

## COMMISSION DECISION

C(2008)800 of 06/03/2008

**adopting a Regional programme on the obligation of the European Community to pay its contribution to the budget of the Energy Community under the IPA -Transition Assistance and Institution Building Component for 2008,**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA)<sup>1</sup>, and in particular Article 14(2)(a) thereof,

Whereas:

- (1) Regulation (EC) No 1085/2006 lays down the objectives and main principles for pre-accession assistance to candidate and potential candidate countries.
- (2) In accordance with Article 7 of Regulation (EC) No 1085/2006, the assistance should be provided through multi-annual or annual programmes, which can be established by country and by component, or, as appropriate, by group of countries or by theme. These programmes should be drawn up in accordance with the general policy framework referred to in Article 4 of Regulation (EC) No 1085/2006 and the relevant multi-annual indicative planning document referred to in Article 6 of that Regulation.
- (3) The Council established for all candidate and potential candidate countries an Accession Partnership or a European Partnership. The Commission has adopted on 29 May 2007 a multi-annual indicative planning document 2007/2009 which presents indicative allocations for the main priorities for pre-accession assistance to all countries concerned<sup>2</sup>.
- (4) In accordance with Article 73 of the Treaty establishing the Energy Community<sup>3</sup> and its Annex IV, as modified by the Procedural Act No 2006/05 of the Ministerial Council of the Energy Community, the European Community has to contribute to the budget of the Energy Community by 98.1%.

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<sup>1</sup> OJ L 210, 31.7.2006, p. 82.

<sup>2</sup> C(2007)2205.

<sup>3</sup> Council Decision 2006/500/EC of 29 May 2006 (OJ L 198, 20.7.2006, p. 15).

- (5) Therefore, the Regional programme on the obligation of the European Community to pay its contribution to the budget of the Energy Community under the IPA Transition Assistance and Institution Building Component for 2008 aims at providing the allocations to the European Community to fulfil its obligation.
- (6) This decision meets the requirements of Article 90 of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation No 1605/2002<sup>4</sup> (hereafter: “Implementing Rules”) and constitutes thus a financing decision within the meaning of Article 75 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>5</sup> (hereafter: “Financial Regulation”).
- (7) The measures provided for by this Decision are in accordance with the opinion of the IPA Committee,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Regional programme on the obligation of the European Community to pay its contribution to the budget of the Energy Community under the IPA Transition Assistance and Institution Building Component for 2008, as set out in the Annex, is hereby adopted.

This programme shall be implemented by centralised management.

*Article 2*

The maximum amount of Community contribution shall be **EUR 1.3 million** to be financed through Item 22.02.07.01 – Regional and horizontal programmes of the general budget of the European Communities for 2008, subject to the approval of the budget 2008 by the budgetary authority.

Done at Brussels, [...]

*For the Commission*

[...]

*Member of the Commission*

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<sup>4</sup> OJ L 357, 31.12.2002, p. 1 Regulation as last amended by Regulation (EC, Euratom) No 478/2007 (OJ L 111, 28.04.2007, p. 13).

<sup>5</sup> OJ L 248, 16.9.2002, p.1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p.1).

# ANNEX: REGIONAL PROGRAMME ON THE OBLIGATION OF THE EUROPEAN COMMUNITY TO PAY ITS CONTRIBUTION TO THE BUDGET OF THE ENERGY COMMUNITY

## 1 IDENTIFICATION

Beneficiary	<i>Energy Community</i>
CRIS number	2008/019-755
Year	2008
Cost	€1,300,000
Implementing Authority	European Commission.
Final date for concluding the financing agreements	The programme is implemented without Financing Agreement
Final dates for contracting	30 March 2008
Sector Code	23010
Budget line concerned	22.02.07.01 – Regional and horizontal programmes
Programming Task Manager	Regional Programmes - D3, DG Enlargement
Implementation Task Manager	Regional Programmes - D3, DG Enlargement

## 2. PRIORITY AXES / (MEASURES) / PROJECTS

This proposal is built to provide to the European Community the funds to pay its subscription to the Energy Community. In accordance with Article 73 of the Treaty establishing the Energy Community<sup>1</sup> and its Annex IV, as modified by the Procedural Act No 2006/05 of the Ministerial Council of the Energy Community, the European Community has to contribute to the budget of the Energy Community by 98,1%.

### 2.a Priority axes

The Energy Community is a process that aims to extend the EU internal energy market to the South-East Europe region. For this purpose the Treaty establishing the Energy Community was signed on 25 October 2005 in Athens and on 29 May 2006 was approved by the European Community via a Council Decision. The Treaty, which effectively sets up a European Energy Community, aims at establishing a single regulatory framework for trading energy across South-East Europe and the EU on same terms, was signed by trade and energy ministers representing the European Union, Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia, as well as UNMIK (as Kosovo representative under Security Council Resolution 1244).

The task of the Energy Community is to organise the relations between the Parties and create a legal and economic framework in relation to Network Energy. The main goals are to create a stable and regulatory market framework capable of attracting investment; to create a single regulatory space for trade; to enhance security of supply; to improve the environmental

<sup>1</sup> Council Decision 2006/500/EC of 29 May 2006 (OJ L 198, 20.7.2006, p. 15).

situation and to develop electricity and gas market competition on a broader geographical scale.

The main institutions established or being established to oversee the process are the Ministerial Council, the Permanent High Level Group, the Regulatory Board, the Fora, and the Secretariat.

Support to Energy Community is one of the actions foreseen in the MIPD under the Infrastructure priority.

## **2.b Description of projects grouped per priority axis and (if relevant) per measure**

The task of the Energy Community shall be to organise the relations between the Parties and create a legal and economic framework in relation to Network Energy in order to:

(a) create a stable regulatory and market framework capable of attracting investment in gas networks, power generation, and transmission and distribution networks, so that all Parties have access to the stable and continuous energy supply that is essential for economic development and social stability,

(b) create a single regulatory space for trade in Network Energy that is necessary to match the geographic extent of the concerned product markets,

(c) enhance the security of supply of the single regulatory space by providing a stable investment climate in which connections to Caspian, North African and Middle East gas reserves can be developed, and indigenous sources of energy such as natural gas, coal and hydropower can be exploited,

(d) improve the environmental situation in relation to Network Energy and related energy efficiency, foster the use of renewable energy, and set out the conditions for energy trade in the single regulatory space,

(e) develop Network Energy market competition on a broader geographic scale and exploit economies of scale.

The Annual Work Programme of the Energy Community aims at supporting the process of achieving the objectives of the Energy Community as defined by the Treaty. It has been developed with the understanding that its efficient implementation will need combined efforts of the Contracting Parties and all the institutions of the Energy Community.

The Work Programme aims at identifying the major activities, which correspond to the Treaty requirements. It also takes note of the respective *acquis* under it in correspondence with the tasks, which the Treaty provides for the Contracting Parties in relation to their implementation.

The following key areas of activities are considered necessary to be further developed in 2008:

Activities of general nature towards the implementation of the Treaty, Electricity, Gas, ECRB Activities, Environment, Renewables, Competition, Security of Supply, Energy Efficiency, Investments, Social Dimension, Regional and Cross-border issues.

## **2.c Overview of past and on going assistance (EU / IFI / Bilateral and national assistance) including lessons learned and donor coordination**

The Commission has co-financed the activities of the interim Energy Community Secretariat from 1 March 2005 until end of June 2007 by 95% through a grant contract concluded with the Republic of Austria (Contract number: 100-231).

Since July 2007 the Energy Community has been established as an International Organisation under the Austrian law after the signature of the host Agreement and since July 2007 the European Commission is paying of behalf of European Community its contribution to the Energy Community, representing 98,1% of the annual budget.

The total budget of the Energy Community for year 2008 is €2,548,420. Out of this total budget the EC contribution will be €2,500,000 equivalent to 98,1% of the total budget. The EC has already committed the amount of €1,200,000 under the CARDS 2006 Regional programme and will with this financing proposal cover the difference of €1,300,000.

In relation to the input of other donors to the energy sector in South-East Europe it should be mentioned that donors and International Financial Institutions have always played a substantial role for the development of the energy sector.

In order to improve the balance between energy supply and demand, which is crucial to boost and sustain economic development in South-East Europe (SEE), a strong commitment by the countries of the region towards market oriented reforms is required.

To draw fully on the substantial gains which can result from energy trading between these countries and their neighbours, the current fragmentation of energy supply is to be overcome through cooperation among the various entities concerned and through physical connection/reconnection of the network. A regional approach to energy supply, therefore, offers significant advantages both in terms of improved utilization of existing supply and production capacities as well as optimizing future investments.

Donors and International Financial Institutions (IFIs) have been involved in the SEE region for decades and major steps have been taken over the last couple of years towards achieving these objectives in both the electricity and natural gas sector.

The current involvement of the donors and IFIs is aimed at:

- reconstruction and development of infrastructure;
- development of market economy rules;
- relevant institution building;
- support for harmonization of the national legislative systems with the EU legislation.

Donors and other IFIs activities are focused on supporting regulatory development, power industry restructuring, encouraging development of market institutions and rules. Additionally donors and other IFIs are active in financing power generation, transmission and distribution infrastructure projects, etc. To support development in SEE, donors and IFIs draw on their full

range of instruments to provide policy support and investment finance through loans, guarantees, etc.

Donor coordination is led by the European Commission.

Regional Meetings are held on regular basis. In addition, there are more frequent meetings of donors in individual countries when the need arises to ensure a common approach.

At present, more than 100 projects in the energy sector are in progress or have been recently completed.

## 2.d Horizontal issues

Not applicable

## 2.e Conditions

Not applicable

## 2.f Benchmarks

	2008	
	EU	NF*
Contribution/subscription	1	1
Contracting Rate (%)	100%	100%

\* In case of parallel national co-financing

## 3. BUDGET (amounts in EUR)

According to Article 73 of the Energy Community Treaty each Party to the Treaty shall contribute to the budget of the Energy Community. EC as being a Party to the Treaty has to contribute the 98.1% (according to Annex IV of the Treaty as modified by the Procedural Act No 2006/05 of the Ministerial Council of the Energy Community) of the total budget.

For 2008 the proposed budget is €2,548,420. The EC contribution is €2,500,000 (98,1%). This contribution will be paid partly (€1,200,000) by the funds committed in the 2006 CARDS Regional Programme and partly (€1,300,000) by the IPA 2008 budget, which shall be paid during the first quarter of the budget year.

The obligation of each Party to pay its contribution to the Energy Community budget is independent of whether or not the other Parties have fulfilled their obligation. The procedural Act No 2006/03 of the Ministerial Council of 17 November 2006 "on the adoption of Energy Community Procedures for the Establishment and Implementation of Budget, Auditing and

Inspection" foresees in article 2, paragraph 4, that the Ministerial Council shall determine the existence of a breach to the articles of the Treaty.

### **3.1 Principle of Co-Financing applying to the projects funded under the programme**

The Community contribution has been calculated in relation to the total eligible expenditure.

The co-financing principle is fulfilled through the parallel contributions of the beneficiary countries to the budget of the Energy Community.

In accordance with Article 73 of the Treaty establishing the Energy Community<sup>2</sup> and its Annex IV, as modified by the Procedural Act No 2006/05 of the Ministerial Council of the Energy Community, the European Community has to contribute to the budget of the Energy Community by 98,1%.

## **4. IMPLEMENTATION ARRANGEMENTS**

### **4.1 Method of implementation**

The programme will be implemented on a centralised basis by the European Commission in accordance with Article 53a of the Financial Regulation<sup>3</sup> and the corresponding provisions of the Implementing Rules<sup>4</sup>.

### **4.2 General rules for procurement and grant award procedures**

Procurement shall follow the provisions of Part Two, Title IV of the Financial Regulation and Part Two, Title III, Chapter 3 of its Implementing Rules as well as the rules and procedures for service, supply and works contracts financed from the general budget of the European Communities for the purposes of cooperation with third countries adopted by the Commission on 24 May 2007 (C(2007)2034).

The contribution of the European Community to the Energy Community budget constitutes a subscription to a body of which it is a member in the meaning of 108(2)(d) of the Financial Regulation.

## **5. MONITORING AND EVALUATION**

### **5.1 Monitoring**

Not applicable

### **5.2 Evaluation**

Not applicable

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<sup>2</sup> Council Decision 2006/500/EC of 29 May 2006 (OJ L 198, 20.7.2006, p. 15).

<sup>3</sup> OJ L 248, 16.9.2002, p.1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p.1).

<sup>4</sup> OJ L 357, 31.12.2002, p. 1 Regulation as last amended by Regulation (EC, Euratom) No 478/2007 (OJ L 111, 28.04.2007, p. 13).

## **6. AUDIT, FINANCIAL CONTROL AND ANTI-FRAUD MEASURES**

The accounts and operations of all parties involved in the implementation of this programme, as well as all contracts and agreements implementing this programme, are subject to, on the one hand, the supervision and financial control by the Commission (including the European Anti-Fraud Office), which may carry out checks at its discretion, either by itself or through an outside auditor and, on the other hand, audits by the European Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Beneficiary Country.

In order to ensure the efficient protection of the financial interests of the Community, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (EC, Euratom) 2185/96<sup>5</sup>.

The controls and audits described above are applicable to all contractors, subcontractors and grant beneficiaries who have received Community funds.

The Procedural Act No 2006/03 of the Ministerial Council of the Energy Community, of 17 November 2006 "on the adoption of Energy Community Procedures for the Establishment and Implementation of Budget, Auditing and Inspection" includes its own procedures for audit and inspection.

## **7. LIMITED CHANGES**

Limited changes in the implementation of this programme affecting essential elements listed under Article 90 of the Implementing Rules to the Financial Regulation, which are of an indicative nature<sup>6</sup>, may be undertaken by the authorising officer by delegation (AOD), or by the authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management without an amending financing decision being necessary.

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<sup>5</sup> OJ L 292; 15.11.1996; p. 2.

<sup>6</sup> These essential elements of an indicative nature are, for grants, the indicative amount of the call for proposals and, for procurement, the indicative number and type of contracts envisaged and the indicative time frame for launching the procurement procedures.