

EN

EN

EN

COMMISSION DECISION

C(2007)6376 on 18/12/2007

adopting a horizontal programme on the Energy Efficiency Finance Facility for Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia including Kosovo¹, Turkey, and the former Yugoslav Republic of Macedonia under the IPA -Transition Assistance and Institution Building Component for 2007

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)², 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-beneficiary multi-annual indicative planning document (2007/2009), which presents indicative allocations for the main priorities for pre-accession assistance to all countries concerned³.
- (4) Therefore, the Energy Efficiency Finance Facility under the IPA Transition Assistance and Institution Building Component for 2007, which will be implemented with the European Investment Bank (EIB), the European Bank for Reconstruction and Development (EBRD), and the Council of Europe Development Bank (CEB) in cooperation with Kreditanstalt für Wiederaufbau (KfW), aims at providing assistance for promoting energy efficiency investments and renewable energy projects in the building and industry sectors in order to save energy and reduce CO₂ emissions.

¹ As defined by UNSCR 1244.

² OJ L 210, 31.7.2006, p. 82.

³ C(2007)2205.

ANNEX TO THE COMMISSION DECISION N°:
Financing proposal of the Energy Efficiency Finance Facility

1. IDENTIFICATION

Beneficiary	Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia including Kosovo ¹ , Turkey, and the former Yugoslav Republic of Macedonia
CRIS number	2007/019-340
Year	2007
Cost	EUR 34.7 million
Implementing Authority	The EIB, the EBRD, and the CEB in co-operation with KfW under joint management with the European Commission.
Final date for concluding the financing agreements	The programme is implemented without Financing Agreement
Final date for contracting	30 November 2008
Final date for execution	31 December 2016 (see § 4.1)
Sector Code	23010
Budget line(s) 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 programme is built to **financially assist the IPA countries to promote investments in energy efficiency and renewable energy generation** in order to improve the energy performance of the **building** and **industry** sectors offering opportunities for the highest **savings in energy and reduction in CO₂ emissions**.

This programme is justified because the energy consumption accounts for nearly 95% of the man-made CO₂ emissions and causes damage to our climate and environment as a whole, and IPA countries have on average energy intensity and pollution intensity ratios higher than the EU-25.

¹ As defined by UNSCR 1244.

2.a Priority axes

The promotion of energy efficiency investments is one of the actions implemented in co-operation with the International Financial Institutions (IFIs) as foreseen in the MIPD under the Market Economy priority. Provision of consultancy services, and making appropriate financing available will specially boost investments in the energy efficiency field.

In the **building sector**², the Directive on Energy Performance on Buildings (EPBD)³ of 16 December 2002 is an ambitious step-forward to increase the energy performance of public, commercial, and private buildings.

As outlined in the Green Paper on Energy Efficiency⁴ adopted by the European Commission on 22 June 2005, the **industry sector** is expected to make improvements in its process and the machines it uses.

The Directive on energy end-use efficiency and energy services⁵ has also stressed the need for improving energy end-use efficiency and promotion of the production of renewable energy, in particular by **creating stronger incentives for the demand side**.

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

In order to support energy efficiency investments and small renewable energy projects, the programme combines:

- credit lines and/or risk sharing amounting to EUR 138.8 million at least, extended by the EIB, EBRD, CEB in co-operation with KfW, each an International Financial Institution (IFI);
- with Community contribution amounting to EUR 34.7 million in order to provide incentives for:
 - the private and public entities in the building and industry sectors to pursue investments in energy efficiency and sustainable energy;
 - the Financial Intermediaries (FI) to induce them to increase funding to these purposes;
 - the financing of consultancy costs to provide Technical Assistance all along the implementation of the programme.

The programme requires the involvement of highly specialised financial institutions with experience in international finance and strong involvement in implementing the European Community objectives in relation to enlargement, it is the reason why it has been jointly elaborated with the EIB, the EBRD and the CEB in co-operation with KfW owing to their experience in this field and their true commitment to Community policy objectives.

The EEFF includes two main components: consultancy assistance and building of financial intermediary projects.

² Residential and tertiary sector.

³ Directive 2002/91/EC of the European Parliament and of Council of 16 December 2002 on the energy performance of buildings, OJ L1, 4.1.2003, p.65.

⁴ COM(2005) 265 final.

⁵ Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006, OJ L114, 27.4.2006, p.64.

2.b.1 Consultancy Assistance

The consultancy assistance supports the preparation of projects at country level and provides assistance to the Financial Intermediaries and end-borrowers at project level to help them appraise the sub-projects, market the facility, and verify the completion of energy efficiency investments.

The IFI will submit to the approval of the Commission the budgets earmarked for consultancy services, showing a comprehensive description of the consultancy mission. (**Consultant project**). The consultancy services are financed by the *consultancy costs* of the Community contribution.

2.b.2 Building of projects

Each IFI will identify local Financial Intermediaries (FI) in the beneficiaries countries, which are prepared to engage in sustainable energy financing, co-operate with the consultants, and promote the Facility within the framework of a project. An agreement on a financial package between the IFI and the local FI providing an IFI loan together with Community contribution will represent the "**FI project**."

A FI project comprises two components:

- (1) A **credit line** from the IFI providing long term funding at market rates repayable at maturity, or risk sharing. The credit line is used by the Financial Intermediary to extend sub-loans to end-borrowers with whom sub-loan agreements are signed (**sub-projects**). Where a risk sharing agreement is concluded, the IFI and the FI will share the risk of a sub-project portfolio which will facilitate the extension of sub-loans to end-borrowers.

- (2) **Community contribution** used as incentives.

- The end-borrower in energy efficiency equipment will receive an *investment incentive* to improve the cost effectiveness of the equipment and make the energy investment more attractive. Investment incentives may finance up to 25% of the investment cost.

- The Financial Intermediary will receive an *administration fee* to compensate for the restricted use of funds, possible training to loan officers, additional administrative requirements such as close co-operation with the external consultants, and additional monitoring/reporting tasks. This incentive will further encourage it to lend for the purpose of sustainable energy and energy efficiency financing.

- *Other incentives* may be proposed by the IFI to the benefits of the Financial Intermediary or the end-borrowers to enhance the implementation of the Facility. The IFI shall indicate in the FI Project the scope and nature of the incentive, its condition, and amount.

- The size of each FI project shall be, in principle, between EUR 5 and EUR 20 million.
- Each FI project will cover in principle a number of sub-projects. The maximum size of a sub-project is in principle EUR 5 million.
- The eligibility criteria of sub-projects will be the following:
 - **Eligible Financial Intermediaries** are banks or leasing companies locally registered, licensed, or incorporated entities, including subsidiaries of EU banks and EU leasing companies, in the beneficiary countries and operating in the beneficiary countries. They are selected on the basis of their capacity, financial strength, branch networks and regional presence, and their interest to participate in and promote the Facility and its objectives.

- **Eligible end-borrowers** are private entities;- residents organized in collectives of individuals, such as housing association; Public entities like Municipalities and their associations.
- **Eligible investments** are investments on the energy demand side contributing to the energy performance of the buildings and industry sector as described in the Directive on energy end-use efficiency⁶, or projects related to renewable energy generation (e.g. hydro, wind, biomass, geothermal or solar power).

All costs directly associated with the investment can be taken into account in calculating the investment costs, provided that the durable or permanent nature of the assets requires medium or long-term funding.

2.b.3 Payment of Community contribution

- The Community contribution to this Programme will be paid by the Commission to the IFIs in instalments to an interest-bearing Special Account held with each IFI for this programme.
- In turn, the IFI will pay the *administration fees, investment incentives, other incentives, and consultancy costs* to the providers of consultancy services, Financial Intermediaries, and/or end-borrowers, according to the scheme described in the FI and /or Consultancy project approved by the Commission.

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

Past assistance

In 2006 the Commission launched for the first time the EEFF in Romania, Bulgaria, Croatia and Turkey for a total amount of EUR 53 million of incentives and EUR 212 million of co-financing provided by the IFIs. The programme was adopted by the Commission in November 2006. In April 2007, the three Contribution Agreements were signed with the EIB (EUR 6 million), the EBRD (EUR 24 million), and the CEB in co-operation with KfW (EUR 23 million) and the 3 IFIs have started to market the facility since then.

The Commission approved in July 2007 a consultancy project submitted by the EBRD for an amount of EUR 3.5 million in order to support the implementation of sub-projects in the SMEs and industrial sector mainly in Romania and Bulgaria. It is expected to achieve around 200 sub-projects with a size of EUR 500,000 on average. The CEB in co-operation with KfW intends to focus on the building sector, especially in Romania where the Facility could be complementary to the Thermal Rehabilitation programme launched by the authorities. Projects with local financial intermediaries will be submitted to the Commission at a latter stage and are not expected before the end of the year.

In the context of the Phare Programmes, Finance Facilities were already implemented with the EIB, EBRD and CEB in-cooperation with KfW. Since 1999, the Commission has committed EUR 378 million of incentives under the SME Finance Facility, EUR 157.8 million under the Municipal Finance Facility and the Municipal Infrastructure Finance Facility. The absorption capacity of the programmes has been very satisfactory.

⁶ Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006, OJ L114, 27.4.2006, p.64.

Donor co-ordination of the EEFF will be achieved through regular operational reports, and the organisation of steering committee meetings to monitor the programme and amend it, if necessary, to fit to the market needs over time.

Beneficiary countries have been consulted. The EEFF programme, which targets the demand side of the energy market, will be complementary to the national programmes that are supply side orientated.

2.d Horizontal issues

Not applicable

2.e Conditions

Not applicable

2.f Benchmarks

	N	N+1 (cumulative)
Number of contribution agreements concluded	3	3
Signature rate (%)	100%	100%

3. BUDGET

3.1. Indicative budget table

EU – IPA Assistance (in million EUR)				Total co-financing*		Total IPA + co-financing	
Institution Building	Investment	Total	%	Total	%	Total	%
34.7	0	34.7	20	138.8	80	173.5	100

* public and private national and/or international contributions

3.2. Principle of Co-Financing applying to the projects funded under the programme

The Community contribution in the form of a grant has been calculated in relation to the total eligible expenditures.

The co-financing principle is fulfilled through the parallel financing of the IFIs according to the overall ratio between the IFIs resources and the Community contribution that shall be equal to or higher than 4/1.

The parallel financing is provided in the form of a credit line repayable or risk sharing.

4. IMPLEMENTATION ARRANGEMENTS

4.1. Method of implementation

The programme will be implemented by the European Commission by joint management with the EIB, the EBRD, and the CEB in co-operation with KfW following Article 53 (d) of the Financial Regulation⁷ and the corresponding provisions of the Implementing Rules⁸.

To this end, the Commission and each IFI will conclude a Contribution Agreement.

DG Enlargement will sub-delegate the execution of payments and recoveries to DG Economic and Financial Affairs.

The contract between the Commission and each IFI shall be terminated by 31/12/2016.

The execution period of the contract signed between the Commission and each IFI exceeds the average length normally allowed because the mechanism of implementation includes sequential levels of contracting and payments:

- Consultant level: all over the period of implementation;
- FI level: considering the necessary time to select the financial intermediaries, sign the loan agreement or the risk sharing agreement, the IFI will be able to enter into business relations over a four-year period after the signature of the contribution agreement, that is to say until 2011;
- end-borrower levels. Knowing that energy efficiency investments will be mainly financed by medium and long term loan, with an average maturity of 5 years, and that the last contract with the FI will be signed in 2011, the termination date has been reasonably fixed at 31/12/2016 to allow payment of incentives upon completion of the investment.

4.2. General rules for procurement and grant award procedures

The general rules for procurement and grant award procedures shall be defined in the Contribution Agreement between the Commission and the EIB, the EBRD, and the CEB in co-operation with KfW, each a separate Contribution Agreement, implementing such programme

4.4 Environmental Impact Assessment and Nature Conservation

All investments shall be carried out in compliance with the relevant Community environmental legislation.

As a consequence, since the FI projects might correspond to projects which fall within the scope of annex 1 or annex 2 of the EIA-directive⁹, an environmental impact assessment shall be made for each project¹⁰, equivalent to that provided for by the EIA-directive.

⁷ OJ L 248, 16.9.2002, p.1. Regulation as last amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p.1.)

⁸ 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.)

⁹ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175 5.7.1985, p. 40). Directive as last amended by Directive 2003/35/EC (OJ L 156, 25.6.2003, p. 17).

¹⁰ Cf. Annex EIA to the corresponding investment project fiche.

Since projects are likely to affect sites of nature conservation importance, an appropriate nature conservation assessment shall be made for each project¹¹, equivalent to that provided for in Art. 6 of the Habitats Directive¹².

5. MONITORING AND EVALUATION

5.1. Monitoring

The Commission may undertake any actions it deems necessary to monitor the programmes concerned.

5.2. Evaluation

Programmes shall be subject to ex ante evaluations, as well as interim and, where relevant, ex post evaluations in accordance with Articles 57 and 82 of IPA Implementing Regulation¹³, with the aim of improving the quality, effectiveness and consistency of the assistance from Community funds and the strategy and implementation of the programmes.

The results of ex ante and interim evaluation shall be taken into account in the programming and implementation cycle.

The Commission may also carry out strategic evaluations.

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) 2185/96¹⁴.

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

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

¹¹ Cf. Annex Nature Conservation to the corresponding investment project fiche.

¹² Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L206, 22.7.1992). Directive as last amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

¹³ Commission Regulation (EC) No 718/2007 of 12 June 2007 (OJ L 170, 29.6.2007, p. 1).

¹⁴ OJ L 292; 15.11.1996; p. 2

indicative nature¹⁵, 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.

¹⁵ 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.

- (5) This decision meets the requirements of Article 90 of Commission Regulation (EC, Euratom) No 2342/2002⁴ of 23 December 2002 laying down detailed rules for the implementation of Council Regulation No 1605/2002 (hereafter: “Implementing Rules”) and constitutes thus a financing decision within the meaning of Article 75 of Council Regulation (EC, Euratom) No 1605/2002⁵ of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (hereafter: “Financial Regulation”).
- (6) It is appropriate to implement this program in joint management with the EIB, the EBRD, the CEB in co-operation with KfW because the technical nature and the multi-country approach of the programme require the involvement of highly specialised financial institutions with experience in international finance and strong commitment in implementing the European Community objectives in relation to enlargement. To that end, the programme has been elaborated in co-operation with these three international organisations.
- (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 Energy Efficiency Finance Facility under the IPA Transition Assistance and Institution Building Component for 2007, as set out in the Annex, is hereby adopted.

This programme shall be implemented by joint management with the European Investment Bank, the European Bank for Reconstruction and Development and the Council of Europe Development Bank in co-operation with Kreditanstalt für Wiederaufbau..

Article 2

The maximum amount of Community contribution shall be **EUR 34.7 million** to be financed through Item 22.02.07.01 of the general budget of the European Communities for 2007.

Done at Brussels, [...]

For the Commission
[...]
Member of the Commission

⁴ 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.)

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