding available. The contribution can be financed directly through recourse to the budget of the public authorities or the public company, or by funds obtained by these authorities from other sources.

In the case of funding being provided by municipalities, particular care will be taken to ensure that such funding will indeed be made available (and not only generically committed to), as and when needed for the project concerned.

In addition to the ISPA contribution and the national contribution, there may also be additional co-financing provided for the project by the EIB, an IFI or a commercial source.

Commercial sources of funds can be integrated in the project's financing scheme. They can be counted as the beneficiary's own contribution. Their participation must, however, not restrict the procurement of works, services or supplies during project implementation.

The involvement of private finance in the development of infrastructure is an important objective of Community policy, as reflected in the Treaty. In such a scenario, the availability of a larger capital base for infrastructure development and greater efficiency in investment and operation in public utilities needs to be ensured. In all cases, some form of contract needs to be concluded between the government and the private operator, specifying the terms that ensure the fulfilment of the public function by the private sector. As a natural monopoly is often involved in these projects, careful regulation and supervision of the way in which the private sector fulfils the public function is required.

The use of ISPA resources in a public-private partnership requires the verification of the existence of an appropriate legal framework and of appropriate regulatory conditions for this partnership, including the following aspects:

- Equal opportunity for all relevant companies in the same sector;
- Respect of competition rules in awarding the concession;
- Respect of competition rules in awarding the investment contracts;
- Respect for conditions of the concession (service to consumers, maintenance, etc.);
- Absence of disproportionate remuneration on capital.

Co-financing structures

- Joint co-financing

When a national contribution is financed directly from the budget of the public authorities or a public company, ISPA will normally co-finance this contribution jointly with the national body. This means that funds will be managed in a fully integrated fashion, in accordance with identical tendering and contracting rules, and with common supervision and control arrangements during implementation of the project.

This type of co-financing structure is also possible, when part of the financing is provided by the EIB or an International Financing Institution (IFI). However, this requires agreement between the Commission and the financial institution concerned on all relevant modalities of implementation.³²

³² To ease this process, the Commission has promoted a modification of the ISPA Regulation allowing derogations to follow, in case of co-financing, and if needed, procedures in use with some IFIs. The modification is now in force EC 2382/2001 of 4.12.2001

- **Parallel co-financing:** in cases where it is not necessary or possible to arrive at common implementation modalities, the EIB or other IFI contribution can be structured parallel to the ISPA contribution. This means that the funds provided by the various funding sources are dedicated to separate components or contracts from those covered under the ISPA eligible costs. If possible, common supervision should occur in this co-financing structure, as well.

Public Private Partnership (PPP)

Private sector involvement can take various forms, ranging from management contracts, minority stakes, to private ownership of utility companies. As indicated above, ISPA is willing to participate in mixed public-private ventures. ISPA will consider financing projects involving bodies whose activities are undertaken within an administrative legal framework; in this way, they are regarded as equivalent to public bodies.

The principles followed by the Commission for the awarding of concessions are those described in the *Commission Interpretative Communication on Concessions under Community Law, OJ 29.4.2000*³³, (equal treatment, transparency, proportionality and mutual recognition) combined with those pertaining to the ISPA Regulation (art 1 and 2 and Annex 2, EC Reg 1267/99).

Ensuring the respect of these principles requires time: time for companies to access the information concerning the financing available, time for companies to present themselves and to prepare their offers, time for the administration to evaluate the offers, to select the most advantageous offer, and to conclude the contracts, with reputable and best-qualified partners.

Due to the complex nature of PPP and its rapid evolution, the various cases must be considered in their entirety and in detail. However, due to the growing interest and importance of PPP in infrastructure building and operating, some basic principles have been established:

- **Safeguarding the public interest:** ISPA grants contribute to expenditures that are undertaken in the public interest, in co-operation with national authorities of the Candidate Country. Together, the Commission and national authorities will need to safeguard the public interest while, at the same time, defining the conditions allowing legitimate private interest to be pursued. This often implies the creation or strengthening of independent regulatory body(ies) on tariffs and quality of public services
- **Ensuring the best choice:** Like all public financing, EU co-financing measure need to respect the three principles of:
 - **transparency** of procedure for assigning rights to private partners;
 - **equal access** for all relevant operators to the subsidies offered;
 - **competition** between the various participants, in order to lead to the selection of the economically most advantageous offer.
- **Fairness of the contract:** the concession contract needs to be fair, e.g. an equal division of the efficiency gains between the private operator and consumers. Transparent and objective price setting mechanisms need to be put in place (to ensure the use of public ISPA money in the public interest), and dispute resolution clauses must meet international standards.

³³ Web link in Annex A10

The Commission needs to be assured that the benefit of the ISPA grant remains with the public and does not lead to increased profits of the private partner. (A special condition in Article 8 of the Financing Memorandum should provide for safeguard the ‘public interest’). For example, this implies that an ISPA grant would reduce the price³⁴ for the consumer by a level that corresponds to the costs that would be incurred if the facilities were loan-financed.

- **Regulation and monitoring:** whenever commercial operators intervene in the supply of public goods, a clear legal framework that defines the rules of the game, and a regulatory authority supervising the operations, need to be put in place. This regulatory framework has to provide the legal certainty essential for the private investor as well as for the governmental authorities and the public. An independent regulator (both technical and economical) needs to be established and enforceable legal framework must be in place.
- **Early involvement of the Commission:** a successful ISPA/PPPs co-operation requires that the Commission is informed and consulted in the preparation at an early stage. The Commission and the competent authorities in the candidate countries should identify projects that are candidates for PPP early in the process. Agreements need to be reached in the following areas:
 - on the approach to the project;
 - on the procedures for announcing the project and generating private interest;
 - in the announcement, the project must be described clearly, the required private participation outlined in detail, and the availability of grant money (i.e. from the EU budget – but there can be other sources) is announced.

The implementing authorities will have to scrupulously respect the principles mentioned above in the carrying out of the further steps of the procedure and consult the EC, whenever important decisions need to be taken.

- **Ensuring the interest of the Commission:** should an investment, co-financed by ISPA, be transferred from initial public ownership and management to a status that implies some form of private participation in ownership and/or operation within a period of five years after works have been completed, the conditions of the ISPA grant may have to be reconsidered (Condition in Article 8 of the Financing Memorandum).

3.5.5. Revenue generation

When revenue is generated by the project, it should pay for the operating costs and may also contribute to some capital costs of the project. This could mean that the project has the capacity to attract other sources of finance. Indeed, the resources generated can serve to reimburse the loans obtained from International Financial Institutions or from commercial institutions. The present value of the future cash flow should be considered in the calculation of the total ISPA contribution, as it reduces the need for public grant financing.

It is important to note that the regulation uses the “capacity to generate income” concept. This means that, starting from the proposed tariff policy, an economic analysis, and a dialogue with the authorities takes place, to determine the optimal tariff policy.

The Discounted Cash Flow Method (DCF) provides a simple instrument for accessing the revenue generating capacity of a project. Therefore, it helps establish

³⁴ Or, it would induce a smaller increase to tariffs than calculated for sustainability

the rate of ISPA assistance. This method involves estimating the future revenue stream of a project over its economic life, and thereby determining its possible contribution to the initial investment. In other words, what is the size of the financial contribution, which the infrastructure user pays towards the capital costs of the project, via fares, tolls, charges or tariffs.

Although the arithmetic is straightforward, the calculation involves agreement on a number of critical parameters and assumptions. The most important of these are as follows:

- **Project definition** – while this may seem straightforward, it is important to ensure that the project is a clearly identified unit of analysis. This permits an unambiguous estimation of its effects. The project must make economic and financial sense in its own right, and it must be possible to establish a clear link between the investment involved and marginal additional costs and revenues.
- **Life span of project** – infrastructure projects are generally appraised over a period of 20-30 years, which represents a rough estimate of their economic life span. Although the physical assets may last significantly longer than this – e.g. a bridge may last for 100 years - it is not generally worthwhile trying to forecast over longer periods. In the case of assets with a very long life, a residual value may be added at the end of the appraisal period to reflect their potential resale value or continuing use value.
- **Capital costs** – these costs include all investments necessary to realise the project (feasibility studies, design and engineering, land purchase, construction, equipment, etc). They are recorded in the year in which they are incurred, and may include items, which are not necessarily eligible for assistance (e.g. land purchase). Taxes, such as VAT, should only be included if they are non-recoverable and are a real cost to the body undertaking the investment.
As equipment generally has a shorter life span than the basic civil works (10 years, or less in some cases), replacement costs for such equipment may be included as an item of capital expenditure – again, recorded in the year in which it is estimated the expense will be incurred.
- **Operating & maintenance costs** – All costs necessary for the efficient and safe running of the project must be included in this calculation (labour, supplies, energy, regular repairs & maintenance, etc). Note that depreciation and debt service charges should not be included as operating costs for the purposes of the DCF calculation. However, in some cases, it may be justifiable to include an allowance for a reserve against required future investments.
- **Revenues** – Revenues directly attributable to the investment should be estimated over the life of the infrastructure. Such revenues may be derived from tolls, fees, fares, water charges, waste charges, etc. Generally, they should be directly related to the use of the infrastructure in question.
Other, more complex and comprehensive approaches can be adopted and used as the case requires.

3.5.6. Application of the “Polluter Pays” principle

The Polluter Pays Principle implies that those who cause environmental damage should bear the costs of avoiding it or compensating for it. Therefore, in most cases public financing of environmental policy should not occur, as this is financed by the polluters themselves as far as possible. However, in its earliest policy statement on the Polluter Pays Principle (Council Recommendation (75/436/Euratom, ECSC, EEC and the attached Communication) the Commission set out a number of exceptions to

the Polluter Pays Principle, which are also provided for under Article 175(5) of the Treaty.³⁵

A declaration made by the Commission and the Council states that it is the intention to follow the same approach for ISPA in regard to the “**polluter pays principle**,”³⁶ as applied in the Cohesion Fund and the Structural Funds.

The Commission’s recent communication on guidance for programmes in the period 2000-06 (COM(1999)344) set out the basic elements of a framework for the application of the Principle:

- through differentiated rates of assistance, a system should be promoted, whereby the environmental costs related to the treatment of pollution and/or preventive actions are borne by those who cause the pollution;
- the application of the polluter-pays principle must be compatible with the goals of economic and social cohesion;
- its development should be progressive and concern the range of infrastructure sectors covered by Community funding;
- it should take into account the social acceptance of the “polluter pays” principle;
- it should take Treaty provisions related to the careful and rational use of resources, especially water and energy, into account.

There is now a legislative framework for the principle: Article 9 of the Water Framework Directive (2000/60/EC)

As far as the detailed modalities on differentiation of rates of assistance are concerned:

- where the Community legislative framework is gradually fully in place³⁷ (as currently for waste management), the rates of Community assistance should vary depending on the degree to which the charging system encourages an efficient use and maintenance of infrastructure as well as consumption of resources, in line with the Community legislation (the detailed modalities are set out in section 5).
- for the infrastructure sectors, pending the gradual full adoption of the legislative framework related to charging for pollution, the Commission proposes that a differentiated rate of assistance should be used as an incentive to develop such charging systems. This would progressively extend the application of the Polluter Pays Principle to all infrastructure operations co-financed by the Community.

The application of the “polluter pays” principle will be decided in close co-operation with the beneficiary countries. As a starting point, the Commission proposes the use of the limits, which apply to operations with substantial revenues (cf. art. 29 of Regulation 1260/99).

When charging systems are in place and where it can be shown that these do not provide revenue above and over that required to cover operation (ex: for economic and social cohesion reasons, social acceptance, etc.), maintenance and depreciation costs, the rates of assistance could be increased in relation to above-mentioned limits. However, this would still remain within the overall limits laid down in Article 6 of the ISPA Regulation.

³⁵ For Treaty reference, see <http://europa.eu.int/eur-lex/en/treaties/livre241.html>.

³⁶ See Annex A7.

³⁷ According to the mentioned Directive 2000/60/EC

4. DECISION PROCEDURES

4.1. ISPA MANAGEMENT COMMITTEE & COMMISSION DECISION

On the basis of the project appraisal, the Commission services may decide to put forward a measure for approval. The draft [Financing Memorandum](#) prepared for the second inter-service consultation is then submitted to the ISPA Management Committee for its opinion.

The documents regarding the measure submitted for decision are the following:

A draft Financing Memorandum includes:

- The main text to be signed;
- A description of the Financing Memorandum of the measure (beneficiary country, name of the measure, location of the measure, maximum eligible expenditure, rate of assistance, maximum amount of assistance, amount of advance payment, date of completion, etc.);
- A financing plan (Annex II to the Financing Memorandum).

In addition, complementary information is submitted for the benefit of the Committee, including the results of the economic and financial analysis, as well as EIA and institutional capacity information. During their meetings, the Committee will deliver its opinion on the proposal. In the case of a favourable opinion, the Commission will adopt the measure covered by the application. A Commission decision is then issued. The draft Financing Memorandum adopted will become a final Financing Memorandum. In a number of cases, the ISPA grant is subject to specific conditions. The scope of these conditions is wide and can be related to the payment of the second advance the intermediate payment or to the payment of the final balance. Those specific conditions are specified in an ad hoc article of the Financing Memorandum. The opinion of the Committee can also be sought by written procedure.

4.2. ISPA FINANCING MEMORANDUM

In principle, the ISPA Financing Memorandum (composed of the main text to be Signed and three Annexes as indicated above) will be signed by the Commissioner on behalf of the Commission³⁸. This signature can also be made by the Director-General for Regional Policy (see technical assistance projects). As the signature of the Financing Memorandum entails financial responsibilities for the project, the memorandum is normally signed on behalf of the Beneficiary Country by the National Authorising Officer (NAO) or, the National ISPA Co-ordinator (NIC), or an appointed government representative of similar rank having ISPA responsibilities in the beneficiary countries³⁹. In addition, line ministry representatives may sign the document to confirm their commitment to the project concerned.

³⁸ After it has been checked by CC and agreed on specific conditions

³⁹ As said this could be another authorised official (e.g. NAC)

Expenditure of the appropriate type incurred after the FM has been signed by the EC are eligible for ISPA assistance.

Please note that Annex I of the Financing Memorandum defines the physical and financial indicators that should be used during the appraisal process. There are three types of indicators related to outputs, results, and impacts. A distinction between the three types of indicators should be made during the different stages of the project cycle and throughout the reporting system.

- Output indicators: demonstrate the progress made in the implementation of a project.
- Result indicators: measure the effect of the project after completion.
- Impact indicators: relate to the overall objective of the project and are normally used in the ex-post evaluation.

Amendments to a Financing Memorandum are possible; substantial amendments as defined in the Annexes to the Financing Memorandum require the agreement of both parties by means of a formal addendum to be presented to the ISPA Management Committee by the Commission. Other amendments can be made by letter from the Commission, in response to a request from the Beneficiary Country. Non-substantial amendments are addressed by an exchange of letters.

4.3. COMMITMENTS

The Financing Memorandum will indicate the sequence of budgetary commitments to be made by the Commission to the project. For projects lasting less than two years, or where ISPA funding does not exceed €20 million, the Commission will commit a maximum of 80% of the total assistance indicated in the Financing Memorandum, at the time the latter is signed. The remainder will be committed subject to the implementation of the project.

For other projects the Commission will make its budgetary commitments on an annual instalment basis. As is the practice in the Cohesion Fund, the annual instalments committed will be calculated in order to cover the ISPA contribution of anticipated expenditure (payments) in the Beneficiary Country. In such cases, the annual breakdown included in the financing plan reflects this anticipated expenditure (i.e. as presented in the project application). The actual year-by-year commitment will follow the implementation pace of the project.

However, it may be necessary to take in account the budgetary procedures of the Beneficiary Country. The Commission may determine the amount of annual instalments in such a way as to cover the highest amount possible of the ISPA contribution to cover legal commitments (normally contracts) to be entered into by contracting authorities. In such cases, the annual distribution indicated in the financing plan annexed to the Financing Memorandum will be determined on the basis of contracting forecasts.

III. IMPLEMENTATION OF ISPA PROJECTS

5. IMPLEMENTATION STRUCTURES, STAKEHOLDERS AND PROCEDURES

5.1. STRUCTURES, STAKEHOLDERS AND GENERAL PROCEDURES

5.1.1. Structures and stakeholders

As a rule, best use should be made of effective existing implementing structures, or alternatively to replicate structures which have proved to work effectively in the past (i.e. PHARE, International Financial Institution structures, etc).

The technical and financial/tendering/contracting functions can be dealt with either by the same structures, or by separate ones. In the first case, it will be important to keep the functions well defined and separated, in different services for example. In any case any conflict of interest should be avoided.

The following actors are defined here, together with their minimum responsibilities:

- **National ISPA Co-ordinator (NIC)**: a senior official acting as the main “manager” of the ISPA projects in the Candidate Country, and as the main interlocutor of the Commission for programming, implementation and evaluation issues.

Programming: submits the national ISPA strategies and individual applications to the Commission. Together with the Commission, the NIC ensures an appropriate balance between environment and transport. In cases where this responsibility is not given to the National Authorising Officer or to another senior official with ISPA responsibilities, the NIC signs the Financing Memorandum.

Implementation: is responsible for the monitoring of the implementation of each ISPA project through the physical and financial indicators specifically tailored to the character of the project and its objectives. The NIC also ensures that each project achieves the objectives laid down in accordance with the Financing Memorandum, chairs the ISPA Monitoring Committees, and supervises publicity and dissemination of information for each project. The NIC submits progress reports on activities to the Commission on a regular basis - in accordance with the rules laid down in the Financing Memorandum.

- **ISPA Monitoring Committee**: the Monitoring Committee is the main monitoring body for the implementation of the ISPA projects, as well as the main forum for discussing and deciding on implementation issues (progress reports are discussed there). It can make recommendations to the Commission on adjustments to be made to projects. It comprises representatives from:

- the EU Commission
- the beneficiary country
- and, when necessary, International Financial Institution(s)⁴⁰.

The Monitoring Committee holds regular sessions at least twice a year; it can also meet in ad-hoc sessions at the request of its Chairman and agreement of the Commission, or vice-versa. The National ISPA Co-ordinator normally acts as chairman of the Committee and designates the secretary to the Committee.

⁴⁰ See Section 6.2.

There will normally be one ISPA Monitoring Committee in each beneficiary country. However, if needed, sub-committees for transport and environment could be envisaged.

National Authorising Officer (NAO): is the head of the National Fund, and a high-level official acting as financial “counterweight” to the National ISPA Co-ordinator⁴¹. The NAO has the overall responsibility for the financial management of ISPA funds, and is responsible for the establishment and management of rules linking the National Fund to the Implementing Authorities. The NAO is also responsible for ensuring the flow of national and other forms of co-financing. In cases where this responsibility is not given to the National ISPA Co-ordinator, or to another senior official with ISPA responsibilities, the NAO signs the Financing Memorandum, as well as signing and certifying payment claim applications, and submitting these to the Commission.

National Fund: is the “single entity” (a central treasury entity under the responsibility of the Ministry of Finance) through which all Community funds granted under ISPA are to be channelled. A separate bank account may be established for ISPA operations, with a sub-account for each implementing agency⁴² responsible for a sector (transport and environment)⁴³. The responsibilities of the National Fund are outlined in a Memorandum of Understanding (MoU) covering ISPA, to be concluded between the Commission and each beneficiary country. In particular, this text establishes the principles to be respected in the financing agreements to be signed between the National Authorising Officer (NAO) and ISPA Sectoral Authorising Officers. These include those related to the transfer of funds to Implementing Agencies, bank account structures, technical and financial reporting systems and request of funds from the Commission.

It is intended that the financing agreements signed with Implementing Agencies (IAs) will be concluded on the basis of the principles enshrined in the above-mentioned MoU, the responsibility for which rests on the NAO. These agreements will not be subject to prior endorsement by the Commission, but should be submitted to the Commission for information. Implementation of the financing agreements may be verified by the Commission in the course of ex-post controls.

ISPA Implementing Agency (IAs) and Sectoral Authorising Officer (SAO): Is usually the sector Ministry responsible for the ISPA projects. An Implementing Agency should be established to cover each ISPA sector. These Implementing Agencies are normally a public body. Other bodies, including those previously established for implementation of the PHARE programme (such as the Central Financing and Contracting Units (CFCU)), may act as Implementing Agency for a sector where they possess experience and resources (such as training in international tendering for works contracts), which is not available in line ministries or national agencies.

41 Or in other appropriate ways (e.g. sub accounts in Central Bank account)

42 Sometimes for each measure

43 Or appropriate sub accounts in Central Account according to the case

The Head of the Implementing Agency sometimes is the Sectoral Authorising Officer (SAO). The SAO signs the financing agreement with the National Authorising Officer (see above).

Final Beneficiary:

This is the body benefiting from the project. In the transport sector, the final beneficiary is likely to be a railway company, or road, port or airport authority; sometimes these coincide with the IAs. In the environment sector, this will in most cases be a municipality or the (municipal/public) company concerned.

Division of responsibilities between Implementing Agency and Final Beneficiary:

The responsibilities of the SAO, as described in the MoU on the National Fund, include the following:

- procurement matters, including signature of contracts;
- administrative, financial and technical management and monitoring of projects in the sector;
- verification of invoices;
- maintaining technical and financial reporting and accounting systems;
- transmission of regular information to the National Fund on financial and physical progress.

It is important to stress that this MoU allows some responsibilities to be delegated to the final beneficiary. In many cases, the final beneficiary will be the contracting authority; therefore, the final beneficiary becomes responsible for contract signature and technical implementation.

The above arrangements thus allow for flexibility in which implementing structure is applied, i.e. between a centralised and decentralised approach. The model applied may vary from sector to sector, and within the same country, depending on the nature and capacity of the final beneficiary.

However, in all cases, the Sectoral Authorising Officer maintains responsibility vis-à-vis the National Authorising Officer. When submitting information to the latter on financial and physical progress, the SAO must declare that the information is accurate, as well as be in a position to substantiate the information through original documentation.

The Implementing Agency should therefore maintain a sufficient degree of supervision over the final beneficiary, especially where responsibilities have been delegated (e.g. through checking of tendering procedures, technical supervision, verification of invoices prior to payment to contractors), so that such a declaration of accuracy can be made.

The responsibilities for transmission of information to the National Fund as well as for the maintenance of technical and financial reporting and accounting systems for the sector cannot, by their nature, be delegated. By exercising these responsibilities, the Sectoral Authorising Officer should maintain an overall view of financial and physical implementation within the sector.

5.1.2. General procedures

Precise requirements exist for the management of ISPA funding, including the rules and procedures that must be followed. The minimum requirements in the field of financial control are listed in Annex III.4. of the ISPA Financing Memorandum.

The Commission requires each country:

1. to establish management and control systems which ensure:
 - the proper implementation of the assistance granted under this the ISPA Regulation, in accordance with the principles of sound financial management;
 - the separation of the functions of management and control;
 - that expenditure declarations presented to the Commission are accurate and emanate from accounting systems based on supporting documents, which are open to verification.
2. to verify on a regular basis that the measures financed by the Commission have been properly carried out.
3. to prevent irregularities and take action against them.
4. to recover any amounts lost as a result of irregularity or negligence.

As far as sound management and control are concerned, Annex III of the ISPA Regulation sets precise criteria. The Beneficiary Country must demonstrate the capacity of its institutions to implement the projects according to the principles of sound financial management, while taking into account the above-mentioned criteria. (Cf. also ISPA project cycle in section 3. above, as well as detailed rules for financial implementation in the ISPA Financing Memorandum).

5.2. TENDERING AND CONTRACTING PROCEDURES

The detailed procedures for tendering and contracts can be found in the Commission's [Practical Guide to PHARE, ISPA and SAPARD](#)⁴⁴. The Practical Guide covers all types of procurement, namely services, supplies and works. Until full decentralisation is applied (see section 7.), tendering and contracting procedures will be subject to ex-ante approval (endorsement) by the Commission⁴⁵. The Practical Guide sets out the relevant steps for each form of procurement and which procedure is to be followed (e.g. tender dossier, evaluation procedure, evaluation report, contract, etc.).

Refer always to updated PRAG on EUROPEAID Website.

The following points are highlighted:

Currency to be used in contracts is normally EUR.

▪ **Taxes:**

VAT is not “eligible expenditure”. However by applying PRAG rules ISPA financed contracts must excluded customs, excise duties as well as any other duty as applicable.

⁴⁴ Of particular importance (is the principle of equal treatment, which are the rules of origin that) allow, under normal circumstances, the participation to tenders to EU companies and to CC companies, Malta, Cyprus, Turkey.

⁴⁵ Endorsement by the Commission refers to the correctness of procedures applied. The funds committed by the Commission towards the co-financing of the project are stated in the Financing Memorandum.

▪ **Publicity:**

Publication and Publicity are strongly encouraged, in order to encourage competition. Even contracts financed solely from the Candidate Countries own sources should be published in the European Union Official Journal.

▪ **Service contracts:**

As a rule, a restricted tender is required for contracts over €200, 000.

Below this threshold, framework contracts or simplified procedures may be applied.

▪ **Supply contracts:**

As a rule, an open international tender is required on contracts over €150, 000. Open local tenders apply on contracts valued between €30, 000 and €150, 000, with simplified procedures for lower amounts.

▪ **Works contracts:**

- Contracts over €5 million require an open procedure (international open invitation to tender following publication of a procurement notice)⁴⁶.
- Contracts between €300 000 and €5 million are subject to open local tender.
- Contracts under €300 000 may follow simplified procedures.

The procedures for the procurement process in the Practical Guide should be applied. For the conditions of contracts themselves, the related rules and regulations of the International Federation of Consulting Engineers (FIDIC) should be applied. The choice of different kinds of FIDIC conditions for a contract⁴⁷ should be made on the basis of the nature of the works concerned (technologies involved, time span, assumptions on handling and management after completion, completeness of the design, etc.) and the type of management relationships between the contractor and the contracting authority (e.g. from simple operations and maintenance to be executed after the completion of the works up to the full handling of the utilities under a concession agreement). The co-ordination of the Practical Guide's setting of the procurement process with the FIDIC conditions of contract to be applied for works is necessary. Some issues should be taken into account:

- the Commission cannot be party to the contract and therefore provisions which relates to the relationship between parties other than the employer and contractor should be limited.
- ISPA funding is fixed as a percentage contribution up to a maximum amount, and can only be increased through a modification of the financing memorandum. All variations must be either addressed through a setting of contingencies or provisional sums in the contract itself, or through an increase in national/local financing.
- Commission rules only accept the signed contracts as legal commitments for reimbursement; however, reimbursement of preparatory works may be possible if expenditures are incurred after the ISPA Financing memorandum is signed and if they fall into the eligible items.
- Safety during construction should be promoted at all levels.

▪ **Tendering prior to signature of Financing Memorandum:**

If an invitation to tender is issued before the corresponding Financing Memorandum is signed by the Commission and the recipient, publication must take place of a procurement notice containing explicit reference to a suspension clause stating that

⁴⁶ In duly justified exceptional cases a restricted procedure (pre-qualification following publication of the procurement notice) could be possible.

⁴⁷ Different types of contracts can be recognised by the colour of the book used (red- = construction; yellow = design and build; silver = Turkey).

the award of the contract is subject to the conclusion of the Financing Memorandum and the provision of funding. If no Financing Memorandum is concluded (i.e. because the project has not been approved by the Commission), the invitation to tender should be cancelled.

▪ **Nationality rules:**

The nationality rules laid down in Title IX of the Financial Regulation is normally applied to all kinds of contracts⁴⁸:

- The main contractor must fully meet the nationality criteria. The same applies to joint venture partners, members of consortia participating in tenders, and other principal actors.
- The position of sub-contractors, however, will be assessed on a case-by-case basis.

The procurement of supplies within a works contract is primarily a matter for the commercial judgement of the contractor involved. However, the Commission may intervene in the case of equipment or supplies, which account for a significant proportion of the contracted work.

▪ **Standards:**

A question arising in the context of public procurement relates to the role played by standards and technical specifications. Public procurement rules and procedures are limited in their scope and they focus on the requirements needed to ensure transparency and non-discrimination in the award of public procurement contracts, as stipulated under Title IX, section III, of the Financial Regulation and in general to follow the principles of EU Public Procurement Directives.

In implementing ISPA, the Commission requests that all relevant European legislation in the areas of environment and of transport be respected, as far as technical specifications and environmental quality standards are concerned.

For technical norms and standards, the following applies: as a general rule in public procurement in the European Union, purchasers cannot reject products conforming to relevant standards for reason of non-compliance with technical requirements. The task of developing and adopting the standards necessary for reference is entrusted to standardisation bodies. European standards, which have priority status in EU legislation, are drafted by one of the recognised European standardisation bodies (CEN, CENELEC and ETSI). The CCs can become members of these bodies before accession.

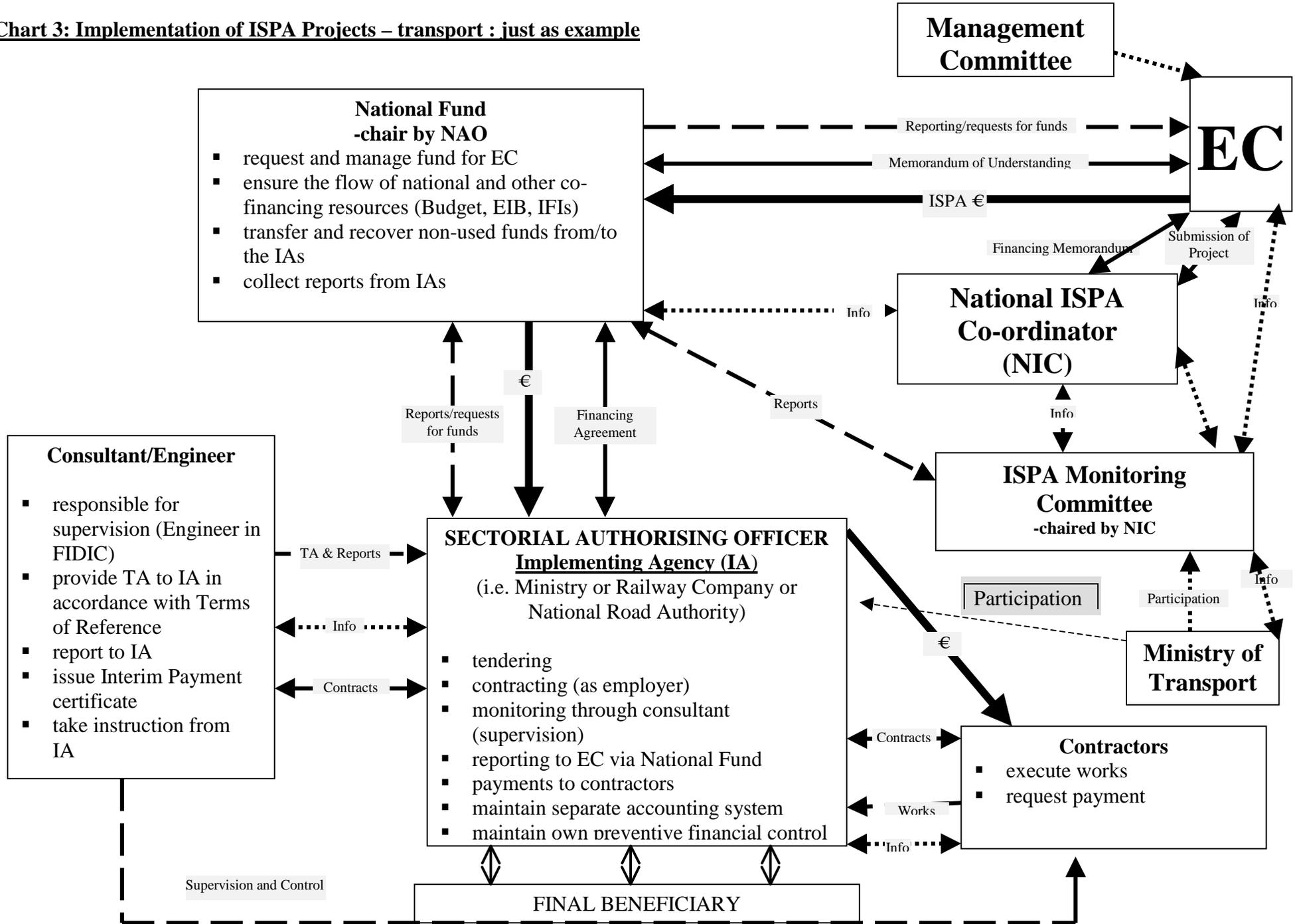
Within the context of investment supported by ISPA, the Commission will insist that tender documents are drafted in a way so that technical specifications are expressed using European standards, whenever possible. This will allow all legal persons in the Union and the recipient states to participate on an equal footing. Where European standards have not been developed, international standards have priority. Relevant information can be found on the following web sites:

- <http://simap.eu.int> – information on public procurement
- <http://europa.eu.int/comm/enterprise/newapproach/standardization/harmstds/index.html> – Commission web site information on standardisation and harmonisation
- <http://www.cenorm.be/> - European Committee for Standardisation (CEN)

⁴⁸ Since 30.12.01 (after Reg EC 2500/2001 of 17.12.2001) companies from Members States, ISPA countries and the other three candidate countries Cyprus, Malta and Turkey. Furthermore, for measures cofinanced by IFIs and for the part financed by them, IFIs procurement rules might be authorised on a case by case basis (EC 2382/2001 of 4.12.2001).

- <http://www.cenelec.org/> - European Committee for Electro-technical Standardisation (CENELEC)
- <http://www.etsi.org> – European Telecommunications Standards Institute (ETSI)

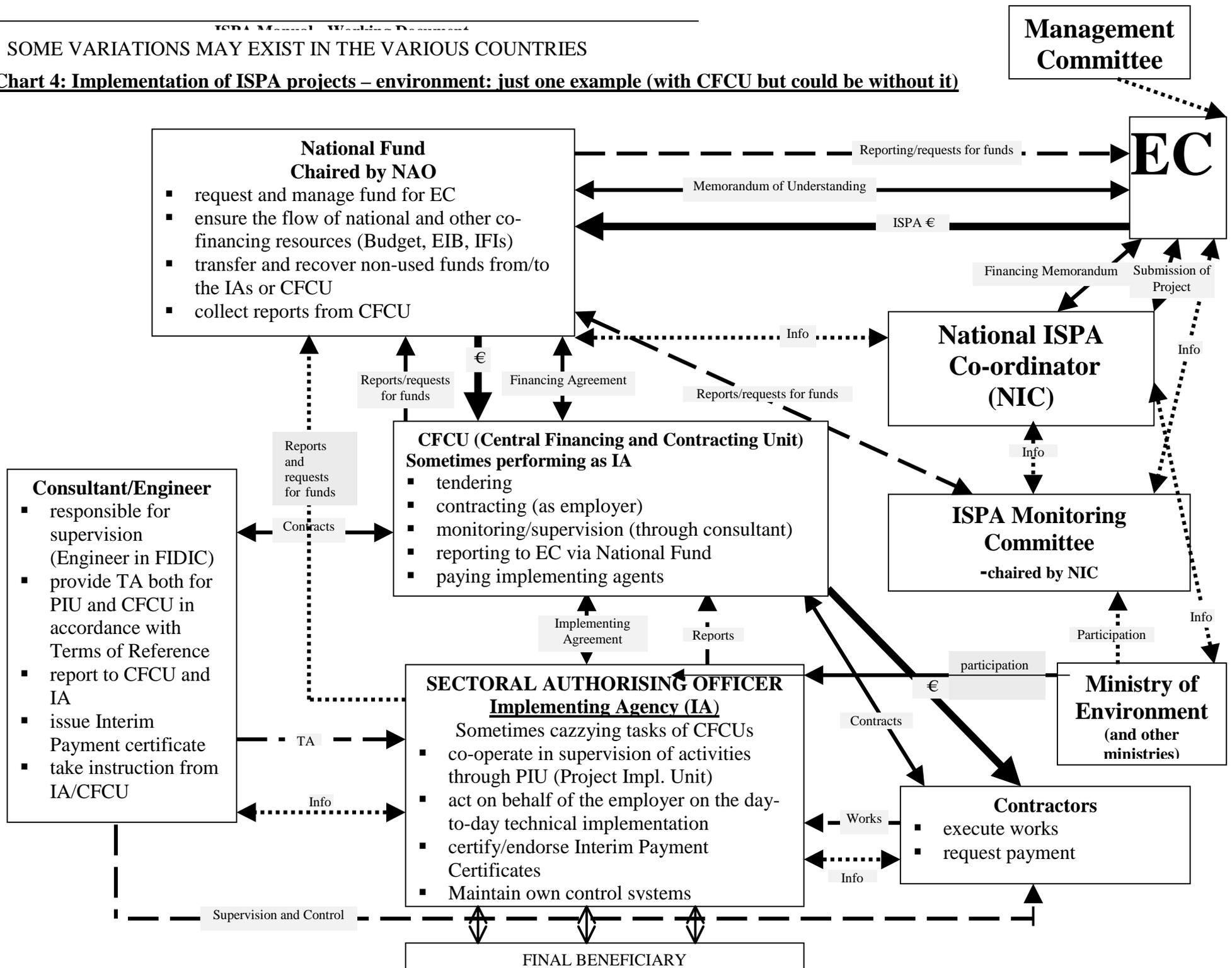
Chart 3: Implementation of ISPA Projects – transport : just as example



SOME VARIATIONS MAY EXIST IN THE VARIOUS COUNTRIES

SOME VARIATIONS MAY EXIST IN THE VARIOUS COUNTRIES

Chart 4: Implementation of ISPA projects – environment: just one example (with CFCU but could be without it)



5.3. PAYMENT SYSTEM

THE EU REQUIRES BOTH FINANCIAL AND TECHNICAL REPORTING TO TAKE PLACE DURING THE COURSE OF THE PROJECT.

▪ **Function of the payment**

system

Payments for ISPA measures will take the form of advance payments, intermediate payments and payments of balances (with respect to expenditure certified and actually paid within the Decision ceilings and eligibility rules).

The first advance payment will be made by the Commission to the National Fund, following receipt of the Financing Memorandum signed by both parties and all relevant information from the National Fund concerning the bank account or sub-account to be used for the project (i.e. the names and samples of signatures of the authorised signatories (for the double signature system to be established), the rules of delegation of signature for the account(s), interest rate, etc.). Normally, the Financing Agreement between the NAO (managing the National Fund) and the SAOs and/or the implementing agencies must be in place and signed before the first payment is processed.

The details of the payment mechanism are to be specified in each Financing Memorandum, following a set of clauses in Section III Annex III of Financial Memorandums:

- The **National Fund** (set up in the context of PHARE) is used as the structure to channel payments. The National Fund will then transmit the funds to either the implementing agency, the contractor, or the final beneficiary (if agreed by the National Authorising Officer). The National Fund should not allow access to ISPA funds by Implementing Agencies prior to the conclusion of the relevant financing agreement and the nomination of the ISPA Sectoral Authorising Officer.
- The payment procedure foresees the disbursement of a first advance payment (normally 10% of the total ISPA allocation) after signature of the Financing Memorandum by both parties, and a second advance payment (as a general rule for a combined total of up to 20 %) after signature of the relevant, main contract by IAs, as specified in the Financing Memorandum (normally the first works contract). Fulfilment of certain conditions or clauses may be requested.
- The advance payments will not be deducted from the further payment claims. They constitute therefore a permanent cash advance for the beneficiary country, until 80% of the ISPA allocation is reached (see below).
- Intermediate payments (three times a year as a general rule) will be made on the basis of money effectively spent;⁴⁹ there is a maximum of advance plus intermediate payments of 80 % of the total ISPA contribution to the project. The Commission may increase this amount to 90% in justified cases.

Intermediate payment requests should be submitted by the National Authorising Officer and should include declarations of expenditure covering all eligible expenditure on the project. The Commission will reimburse this expenditure on the basis of the ISPA participation rate indicated in the Financing Memorandum. It is required that each declaration mention the contract (financed by ISPA, national contribution, EIB or an IFI), to which the expenditure is related.

⁴⁹ It should be emphasised that all-eligible ISPA expenditures must be justified to receive the agreed rate.

Again, fulfilment of particular conditions of the agreement are to be checked, reports must have been received and approved, previous possible recommendations acted upon, before reimbursement can be approved.

- *In the case of projects involving parallel co-financing between ISPA and EIB or an IFI, the Commission may decide to make intermediate payments on the basis of reimbursements – applying the ISPA participation rate – of total declared expenditure (including expenditures covered by EIB or IFI) only when the first declaration of expenditures related to the contracts representing the financing element of ISPA or the national contribution (not covered by the EIB or IFI) are submitted to the Commission.*
- *In limited cases of co-financing with International Financial Institutions, where under due consideration of Articles 2 and 114 (2) of the Financial Regulation applicable to the general budget of the European Communities joint co-financing could not be arranged, (the Commission may consider on a case by case the eligibility of actions financed by IFIs on rules different from those used by the Commission⁵⁰). The limit set in paragraph 6 hereunder applies. The contracts in question have to be specified in the Financing Memorandum.*
- *Expenditure under certain contracts may be declared by the Commission as only partly eligible for financial assistance from ISPA. The rate of assistance applied by the Commission for reimbursement of invoiced expenditure paid and certified will be applied only to the eligible part of expenditure. The limit set in paragraph 6 hereunder applies to the eligible part of the contracts. The contracts in question have to be specified in the Financing Memorandum.*
- *In no case can the contribution to payments from the Commission exceed the percentage participation and the total amount decided by the Commission and agreed between the Commission and the beneficiary in the Financing Memorandum.*

Payment of the balance will be made following approval of the final report by the Commission and after all other conditions specified in the Financing Memorandum (Annex III.1, section III, § 6) have been fully satisfied.

▪ **USE OF INTEREST INCOME**

The Commission considers that the following principles should apply to the use of interest income:

- Advance payments are paid to the National Fund. Any balance not required to meet immediate payment obligations shall be invested in interest bearing € deposit accounts in accordance with good banking practices.
- Except in cases where, for institutional reasons, the production of interests is not foreseen, the National Fund will produce a detailed annual statement indicating interest earned. This statement should be broken down by projects.
- The statement will be examined by the ISPA Monitoring Committee. The Committee may make proposals to the Commission concerning the allocation of interest proceeds on the basis of one of the following possibilities:
 1. allocation of the interest earned to the measure as defined in the Financing Memorandum and deduction of the amount of the interest income, net of bank charges, when the final payment is made;
 2. allocation of these amounts for training actions in favour of public officials in charge of the implementation of ISPA projects in the Transport and Environment ministries and related public bodies. The precise amount allocated for transport and for environment training actions is decided on the basis of the respective projects approved in each of these sectors. The nature of the training actions must be endorsed by the Commission.

⁵⁰ (EC) 2382/2001 of 04.12.2001 in of 07.12.2001 N.L. 323

5.4. INFORMATION AND PUBLICITY

PUBLIC AWARENESS IN ISPA-FUNDED PROJECTS IS CRUCIAL TO THE LONG-TERM SUCCESS OF NEW INFRASTRUCTURE IN THE BENEFICIARY COUNTRIES.
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The beneficiary countries must ensure that adequate publicity is given to measures financed by ISPA with a view to:

- making the general public aware of the role played by the Community in relation to the measures;
- making potential beneficiaries and other interested parties aware of the possibilities offered by the measures.

This will be done by ensuring, in particular, that clearly visible display panels are erected showing that the measures are being co-financed by the Community, with the Community logo. In addition, representatives of the Community institutions should be, as far as possible, involved in the most important public activities connected with Community assistance granted under ISPA. The beneficiary countries shall inform the Commission annually of the initiatives taken in this respect. For more details, see the Information and Publicity Requirements in Annex III.6. of the Financing Memorandum.

The role of NGOs particularly for environment matters, is important and both the CCs as well as the EC are committed to enhance the exchange of information with NGOs on ISPA projects including the possibility to organise exchange of information meetings.

5.5. LANGUAGES

All documents have to be produced at least in English. Translation into the national language should be pursued on an ad hoc basis according to the needs of the project in question; the costs of translation will be incurred by the beneficiary. More systematic translation into the national languages will be an issue to consider at the time of full decentralisation of the implementation of ISPA. This matter will be subject to more precise guidelines at a later stage.

6. REPORTING, CONTROL, MONITORING OF PROJECT IMPLEMENTATION, AND EX-POST EVALUATION

THE BENEFICIARY COUNTRY AND THE COMMISSION HAVE THE RESPONSIBILITY TO ENSURE THAT THE IMPLEMENTATION OF ISPA PROJECTS IS PROPERLY MONITORED AND CONTROLLED.

6.1. REPORTING DURING PROJECT IMPLEMENTATION

The Financing Memorandum specifies that all public or private bodies involved in the management and implementation of measures must maintain either a separate accounting system or an adequate accounting codification for all ISPA transactions.

The beneficiary country must institute a reporting system that provides regular, standardised outputs for each measure financed by ISPA; this allows the beneficiary country to monitor progress in the implementation of the measure, to provide a basis for making payment claims to the Commission, and to facilitate the verification of expenditure by Community and national control authorities.

During the installation of this system, particular attention should be given to the reporting requirements linked to the intermediate and final payment claims, as set out in the Financing Memorandum (Annex III.1 and Annex 3A). Such claims can only be made based on declarations of expenditure incurred by the measures, i.e. payments certified and actually made by the body responsible for implementation, supported by receipted invoices or accounting documents of equivalent probative value. The system must provide a form for the declarations required from the responsible Ministry and National Authorising Officer when submitting claims. In addition, the financial reporting systems must cover all eligible costs of a measure (project, stage of project or group of projects) for which ISPA assistance has been granted; this includes all measures identified in the Financing Memorandum, together with all contracts needed for implementation, regardless of the source of financing.

The monitoring indicators identified in the application forms, or subsequently agreed between the Commission and the beneficiary country, will form the basis for the regular monitoring of the technical progress of projects. The same information will be used in the progress reports to be submitted to the ISPA Monitoring Committee. These indicators should also be used in the reports required when making payment claims, and in possible ad hoc technical reports requested on a case by case basis by the Commission.

Within the monitoring arrangement, the following reports are expected:

- Reports to the Monitoring Committee – a reference to this report can be found in Annex III 3b of each Financing Memorandum for each project, and should be forwarded by the NIC to the Commission three weeks before each Monitoring Committee⁵¹.
- Annual progress reports - the ISPA Regulation states that progress reports are to be submitted to the Commission “*within three months of the end of each full year of*

⁵¹ Reports should be sent together with any other additional information required.

implementation.” The annual progress reports must be approved by the ISPA Monitoring Committee before being submitted to the Commission. In practice, this report will be also presented to the first ISPA Monitoring Committee of each year, starting in 2002⁵².

- Final reports - the ISPA Regulation requires the submission of “*a final report within six months of completion of the measure or stage of project.*” A detailed list describing the content of this final report can be found in Annex IV of the ISPA Regulation, and is described in detail in the Financing Memorandum. It will contain a final assessment of the extent to which the expected results have been achieved, and must be endorsed by the Commission. This final report will duly account for proceedings and outcomes of the Monitoring Committee.

As pertains to the financing flows, the following reports are expected:

- Global cash flows – these reports outline the forecasted expenditures related to the entire project for the coming year, justify the commitment to these projects and indicate the progress of each project. These reports can be incorporated into the annual progress report.
- Payment flows– these consist of four components: first advance payments, second advance payments, intermediate payments and final/balance payments.

6.2. ISPA MONITORING COMMITTEES

Operational monitoring of projects: each project will be implemented by the body indicated in the respective Financing Memorandum. The National ISPA Co-ordinator (NIC) shall be responsible for ensuring that the reports on implementation of each project are drawn up for submission to the Committee. The National ISPA Co-ordinator will report to the Committee, and shall have the responsibility for the functions defined hereafter:

- to monitor the implementation of each ISPA project through physical and financial indicators specifically tailored to the character of the project and its objectives (Annex III.3 of the Financing Memorandum) ;
- to ensure each project achieves the objectives laid down in accordance with the Financing Memorandum;
- to propose, when appropriate, modifications of the original decision in order to ensure that the project achieves its objectives;
- to ensure information and publicity for each project.

Composition - the Committee as a general rule, shall consist of representatives of:

- authorities from the beneficiary country. The representatives of the beneficiary country will consist of :
 - the National ISPA Co-ordinator;
 - the National Fund through the National Authorising Officer;
 - the Ministries of Transport and Environment;
 - the implementing agencies;
 - the final beneficiaries;
 - if so needed, private enterprises, which are responsible for the execution of the project, for the part of their relevance.
- the Commission (including representatives from the Delegation in the beneficiary country concerned). The representatives of the Commission may consist of officials from DG REGIO and any other Directorate General depending on the specific issues being considered.

⁵² It is clear that the Monitoring Committee will also have reports on activities to date.

- the European Investment Bank (EIB) or any other International Financial Institution co-financing a project (if and as appropriate for the part of their relevance).

Responsibilities - the main responsibilities of the Committee include:

- monitoring the overall implementation of ISPA projects in the country;
- monitoring the implementation of each ISPA project in the beneficiary country; this monitoring shall use financial and physical indicators;
- examining the progress reports, and approving the annual progress reports;
- proposing (for submission to the Commission) any adjustments in terms of amounts and conditions which may be required on the basis of the outcome of the monitoring;
- deciding, with the agreement of the Commission, any additional responsibilities for the Committee.

Co-ordination with the (PHARE) Joint Monitoring Committee - the Joint Monitoring Committee is responsible for co-ordinating the monitoring of each pre-accession instrument (PHARE, SAPARD and ISPA) and for assessing the overall progress of EU – funded assistance in the beneficiary country.

The Joint Committee will receive the minutes of the ISPA monitoring committee and may issue recommendations to the ISPA Committee or to the Commission when relevant.

The meetings of the ISPA Committee meetings should be arranged, when possible, to coincide with the Joint Monitoring Committee meetings.

6.3. FINANCIAL CONTROL, IRREGULARITIES AND COMPLAINTS

The activities related to financial control, financial checks and auditing, which are carried out in accordance with the Financing Memorandum, are not the subject of this document.

Internal and external financial controls are to be performed by the relevant institutions of the beneficiary countries and results communicated to the Commission; however, the Commission services, as well as the European Court of Auditors, may perform their own controls with the co-operation of the national authorities.

- **On-the-spot verifications:** the Commission services can perform “on the spot” technical verifications on some aspects of projects or the functioning of the implementing authorities. This should allow for rapid detection of serious difficulties delaying project implementation.
- Controls can also take the form of **financial audits**, performed by the Commission services, the Court of Auditors or auditors contracted by the Commission for this purpose.

The ISPA Financing Memorandum also includes provisions for correction of irregularities. Should there be concerns regarding any irregularities in the implementation of measures for which ISPA is providing assistance, the Commission will perform a detailed review of the measures in question. After such a review, the beneficiary authorities, could be asked to provide corrective measures, in accordance with the instructions of the Commission.

These irregularities, or failure to proceed to the required corrective measures, could lead to the reduction, suspension or cancellation of ISPA assistance, with respect to the measures concerned and/or to the recovery of sums paid.

- All possible complaints regarding ISPA projects are addressed according to responsibilities.⁵³ Similarly to the procedure used for the Structural Funds, complaints are referenced to EC Headquarters, registered and answered in due course.

6.4. EX-POST EVALUATION OF ISPA PROJECTS

Ex-post evaluation will consist of detailed assessment of the results and impacts of a project/group of projects; this will include both positive achievements and failures, and will attempt to identify the causes for both. The main objective of this evaluation will be the elaboration of a report for the benefit of the European taxpayers on the use made of their money, but also to assimilate the knowledge gained through the projects, with the goal of strengthening the design and implementation of future projects. Therefore, baseline data should be made available to allow for the quantification of results and impact indicators.

An ex-post evaluation programme will be implemented by the Commission services for all ISPA funded activities.

The consolidated evaluation methodologies available at the Commission, particularly in the area of Structural/Cohesion Funds operations, will be made available for all interested parties.

The time frame for the performance of these evaluations will vary according to the sector concerned (a longer time frame might be necessary for evaluating environmental projects), and to the nature of the projects.

⁵³ For procurements issues, the contracting authority, located in the beneficiary county, is the primary venue for any complaints. All these complaints are processed via the existing procedures in the different Authorities and according to the procurements rules applied (PRAG etc).

7. DECENTRALISATION OF THE IMPLEMENTATION OF ISPA

7.1. LEGAL BASIS FOR EXTENDED DECENTRALISATION: KEY EXTRACTS FROM THE CO-ORDINATION REGULATION 1266/99

The Extended Decentralised Implementation System (EDIS) is defined by the articles of the Co-ordination Regulation 1266/99 and its annex. EDIS comprises three interrelated components:

1. *“the management of aid on a decentralised basis” (Article 12.2) by the relevant national authorities, subject to a “commitment by the National Authorising Officer to bear the full financial responsibility and liability for the funds,” (Annex 2{v}).*
2. *the waiving of “the ex-ante approval requirement” by the Commission (Article 12.2) which will then be replaced by a system of ex post controls.*
3. *use of national procedures where various conditions are met, including “procurement rules, which are endorsed by the Commission as meeting requirements of Title IX of the Financial Regulation applicable to the general budget of the European Communities,” (Annex 2{iv}).⁵⁴*

EDIS can only be granted where certain “*minimum criteria and conditions*” are met, as described in the Annex to the Co-ordination Regulation, and to “*specific provisions concerning, inter alia, invitations to tender, scrutiny and evaluation of tenders, the award of contracts,*” (Article 12.2). These last provisions shall be laid down in financing agreements with each beneficiary country.⁵⁵

The decision to move to EDIS can only be undertaken by the Commission “*on the basis of a case-by-case analysis of national and sectoral programme/project management capacity, financial control procedures and structures regarding public finance,*” (Article 12.2).

“*The Commission shall adopt rules governing inspection and evaluation,*” (Article 12.3). This present document and its three annexes provide detailed guidance on the “*minimum criteria and conditions*” that must be met in each of the key EDIS areas – the National Fund, the Implementing Agencies and the procurement process.

The conditions stated in the CR include requirements for adequate and effective internal controls. In assessing these, the Commission will apply the general Public Internal Financial Control principles (PIFC), as summarised in the Annexes to the Co-ordination Regulation and to the ISPA Regulation 1267/99; this is also covered in the Regular Reports on Candidate Countries (Chapter 28: Financial Control) and is used in matters concerning internal Commission controls.

Implementing Authorities must follow the procurement rules in the Practical Guide, as updated by EuropeAid.

⁵⁴ PHARE and ISPA are external aid instruments that are legally subject to the provisions of Title IX of the Financial Regulation of the European Communities. They are not subject to Community public procurement directives. However, Article 12 of the CR also states that specific provisions will be adopted “concerning, *inter alia*, ... the implementation of Community public procurement directives.” To accommodate these provisions, the same principles that underpin both the Directive and Title IX have been elaborated in this document and must be followed by IAs in all procurement involving PHARE and ISPA funds.

⁵⁵ For ISPA, reference is also made to Art. 9 Regulation 1267 and Annex III.

Under EDIS, the Commission shall continue to monitor and carrying out on-the-spot project checks and audits. The European Court of Auditors may also perform external audits.

Even under EDIS, the Commission remains ultimately accountable to the EU Budgetary Authorities for the use and sound financial management of the relevant budgetary credits. There are no circumstances where it is mandatory for the Commission to undertake EDIS. The Commission can, at any time and at its own discretion, reverse its approval to extend decentralised implementation to relevant national authorities.

7.2. PROCEDURES FOR EXTENDING DECENTRALISED IMPLEMENTATION

7.2.1. Minimum criteria and requirements for decentralisation of management for EDIS

The minimum criteria and conditions specified in the CR and its annex are intended to assist:

- the National Authorising Officer in assessing the readiness of the Implementing Agency to apply for EDIS;
- the Commission in performing its verification audit mentioned above and to forming a considered judgement of whether EDIS can be granted.

The criteria and conditions are categorised as a “minimum,” meaning that other conditions of transparency and sound (financial) management may apply as well in the final assessment of the Commission.

The following sections elaborate each of the minimum criteria and conditions for the decentralisation of management (EDIS).

- “there should be a well-defined system for managing the funds with full internal rules of procedure, clear institutional and personal responsibilities.”

This criterion applies to both the National Fund and the IAs. The system referred to should cover the operational and financial management rules governing the programme cycle from project design, procurement through the implementation phase to final evaluation and closure. As well as coherent and simple management rules and procedures, this criterion requires that allocation and separation of responsibilities between the various units is well defined, in order to ensure that these rules and procedures are actually followed.

- “the principle of separation of powers must be respected so that there is no risk of conflict of interest in procurement and payment.”

This criterion applies to both the National Fund and the IAs. It relates to issues of creating a double signature system, to provide adequate and transparent financial and control management and to allow the internal auditor to function independently from the management.

- “adequate personnel must be available and assigned to the task. They must have suitable auditing skills and experience, language skills and be fully trained in implementing Community programmes.”

This criterion applies mainly to the IAs, although the National Fund personnel should also be assessed. It should be noted that although the National Fund may audit the IAs, this should be

coupled and integrated by, for example, the internal audit service of the Ministry of Finance, in which the National Fund most often resides.

- “demonstration of effective internal controls (*in both NF and IAs*) including an independent audit function and an effective accounting and financial reporting system which meets internationally accepted audit standards.”

This condition applies to both the NF and the IAs. “*Effective internal controls*” refers to all of PIFC, not just internal auditing. PIFC refers to the government’s internal control systems aimed at protecting the general financial interests of the government, while external control refers to financial control activities by external bodies (supreme audit institutions and the parliament, exercising democratic control functions), who must scrutinise and assess the financial control systems of the government.

The internal audit function is the total sphere of ex post verification by an organisation of whether management and control systems comply with budget specifications, objectives, rules and standards and more generally to the principles of sound financial management. These internal audits include compliance and substantive tests, system audits, performance audits, information technology audits and any other kind of ex post verification that the independent internal organisation deems fit to ensure the compliance of management with financial rules and regulations. An important aspect is the establishment of an adequate feedback mechanism of the internal audit findings and recommendations into these rules and regulations.

The internal audit function could be performed by the IA itself or by a central audit body (e.g. the Ministry of Finance) or both. In both cases the principle of “functional independence” as used in the PIFC discussions in Regular Reports and EU Common Position Papers relating to Negotiation Chapter 28: Financial Control, should be guaranteed. *Thus, the internal audit function may be located within the IA but must be independent of the management functions of that organisation.* Any other controls carried out by the National Fund as stipulated in the Financing Memorandum between the NF and the Commission and the Financing Agreements between the NF and IAs should also be analysed.

This paper distinguishes three levels of audit – (a) internal audit in the IA, (b) audit within the government and (c) audit over and external to the government. Countries may use different permutations of these three levels (eg. it may not have internal audit in the IA but may exercise that from the government level audit).

Internationally accepted audit standards refer to standards developed in the framework of e.g. the European Court of Auditors and the Institute for Internal Audit (IIA). These standards, sometimes adapted to take into account the specific needs of the public sector as used in the Accession Negotiations, will be elaborated below.

- “a recent financial and operational audit showing effective and timely management of Community assistance or national measures of similar nature.”

This condition relates to both the National Fund and to the IAs.

- “a reliable national financial control system over the implementing agency.”

This condition relates to the PIFC discussions mentioned above. The analysis by the Commission will be consistent with the assessment in the Regular Reports and the Common Positions as mentioned above. In the present context, the national financial control system relates to all public financial control activities carried out by control authorities outside the NF and IAs.

These are conducted by higher level government control bodies or by external control bodies like the supreme audit institutions such as Courts of Auditors or the European Parliament.

- “procurement rules which are endorsed by the Commission as meeting requirements of Title IX of the Financial Regulation applicable to the general budget of the European Communities.”

The procurement rules as used by PHARE and ISPA implementing agencies must also be followed under EDIS, for the procurement of ISPA and PHARE projects, if they are “endorsed by the Commission as meeting requirements of Title IX of the Financial Regulations.” This, in practice, requires four principles to be followed so ensuring the avoidance of discriminatory measures and unfair treatment in public procurement:

- **common advertising rules:** Community-wide and PHARE/ISPA region-wide advertising of contracts to develop real competition between economic operators in all the States eligible to bid;
- **common tendering rules:** the elimination of technical specifications, which are liable to discriminate against potential foreign bidders; these rules require specifications to be produced in one of the official EU languages as well as the local language;
- **common technical evaluation rules:** application of objective criteria for the selection of tenderers and the award of contracts, including procedure on eligibility for participation;
- **common participation and contract award rules:** eligibility and contract sourcing open to EU and PHARE/ISPA + Malta, Cyprus and Turkey.
- Commitment by the National Authorising Officer to bear the full financial responsibility and liability for the funds.

The request for EDIS by the National Authorising Officer presented to the Commission must be accompanied, *inter alia*, by a commitment from the NAO (covered by national law) to bear full financial responsibility and liability for EU-funds received and spent. This covers the additional responsibility charged to the NAOs, which is derived from the waiver of the ex-ante control of the Commission.

7.2.2. Roadmap for EDIS

The philosophy underlying EDIS is that it is the responsibility of the national authorities of the applicant countries to prepare for EDIS, and it is for the National Authorising Officer (NAO) on his own initiative to send a request to the Commission for an EDIS decision for each Implementing Agency that the NAO considers to fulfil the criteria and conditions. The actions under Stages 1 to 3 of the Roadmap are the responsibility of the national authorities and led by the NAO, whilst the fourth stage of preparation for the Commission decision is the sole responsibility of the Commission services. However, this division of responsibilities does not preclude a collaborative role for the Commission in Stages 1 and 2 to assist the process, nor the provision of Community financial support.

The roadmap is divided in 4 stages.

STAGE 1 GAP ASSESSMENT

- The objective is to carry out an assessment of the target national institutions (National Fund, SAO, Implementing Agencies) and national procurement procedures in order to determine to what extent the conditions for EDIS are currently met and to identify specific actions, changes

and improvements required. Where Implementing Agencies have delegated functions to final beneficiaries, these may also be included..

STAGE 2 EDIS PREPARATION (“Gap plugging”)

- The objective is to prepare for EDIS by making the necessary changes and improvements to the target institutions and procedures through implementation of the recommendations of the Gap Assessment Report (GAR).

STAGE 3 COMPLIANCE ASSESSMENT

- The objective is to enable the national authorities responsible for the financial management of the Community instrument to determine whether the pre-conditions are fulfilled for formal application for EDIS.

STAGE 4 PREPARATION FOR COMMISSION DECISION

- The objective is to prepare all elements necessary to enable the Commission to decide whether to grant EDIS under Article 12 (2) of the Coordination Regulation.

7.2.3. Co-ordination with SAPARD accreditation exercise.

As some structures or agencies involved in the two processes ISPA and SAPARD may share structures or systems the full co-ordination between the EDIS and the accreditation process of SAPARD shall be ensured.

GLOSSARY OF TERMS

A - C

<i>acquis communautaire</i>	the body of legislation, including the Treaties and Court cases, which has been enacted by the EC so far
CC	Candidate Countries (those CEEC countries who have applied for membership to the EU) sometimes referred also as Applicant Countries or Beneficiary Countries
CEEC	Central and Eastern European Countries
CFCU	Central Financing and Contracting Unit
co-financing	the financial participation of various actors in projects
Cohesion Fund	EU fund providing financial assistance to four beneficiary countries (P,GR, IR, E) for environmental and transport infrastructure projects
Corridors	pan-European Transport Corridors
CR	Council Regulation

D

DCF Method	Discounted Cash Flow Method (means of economic analysis of revenue generating projects)
DG ELARG	Directorate General for Enlargement
DG ENV	Directorate General for Environmental Policy
DG REGIO	Directorate General for Regional Policy
DG TREN	Directorate General for Transport and Energy Policy

E

EBRD	European Bank for Reconstruction and Development
EC	European Commission
EDIS	Extended Decentralisation Implementation System
EIA	Environmental Impact Assessment
EIB	European Investment Bank
eligible expenditure	the expenditure which counts towards the total of an ISPA measure/project. The ISPA rate of assistance is a percentage of the total eligible expenditure
EuropeAid (= AIDCO)	The EU office in charge of implementing external aid instruments for the EU Commission
ex-ante approval	approval of official documents and publications concerning procurement are approved by the Commission before implementation

F-G

FIDIC	International Confederation of Consulting Engineers
Final Beneficiary	the final owner of the completed project – usually a public body such as the National Rail Authority
FM	Financing Memorandum (defines the budgetary commitments of a project, as well as the physical and financial indicators that should be used during the appraisal process)
GDP	Gross Domestic Product

H-L

IA	Implementing Agency
IBRD	International Bank for Reconstruction and Development (the World Bank)
IFIs	International Financing Institutions

Implementation Agreements	Agreements between the CFCU and IAs
Inforegio	The DG Regional Policy website: www.inforegio.cec.eu.int
IRR	Internal Rate of Return
ISC	Interservice Consultation – the mechanism by which the Commission gathers opinions from its different services.
ISPA	Instrument for Structural Policy for Pre-Accession
ISPA Management Committee	body with representatives from all Member States which deals with ISPA matters
ISPA Monitoring Committee	chaired by NIC, the body in each Candidate Country in charge of monitoring project implementation and success

M-N

MoU	Memorandum of Understanding (between the EC and the National Fund)
NAO	National Authorising Officer
NAC	National Aid Coordination (with ISPA responsibility in Czech republic)
NF	National Fund
NIC	National ISPA Co-ordinator
NPV	Net Present Value

P – R

PHARE	Community assistance programme for CCs
PIFC	Public Internal Financial Control
PIU	Project Implementation Unit
PPP	Private-Public Partnership
PRAG	The Practical Guide (provides guidelines for tendering and contracting for PHARE and ISPA projects)

S – Z

SAPARD	Special Accession Programme for Agriculture and Rural Development
SAO	Sectoral Authorising Officer (Environment or Transport)
TA	Technical Assistance
TEN-T	Trans-European Transport Network
TINA	Transport Infrastructure Needs Assessment (conducted in the candidate countries)

ANNEXES

- *Legal framework*

- A1 Council Regulation 1267/1999: ISPA Regulation of 21.6.1999.
http://europa.eu.int/comm/regional_policy/sources/docoffic/official/regulation/pdf/1_16119990626en00730086.pdf
- A2 Co-ordination Regulation of 21.6.1999.
http://europa.eu.int/comm/regional_policy/sources/docoffic/official/regulation/pdf/1_16119990626en00680072.pdf
- A3 Title IX of the Financial Regulation, (French Version) 21.12.1977 from p. 52 onwards.
<http://europa.eu.int/comm/budget/pdf/execution/execution/financialreg/en.pdf>⁵⁶

- *Programming/project preparation*

- A4 Financing Memorandum Doc. N° 99/MC/007 of MCM2 updated Doc. N° 00/MC/007 at MCM3 and with standard clauses Article 8 and Annex I - III.
http://europa.eu.int/comm/regional_policy/funds/ispa/working_en.htm

- *Sectoral papers*

Transport

- A5 Framework for funding investments in Transport, Doc. N° 99/ISPA/MC/004 MCM1 (no date)
http://europa.eu.int/comm/regional_policy/funds/download/trans_en.pdf

Environment

- A6 Framework for funding investments in Environment, Doc. N° 99/ISPA/MC/003 (MCM1) (no date)
http://europa.eu.int/comm/regional_policy/funds/download/envi_en.pdf
- A7 Application of the Polluter Pays Principle
http://europa.eu.int/comm/regional_policy/sources/docoffic/working/poll_en.htm
- A8 Communication of the EC COM(2001)304
 The Challenge of Environmental Financing in the Candidate Countries,
http://europa.eu.int/comm/environment/docum/01304_en.htm
- A9 On Environmental policy is useful to access the implementation handbook
<http://europa.eu.int/comm/environment/enlarg/handbook/handbook.htm>

Financing

- A10 Commission Interpretative Communication on Concessions under Community Law 2000/C 121/02
http://europa.eu.int/eur-lex/pri/en/oj/dat/2000/c_121/c_12120000429en00020013.pdf

⁵⁶ A new financial regulation is applicable as per 1-1-03 and therefore all cross references will be updated in the future.