

FINANCING AGREEMENT

SPECIAL CONDITIONS

The European Commission, hereinafter referred to as "**the Commission**", acting on behalf of the European Union, hereinafter referred to as "**the Union**",

of the one part, and

Montenegro, hereinafter referred to as "**IPA II beneficiary**", represented by the Government of Montenegro – Ministry of European Affairs,

of the other part,

have agreed as follows:

Article 1 - The Programme

- (1) The Union agrees to finance and the IPA II beneficiary agrees to accept the financing of the following Programme:

Country Action Programme for Montenegro for the year 2016
IPA/2016/037896

This Programme is financed from the Union Budget under the following basic act:
Instrument for Pre-Accession Assistance, IPA II.¹

- (2) The total estimated cost of this Programme is EUR 26,544,530 and the maximum Union contribution to this Programme is set at EUR 22,948,900.

This Programme requires financial contributions from both the IPA II beneficiary and the Union. The breakdown of the respective financial contributions is set out in Annex I.

- (3) The Programme shall be implemented in accordance with the description provided in Annex I, which is further detailed in Action documents to be agreed on by exchange of letters between the Commission and the IPA II beneficiary.

Article 2 – Execution period and operational implementation period

- (1) The execution period of this Financing Agreement as defined in Article 12 of Annex II (General Conditions) is fixed at 12 years, from the entry into force of this Financing Agreement.
- (2) The duration of the operational implementation period as defined in Article 12 of Annex II (General Conditions) is fixed at 6 years, from the entry into force of this Financing Agreement.

¹ Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II), OJ L 77, 15.03.2014, p. 11.



Article 3 – Addresses and Communication

All communication concerning the implementation of this Financing Agreement shall be in writing, shall refer expressly to this Programme as identified in Article 1(1) and shall be sent to the following addresses:

(1) for the Commission

Ms Ruiz Calavera Genoveva
Director D, Western Balkans
Directorate-General for Neighbourhood and Enlargement Negotiations
European Commission
15, Rue de la Loi, B – 1049 Brussels, Belgium
E-mail: NEAR-D1@ec.europa.eu

(2) for the IPA II beneficiary

Mr Aleksandar Andrija Pejović
Minister and National IPA Coordinator
Ministry of European Affairs
Bulevar Revolucije 15
81000 Podgorica, Montenegro
E-mail: aleksandar.pejovic@mep.gov.me

Article 4 – OLAF contact point

The contact point of the IPA II beneficiary having the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in order to facilitate OLAF's operational activities shall be:

AFCOS contact point/AFCOS office Anja Pavličić
Ministry of Finance of Montenegro
Stanka Dragojevića 2, 81000 Podgorica, Montenegro
Tel: + 382 20 224 480
Fax: + 382 20 224 450

Article 5 – Framework Agreement

The Programme shall be implemented in accordance with the provisions of the Framework Agreement between the European Commission and the Montenegro on the arrangements for implementation of Union financial assistance to Montenegro under the Instrument for Pre-Accession Assistance (IPA II) which entered into force on 04 June 2015 (hereafter referred to as “the Framework Agreement”). This Financing Agreement supplements the provisions of the Framework Agreement. In case of conflict between, on the one hand, the provisions of this Financing Agreement and, on the other hand, the provisions of the Framework Agreement, the latter shall take precedence.

Article 6 - Annexes

(1) This Financing Agreement is composed of:

(a) these Special Conditions;



- (b) Annex I: Annual Action Programme, detailing the objectives, expected results, activities, description of the budget-implementation tasks entrusted and budget of this Programme;
 - (c) Annex II: General Conditions;
 - (d) Annex III: Model Annual Report on the implementation of IPA II assistance as per Article(s) 58 and 59(1) of the Framework Agreement;
 - (e) Annex IV: Model Financial Report as per Article 59(2) of the Framework Agreement;
 - (f) Annex V: Accrual Based Accounting System Minimum Specification.
 - (g) Annex VI: *Ad hoc* measures for entrusting budget implementation tasks under this Programme.
- (2) In the event of a conflict between, on the one hand, the provisions of the Annexes and, on the other hand, the provisions of these Special Conditions, the latter shall take precedence. In the event of a conflict between the provisions of Annex I and/or Annex IA on the one hand and, the provisions of Annex II, on the other hand, the latter shall take precedence.
- (3) Annex VI provides for *ad hoc* measures for entrusting budget implementation tasks under this Programme, in addition to the IPA II beneficiary duties in regard to the entrustment of budget implementation tasks provided for under this Financing Agreement, in particular Annex II.

Article 7 – Entry into force

This Financing Agreement shall enter into force on the date on which it is signed by the last party, at the latest, 31 December year 2017.

This Financing Agreement is drawn up in duplicate in the English language, one being handed to the Commission and one to the IPA II beneficiary.

For the IPA II beneficiary:

Minister Aleksandar Andrija Pejović

National IPA Coordinator (NIPAC)

Ministry of European Affairs

Podgorica, 22/12/2017



For the Commission:

Ms Ruiz Calavera Genoveva

Director D, Western Balkans

Directorate-General for Neighbourhood Policy and
Enlargement Negotiations

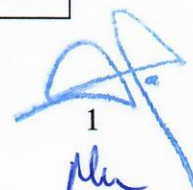
Brussels, 22/12/2017

ANNEX

Country Action Programme for Montenegro for the year 2016

1 IDENTIFICATION

Beneficiary	<i>Montenegro</i>
CRIS/ABAC Commitment references	IPA/2016/037896
Total cost	EUR 26 544 530
EU Contribution	EUR 22 948 900
Budget line	22.020102
Management Mode/ Entrusted entities	<p>Indirect management by the entrusted entities listed below:</p> <ul style="list-style-type: none"> – <i>Directorate of Public Works</i> for Action 1, and <i>Central Finance and Contracting Unit (CFCU, Directorate for the Financing and contracting of EU Assistance Funds, Ministry of Finance,)</i> for Action 2, together with the lead institutions responsible for the execution of the Actions: – <i>Ministry of Sustainable Development and Tourism</i> for Action 1, and <i>Ministry of Economy</i> for Action 2
Final date for concluding <u>Financing Agreements</u> with the IPA II beneficiary	At the latest by 31 December 2017
Final date for concluding <u>procurement and grant contracts</u>	<p>3 years following the date of conclusion of the Financing Agreements,</p> <p>with the exception of the cases listed under Article 189(2) Financial Regulation</p>
Final date for operational implementation	6 years following the date of conclusion of the Financing Agreements.
Final date for implementing the Financing Agreement (date by which this programme should be de-committed and closed)	12 years following the conclusion of the Financing Agreements.
Programming Unit	DG NEAR Unit D.1 Montenegro
Implementing EU Delegation	Delegation of the European Union to Montenegro



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2 DESCRIPTION OF THE ACTION PROGRAMME

2.1 SECTORS SELECTED UNDER THIS ACTION PROGRAMME

- **Rationale for the selection of the specific sectors under this programme:**

The Annual Country Action Programme for Montenegro for the 2014 under IPA II contributed to the achievement of the objectives identified in the Indicative Strategy Paper 2014-2020 (ISP) of Montenegro¹ through actions covering six of the eight priorities defined in the ISP; *Democracy and governance*, the *Rule of law and fundamental rights*, *Environment and Climate Action*, *Transport*, *Competitiveness and Innovation*, and the *Agriculture and rural development* sector. *Democracy and governance* and the *Rule of law and fundamental rights* sectors were also in the focus of the Annual Action Programme for Montenegro for the year 2015 through the sector budget support programme aimed at supporting the implementation of the Integrated Border Management Strategy. The *Action Programme for Montenegro for the year 2016* comes to complement the previous IPA II support programmes with a focus on economic development and growth by providing assistance to the **Environment and Climate Action** and **Competitiveness and Innovation** sectors.

Based on the sector approach principle, in 2015 Montenegro developed a *Regional Development Operational Programme 2016-2020 (RDOP)* to provide a multiannual framework for IPA programming in Environment and Competitiveness sectors (as well as Transport). The RDOP defines the sequencing of the activities; the actions planned for 2016-2017 will focus mainly on technical assistance, capacity building and project preparation while from 2018 onwards competitiveness schemes will be introduced and physical infrastructure developments can be launched.

The Country Action Programme for Montenegro for the year 2016 allocates **EUR 16 000 000** for capacity building and *acquis* related activities for the sector **Environment and Climate Action** and **EUR 6 948 900** for strengthening the **Competitiveness and Innovation** sector of Montenegro. The two actions, in line with the strategic objectives of the ISP, will bring added value to Montenegro, as well as to the European Union by supporting the integration process and by contributing to the economic development of Montenegro and the EU.

The allocation of 2016 funds will help Montenegro to overcome the challenges faced by the sectors and hampering the growth potential of the country. In the field of Environment, Montenegro has significantly changed its legal and policy framework since 2007 by adopting new laws and further developing the strategic framework for the sector. However, the implementation of legislation lags behind the efforts made to improve the legal and policy framework. In the Competitiveness and Innovation sector, several obstacles hamper a sustainable growth of the Montenegrin economy, such as a limited access of SMEs to financing.

¹ C(2014)5771 of 18.08.2014 – Commission Implementing Decision adopting an Indicative Strategy Paper for Montenegro for the period 2014-2020"



- **Overview of past and on-going EU, other donors' and/or IPA II beneficiary's actions in the relevant sectors:**

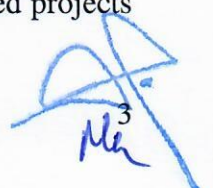
In the area of **Environment and Climate Action** sector, previous assistance under IPA I focused mainly on the alignment with the environmental *acquis*, administrative capacity building and infrastructure development in the water and waste management sectors. The project "*Establishment of Natura 2000 network*" under IPA 2012-2013 aimed to carry out all necessary activities to start with laying foundations, including extensive field mapping and data gathering of future Natura 2000 network in Montenegro, in line with the requirements of the EU Birds and Habitats Directives. Under IPA II, the 2014 Annual Country Action Programme identified two intervention area for "*Strengthening the capacities for air quality management in Montenegro*" and "*Implementation of the Water Framework Directive*" with a EUR 2 835 000 EU contribution. The Actions planned under IPA 2016 complement these interventions.

As regards the **Competitiveness and Innovation** sector, previous assistance under IPA I focused on supporting the development of a sector strategy and financing measures to strengthen the business environment and to facilitate access to the Internal Market. Under IPA II, three actions supported the sector in 2014; "*Enhancement of business environment and competitiveness of the private sector*", "*Support to regulation of financial services*" and "*Alignment with and implementation of the EU internal market acquis*" with a total budget of EUR 5 350 000. Activities foreseen under IPA 2016 are a continuation of these actions. The preparation of a study on identification of the main areas for implementation of grant schemes for SMEs and clusters (e.g. quality standards, innovations) as well as implementation of pilot competitiveness grant schemes is under preparation with IPA 2014 support. As a continuation of this project, allocation of grants for SME and clusters is planned through this Action under IPA 2016. Funds are committed to training and to technical assistance for staff of an Innovative and Entrepreneurial Centre and for the provision of detailed technical specifications for equipment to be installed in three laboratories.

International organisations (IOs) such as the UN system, together with **international financial institutions** (IFIs) like the World Bank Group (WB), the European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB), and **bilateral donors** such as the Kreditanstalt für Wiederaufbau (KfW) are also playing an active role in providing assistance to finance the three sectors in Montenegro.

In the field of **Environment and Climate Action**, **UNDP** provides assistance to Montenegro for a swifter market transformation toward low emissions, a resource efficient economy, and resilient ecosystems, economies and communities. Examples of activities carried out with UNDP's support include the flood risk assessment of 12 municipalities or the development of water treatment system in Mojkovac. **KfW** is mainly active in the energy sector and in municipal infrastructure, including financing wastewater treatment facilities for the municipalities of Kotor and Tivat and the implementation of sewage disposal measures at the Kotor bay. As regards the **EIB**, a loan agreement supports the rehabilitation and construction of water and waste infrastructure in municipalities across the country.

As regards **Competitiveness and Innovation**, **UNIDO** and **UNDP** are working with the Government on the implementation of economic reforms for enhancing the competitiveness of economy in Montenegro through industrial modernization and upgrading, enhancing the linkages between science, innovation and industry, clusters and export consortia development, youth and women employment and entrepreneurship activities. **EIB** has approved a new loan facility to the Investment and Development Fund of Montenegro (IDF) as financial intermediary in the amount of EUR 70 million for financing small and medium-sized projects



carried out primarily by SMEs as well as local authorities. At the end of 2015 IDF became a member of ENIF – Enterprise Innovation Fund within the Western Balkans Enterprise Development and Innovation Facility (WB EDIF) Program. **EBRD** tries to address the issue of access to finance for businesses partly resulting from the elevated risk-averse lending by banks, by encouraging partner banks to increase their lending to SMEs, via direct financing to support SMEs' innovation and through policy dialogue to improve investment climate with a focus on agribusiness and tourism sector. The European Fund for South-East Europe (EFSE), as well as **KfW**, also play an active role in giving many micro-entrepreneurs access to financial services. Approximation of the legislation with EU *acquis* on free movement of services and competition protection (ALA) was also supported through a project co-financed by the European Union and BMZ, implemented by **GIZ** (Deutsche Gesellschaft für Internationale Zusammenarbeit), with the Ministry of Economy as the main beneficiary.

Experiences gained during the previous programming periods and implementation of previous projects shows some important **lessons learned** which need to be taken into account for future IPA assistance, in order to avoid possible overlaps and also to ensure that issues identified during the programming and/or implementation of previous projects will be addressed:

- *Planning and programming of IPA assistance* should be improved by improving communication and coordination among project beneficiaries and projects, increasing administrative and monitoring capacity, better linking EU assistance to national sector strategies and action plans.
- The government's strategic planning, project prioritization and especially project implementation *capacities need to be strengthened*, and policy development and coordination should be strengthened. The implementation of projects requires that institutions have adequate staff capacities available for working on activities during the lifetime of the project.
- The *sector approach concept* should be further internalised for future IPA support, avoiding isolated infrastructure projects, and focusing more on the accession process, building among others the required capacities for a successful implementation of EU *acquis*.
- During the programming, more focus should be given to *sustainability concerns* having in mind that high employee turnover, reliance on temporary staff and lack of expert skills in the administration hinder proper implementation of policies and projects.
- As *coordination among stakeholders* is recognized as a problem, its overcoming will require comprehensive and clear information flows and focus on common understanding of responsibilities, obligations and deadlines.
- A *clear link between reforms and capacity building initiative* in the sector and the *horizontal public administration reforms* (PAR Strategy 2016-20) is to be ensured. A partial reform of the civil service is part of the upcoming PAR Strategy 2016-20. Competent authorities need to be very proactive in cooperation with relevant stakeholders at central and local level and to improve inter-sectoral cooperation with other ministries in the programming and implementation of projects financed with the support of IPA.
- Finally, consultation with the relevant *external stakeholders* (CSOs, economic operators, etc.) is crucial for the implementation of legislation and programming of EU funds.



List of Actions foreseen under the selected Sectors/Priorities:

Environment and Climate Action

INDIRECT MANAGEMENT WITH THE IPA II beneficiary	
Action 1- "Capacity Building and Acquis related Activities for Sector Environment & Climate Action"	EUR 16 000 000
TOTAL	EUR 16 000 000

Competitiveness and Innovation

INDIRECT MANAGEMENT WITH THE IPA II beneficiary	
Action 2-"Strengthening the Competitiveness and Innovation sector of Montenegro"	EUR 6 948 900
TOTAL	EUR 6 948 900

2.2 DESCRIPTION AND IMPLEMENTATION OF THE ACTIONS

SECTOR 3	<i>Environment and Climate Action</i>		16 000 000 EUR
Action 1	Capacity Building and Acquis related Activities for Sector Environment & Climate Action	<i>Indirect management by beneficiary country</i>	16 000 000 EUR

(1) Description of the Action, objective, expected results and key performance indicators

Description of the Action and objective:

The overall objective of Action 1 - "Capacity Building and Acquis related Activities for Sector Environment & Climate Action" is to support Montenegro's alignment with the EU *acquis* under Chapter 27 of the accession negotiations, as well as to increase the administrative capacity through institutional building. The specific objective of this Action is to support the transposition process and develop the institutional capacity for strategic planning, implementation and enforcement of environmental and climate change *acquis*, in line with the National Environmental Approximation Strategy - NEAS.

This Action will assist Montenegro by contributing to the development of technical capacities for the sound implementation of EU *acquis* for the sector Environment and Climate Action, providing support for:

- harmonising the Montenegrin legislation with the EU environmental *acquis*;
- strengthening the institutional framework and administrative capacities for planning and implementation of environmental policies.

It is also important to support public awareness-raising on issues relevant to environmental protection and climate change.

The Action will focus on the following subsectors: horizontal (cross-cutting) legislation/issues, ambient air quality (AAQ), water management, waste management, industrial pollution control, chemicals management, nature protection, noise assessment and management in environment and civil protection and climate change as a separate sector.

Expected results and key performance indicators:

The main expected results of this Action include:

- improved administrative capacity for the Environment and Climate Action Sector;
- alignment of the national legislation with the EU *acquis* for Environment and Climate Action Sector;
- alignment of Project Pipeline, National Strategies and Implementation Plans with the EU *acquis* for Environment and Climate Action;
- improved resources for implementing and monitoring Environment and Climate Action policies.

Progress towards reaching the expected results will be measured according to a number of key indicators, including:

- Progress made towards meeting accession criteria, as assessed by the Montenegro (Progress) Report under Chapter 27 – Environment
- Level of effectiveness of NEAS Action Plans for Transposition and Administrative Capacity (composite indicator), made of:
 - % achievement Activities Plan for Transposition of Legislation, and
 - % achievement Activities Plan for Upgrading Administrative Capacities

(2) Assumptions and conditions

The implementation of the Action requires that the Government of Montenegro continues to support reforms in the Environment & Climate Action Sector according to National Environmental Approximation Strategy (NEAS).

For the purpose of aligning to and implementing the EU legislation on environmental protection and climate change, Montenegro has prepared the NEAS. The implementation of NEAS will be supported through this Action. Therefore, the adoption by the Government of the NEAS and the start of its implementation are **pre-conditions** necessary for implementing this Action.

The Action Plan for full transposition of the EU legislation in the Environment and Climate Action sectors, included in the NEAS, has to be completed in line with the timing foreseen, as the transposed legislation forms the basis for further implementation. Delay with the transposition would consequently delay the implementation of the different sub-sector strategies.

Montenegro will also undertake to ensure that the **conditions** underlying the Action are fully met throughout the implementation of the Action, as well as after its completion:



- Institutional adjustment measures included in the NEAS Action Plan are implemented and increased financial resources sector from the state budget are allocated to the Environment (for staffing, monitoring, inspections, etc.);
- The outputs delivered through past projects in this field are in place and utilised, including the adoption of the Waste Management Plan 2015-2020
- Costs of maintenance and operation for new institutions and equipment, as well as salaries of new staff are envisaged and ensured;
- Legal and institutional proposals and results of the projects are implemented in a consequent manner.

(3) Implementation arrangements for the action

This Action will be implemented in indirect management by Montenegro.

(3)(a) Entity entrusted with budget implementation tasks:

This Action will be managed under indirect management by the **Directorate of Public Works** together with the **Ministry of Sustainable Development and Tourism**.

(3)(b) Short description of the tasks entrusted to the entity:

The entrusted entities shall be responsible for carrying out all the tasks relating to the implementation of the Action. In particular, the entrusted entities shall be responsible for the contracting, implementation, information and visibility, monitoring and reporting of IPA II activities, and the evaluation thereof whenever relevant, in accordance with the principle of sound financial management, and for ensuring the legality and regularity of the expenditure incurred in the implementation of the programme.

At the operational level, the Ministry of Sustainable Development and Tourism will have the overall coordination and reporting role over the implementation of the Action, while other relevant bodies and departments will be responsible to participate in the project activities for which they are responsible/collaborators.

The Directorate for Public Works acting as the Implementing Agency under IPA will bear the sole responsibility for the proper implementation of all contracts in line with the relevant contractual provisions and the requirements governing the indirect management of EU assistance. The Project Implementation Unit (PIU) of the Ministry of Sustainable Development and Tourism will provide support to the Directorate of Public Works whereby ensuring the proper technical implementation of the contract activities. In this regard, the Directorate of Public Works and the PIU will closely cooperate throughout the contracts implementation process.



SECTOR 5	<i>Competitiveness and Innovation</i>		6 948 900 EUR
Action 2	Strengthening the Competitiveness and Innovation sector of Montenegro	<i>Indirect management by beneficiary country</i>	6 948 900 EUR

(1) Description of the Action, objective, expected results and key performance indicators

Description of the Action and objective:

The overall objective of Action 2 - "*Strengthening the Competitiveness and Innovation sector of Montenegro*" is to strengthen the economic competitiveness and innovation capacity of Montenegro. The specific objective of this action is to support the development of the private sector and of a knowledge-based economy. In addition, it supports alignment of national legislation and strategies to the EU *acquis* in the sector and the provision of advanced advisory service for private sector; as well as the internationalisation of the Montenegrin economy. The Action will also improve the research and innovation infrastructure available to SMEs in order to support their development in this regard. Finally, as regards administrative capacities, IPA support will be used for the provision of horizontal assistance for the capacity development of the relevant institutions involved in competitiveness and innovation management. The foreseen activities include:

- improving access to finance of private sector for competitiveness and innovation;
- supporting business development through advanced advisory services;
- promoting the internationalisation of the economy;
- improving of R&I related infrastructures that can be used in support for the SMEs development;
- provision of horizontal assistance for increasing the capacity of relevant institutions involved on Competitiveness and Innovation Management;
- alignment of national legislation and strategies with EU *acquis* for chapters relevant for Competitiveness and Innovation.

Expected results and key performance indicators:

The main expected results of this Action include:

- increased private sector's competitiveness, with a focus on SMEs
- increased innovation capacity of the private sector, with a focus on SMEs;
- increased administrative capacities and level of alignment to the EU *acquis* in the field of Competitiveness and Innovation.

Progress will be measured according to a number of key indicators, including:

- Doing Business – Distance to frontier (score);
- Number of new businesses registered.



(2) Assumptions and conditions

The implementation of the Action requires the full commitment and support to the development of the process by the responsible institutions/stakeholders and the Government on the competitiveness and innovation strategy.

Results can be delivered on the assumption that services developed through the Action correspond to enterprises' needs, that institutions and stakeholders involved allocate a sufficient number of staff in the activities, are committed to ensure sustainability of facilities and services, and do coordinate adequately.

This Action comes to support Montenegro in the process of developing its economic competitiveness and implementing its Economic Reform Programme. Montenegro will also undertake to ensure that the conditions underlying the Action are fully met throughout its implementation, as well as after its completion:

- industrial policy adopted in order to develop further activities in the area of its implementation, monitoring and evaluation;
- effective cooperation among the Ministries and local authorities responsible for various aspects of Competitiveness and Innovation;
- implementation of the assistance under IPA 2014 initiated and the results used in the inception of the activities under this Action;
- adoption of policy documents related to this sector (Strategy, Action plan, Feasibility study, Strategic (business) Plan) which are based on reliable data, duly costed and consulted with the relevant internal and external stakeholders;
- successful continuation and realization of planned activities and commitment of all involved (Ministry and other stakeholders) to actively participate in the project;
- costs of maintenance and operation for new institutions and equipment, as well as salaries of new staff are envisaged and ensured.

(3) Implementation arrangements for the action:

This Action will be implemented in indirect management by Montenegro.

(3)(a) Entity entrusted with budget implementation tasks:

This Action will be managed under indirect management by the **Central Financial and Contracting Unit** of the Ministry of Finance together with the **Ministry of Economy**.

(3)(b) Short description of the tasks entrusted to the entity:

The entrusted entities shall be responsible for carrying out all the tasks relating to the implementation of the Action. In particular, the entrusted entities shall be responsible for the contracting, implementation, information and visibility, monitoring and reporting of IPA II activities, and the evaluation thereof whenever relevant, in accordance with the principle of sound financial management, and for ensuring the legality and regularity of the expenditure incurred in the implementation of the programme.

At the operational level, the Ministry of Economy will have the overall coordination and reporting role over the implementation of the Action, while other relevant bodies and departments will be responsible to participate in the project activities for which they are responsible/collaborators.

The Directorate for Finance and Contracting of the EU Assistance Funds (CFCU), acting as the Implementing Agency under IPA, bears the sole responsibility for the exact and proper

implementation of all contracts in question and in line with the relevant contractual provisions and the requirements governing the indirect management of EU assistance. Support will be provided by the Project Implementation Unit (PIU) of the Ministry of Economy and will serve in ensuring the proper technical implementation of the contractual activities. In this regard, the CFCU and the PIU will closely cooperate throughout the entire implementation process of contracts.



3 BUDGET

3.1 INDICATIVE BUDGET TABLE - COUNTRY ACTION PROGRAMME FOR MONTENEGRO FOR THE YEAR 2016

		2016 Indirect management with the IPA II beneficiary			Financing Decision	
		EU Contribution	IPA II beneficiary Co-financing	Total expenditure	TOTAL programme	TOTAL EU Contribution
Objective 2	Sector 3 - Environment and Climate Action	16 000 000	2 823 530	18 823 530		
	Action 1 - Capacity Building and Acquis related Activities for Sector Environment & Climate Action	16 000 000	2 823 530	18 823 530		
	Sector 5 -Competitiveness and Innovation	6 948 900	772 100	7 721 000		
	Action 2 - Strengthening the Competitiveness and Innovation sector of Montenegro	6 948 900	772 100	7 721 000		
	TOTAL 2016	22 948 900	3 595 630	26 544 530	26 544 530	22 948 900

4 IMPLEMENTATION MODALITIES AND GENERAL RULES FOR PROCUREMENT AND GRANT AWARD PROCEDURES

INDIRECT MANAGEMENT:

This programme shall be implemented by indirect management by Montenegro in accordance with Article 58(1)(c) of the Financial Regulation and the corresponding provisions of its Rules of Application.

The general rules for procurement and grant award procedures shall be defined in the Financing Agreement and the relevant delegation agreements between the Commission and the entrusted entity implementing such action.

5 PERFORMANCE MONITORING ARRANGEMENTS

As part of its performance measurement framework, the Commission shall monitor and assess progress towards achievement of the specific objectives set out in the IPA II Regulation on the basis of pre-defined, clear, transparent measurable indicators. The progress reports referred to in Article 4 of the IPA II Regulation shall be taken as a point of reference in the assessment of the results of IPA II assistance.

The Commission will collect performance data (process, output and outcome indicators) from all sources, which will be aggregated and analysed in terms of tracking the progress versus the targets and milestones established for each of the actions of this programme, as well as the Indicative Strategy Paper.

In the specific context of indirect management by IPA II beneficiaries, the National IPA Co-ordinator (NIPAC) will collect information on the performance of the actions and programmes (process, output and outcome indicators) and coordinate the collection and production of indicators coming from national sources.

The overall progress will be monitored through the following means: a) Result Orientated Monitoring (ROM) system; b) IPA II Beneficiaries' own monitoring; c) self-monitoring performed by the EU Delegation; d) joint monitoring by DG NEAR and the IPA II Beneficiaries, whereby the compliance, coherence, effectiveness, efficiency and coordination in implementation of financial assistance will be regularly monitored by an IPA II Monitoring committee, supported by Sectoral Monitoring committees, which will ensure a monitoring process at sector level.



ANNEX II - GENERAL CONDITIONS

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Part One: Provisions Applicable to Activities for which the IPA II beneficiary is the Contracting Authority

Article 1 - General principles

- (1) The purpose of Part One is to lay out the rules for implementing the entrusted budget-implementation tasks as described in Annex I and to define rights and obligations of the IPA II beneficiary and the Commission respectively in carrying out these tasks.

Part One shall apply to the budget-implementation tasks entrusted to the IPA II beneficiary related to the Union contribution alone, or combined with funds of the IPA II beneficiary or funds of a third party, in case such funds are implemented in joint co-financing, i.e. where they are pooled.

- (2) The IPA II beneficiary shall remain responsible for the fulfillment of the obligations stipulated in this Financing Agreement and in the Framework Agreement, even if it sub-delegates to other entities identified in Annex I to carry out certain entrusted budget implementation tasks. The Commission, in particular, reserves the right to suspend payments, and to suspend and/or terminate this Financing Agreement on the basis of the acts, omissions and/or situations of any designated entity.

- (3) The tasks referred to in paragraph 1 of this Article shall be carried out by the IPA II beneficiary in accordance with the procedures and standard documents laid down and published by the Commission for the award of procurement and grant contracts in external actions, in force at the time of the launch of the procedure in question (PRAG), as well as in accordance with the required visibility and communication standards referred to in Article 2(2).

The IPA II beneficiary shall conduct the procurement and grant award procedures, conclude the resulting contracts, and ensure that all relevant documents for audit trail are in the language of this Financing Agreement.

- (4) The IPA II beneficiary shall respect the minimum rate of its contribution specified in Annex I. In case of contributions from both the IPA II beneficiary and the Union, the IPA II beneficiary contribution shall be made available at the same time as the corresponding contribution from the Union.

- (5) The IPA II beneficiary shall keep all relevant financial and contractual supporting documents from the date of the entry into force of this Financing Agreement or as from an earlier date in case if the procurement procedure, call for proposals or direct grant award procedure was launched prior to the entry into force of this Financing Agreement:

- (a) For procurement procedures in particular:

- a) Forecast notice with proof of publication of the procurement notice and any corrigenda;
- b) Appointment of shortlist panel;
- c) Shortlist report (incl. annexes) and applications;
- d) Proof of publication of the shortlist notice;
- e) Letters to non-shortlisted candidates;
- f) Invitation to tender or equivalent;
- g) Tender dossier including annexes, clarifications, minutes of the meetings, proof of publication;



- h) Appointment of the evaluation committee;
 - i) Tender opening report, including annexes;
 - j) Evaluation / negotiation report, including annexes and bids received;¹
 - k) Notification letter;
 - l) Cover letter for submission of contract;
 - m) Letters to unsuccessful candidates;
 - n) Award / cancellation notice, including proof of publication;
 - o) Signed contracts, amendments, riders, implementation reports, and relevant correspondence.
- (b) For calls for proposals and direct award of grants in particular:
- a) Appointment of the evaluation committee;
 - b) Opening and administrative report including annexes and applications received;²
 - c) Letters to successful and unsuccessful applicants following concept note evaluation;
 - d) Concept note evaluation report;
 - e) Evaluation report of the full application or negotiation report with relevant annexes;
 - f) Eligibility check and supporting documents;
 - g) Letters to successful and unsuccessful applicants with approved reserve list following full application evaluation;
 - h) Cover letter for submission of grant contract;
 - i) Award/cancellation notice with proof of publication;
 - j) Signed contracts, amendments, riders and relevant correspondence.

In addition, financial and contractual documents referred to in paragraph 5(a) and (b) of this Article shall be complemented by all relevant supporting documents as required by the procedures referred to in section 3 of this Article, as well as all relevant documentation relating to payments, recoveries and operating costs, for example project and on the spots checks reports, acceptance of supplies and works, guarantees, warranties, reports of supervising engineers.

All relevant financial and contractual documents shall be kept for the same duration in accordance with Article 49 of the Framework Agreement.

Article 1a - Duty to inform, administrative sanctions, and failure to act

- (1) The IPA II beneficiary shall inform the Commission immediately when a candidate, tenderer or applicant is in a situation of exclusion from participating in procurement and grant award procedures, has committed irregularities and fraud, or has been found in serious breach of its contractual obligations.

¹ Elimination of unsuccessful bids five years after the closure of the procurement procedure.

² Elimination of unsuccessful applications three years after the closure of the grant procedure.



- (2) The IPA II beneficiary shall take into account the information contained in the Commission's 'Early Detection and Exclusion System' (EDES) when awarding procurement and grant contracts. Access to the information can be provided through the liaison point(s) or via consultation using the following means: (European Commission, Directorate-General for Budget, Accounting Officer of the Commission, BRE2-13/505, B-1049 Brussels, Belgium and by email to BUDG-C01-EXCL-DB@ec.europa.eu in copy to the Commission address identified in Article 3 of the Special Conditions).
- (3) Where the IPA II beneficiary becomes aware of an exclusion situation in the implementation of the tasks described in Annex I, the IPA II beneficiary shall impose upon an economic operator or a grant applicant an exclusion from its future procurement or grant award procedures. The IPA II beneficiary may also impose a financial penalty proportional to the value of the contract concerned. Exclusions and/or financial penalties shall be imposed following an adversarial procedure ensuring the right of defence of the person concerned. The IPA II beneficiary shall notify the Commission in accordance with paragraph 1 of this Article.
- (4) In respect of paragraph 3 of this Article, the IPA II beneficiary is considered in failure to act, if it does not impose exclusion and/or a financial penalty upon the economic operator or grant applicant.
- (5) In the case of a failure to act, the IPA II beneficiary shall notify the Commission explaining the reasons for its failure to act. The Commission reserves the right to exclude an economic operator or a grant applicant from future EU financed award procedures, and/or impose a financial penalty on an economic operator or a grant applicant between 2 % and 10 % of the total value of the contract concerned.

Article 2 - Visibility and communication

- (1) In accordance with Article 24(3) of the Framework Agreement, the IPA II beneficiary shall take the necessary measures to ensure the visibility of EU funding for the activities entrusted to it, and prepare a coherent plan of visibility and communication activities which should be submitted to the Commission for an agreement within 2 months after the entry into force of this Financing Agreement.
- (2) These communication and visibility activities shall comply with the Communications and Visibility Manual for EU External Actions laid down and published by the Commission in force at the time of the activities.

Article 3 - *Ex-ante* controls on grant and procurement procedures and on *ex post* controls on contracts and grants to be performed by the Commission

- (1) The Commission may exercise *ex ante* controls on the tendering of contracts, launch of calls for proposals and the award of contracts and grants for the following stages of procurement or grant award:
 - (a) approval of contract notices for procurement, work programmes for calls for proposals, and any corrigenda thereof;
 - (b) approval of tender dossiers and guidelines for applicants on grants;
 - (c) approval of the composition of Evaluation Committees;
 - (d) approval of evaluation reports and award decisions³;
 - (e) approval of contract dossiers and contract addenda.
- (2) With regard to *ex ante* controls the Commission shall decide:
 - (a) to perform *ex ante* controls on all files, or

³ For service contracts this steps includes *ex ante* controls concerning approval of the shortlist.



- (b) to perform *ex ante* controls on a selection of such files, or
 - (c) to completely dispense with *ex ante* controls.
- (3) If the Commission decides to perform *ex ante* controls in accordance with paragraph 2(a) or (b) of this Article, it shall inform the IPA II beneficiary of the files selected for *ex ante* controls. The IPA II beneficiary shall provide all the documentation and information necessary to the Commission upon being informed that a file has been selected for *ex ante* control, at the latest at the time of submission of the contract notice or the work programme for publication.
- (4) The Commission may decide to perform *ex post* controls, including audits and on-the-spot controls, at any time on any contracts or grants awarded by the IPA II beneficiary arising out this Financing Agreement. The IPA II beneficiary shall make available all the documentation and information necessary to the Commission upon being informed that a file has been selected for *ex post* control. The Commission may authorize a person or an entity to perform *ex post* controls on its behalf.

Article 4 - Bank accounts, accounting systems, and cost recognised

- (1) After the entry into force of this Financing Agreement, the National Fund and the operating structure of the IPA II beneficiary that is the Contracting Authority for the Programme shall open at least one bank account denominated in euro. The total bank balance for the Programme shall be the sum of the balances on all the Programme bank accounts held by the National Fund and all participating operating structures in the IPA II beneficiary.
- (2) The IPA II beneficiary shall prepare and submit to the Commission disbursement forecast plans for the duration of the implementation period of the Programme. These forecasts shall be updated for the annual financial report referred to in Article 14(2) and for each request for funds. The forecasts shall be based on a documented detailed analysis (including the planned contracting and payment schedule per contract for the following fourteen months) which shall be available to the Commission on request.
- (3) The initial disbursement forecast plan shall contain summary annual disbursement forecasts for the whole implementation period and monthly disbursement forecasts for the first fourteen months of the Programme. Subsequent plans shall contain summary annual disbursement forecasts for the balance of the implementation period of the Programme and monthly disbursement forecasts for the following fourteen months.
- (4) The IPA II beneficiary is required to establish and maintain an accounting system in accordance with Clause 2(3)(b) of Annex A to the Framework Agreement which will hold at least the information for the contracts managed under the Programme indicated in Annex V.
- (5) Cost recognised in the accounting system maintained under the section 4 of this Article must have been incurred, paid and accepted and correspond to actual costs proven by supporting documents and shall be used when appropriate to clear pre-financing paid by the IPA II beneficiary under local contracts.
- (6) The IPA II beneficiary shall provide to the Commission reports as follows:
- (a) Cut-off report - as set out in Article 14(4);
 - (b) Annual reports as set out in paragraphs (2) to (4) of Article 14;
 - (c) Request for funds reports as referred to in Article 5.



Article 5 - Provisions on payments made by the Commission to the IPA II beneficiary

- (1) The IPA II beneficiary shall submit its initial disbursement forecast for the Programme, prepared pursuant to Article 4(2), with the first pre-financing payment request. The first pre-financing payment shall be for 100 % of the forecast disbursements for the first year of the disbursement forecast plan.
- (2) The IPA II beneficiary shall submit subsequent pre-financing payment requests when the total bank balance for the Programme falls below the disbursements forecast for the following five months of the Programme.
- (3) Each request for additional pre-financing shall be supported by following documents:
 - a) A summary of all disbursements made for the Programme;
 - b) The bank balances for the Programme at the cut-off date of the request;
 - c) A forecast of disbursement for the Programme for the following fourteen months at the cut-off date of the request in accordance with Annex IV point (d).
- (4) The IPA II beneficiary may request for each subsequent pre-financing the amount of total disbursements forecast for the fourteen months following the cut-off date of the request, less the balances referred to in section 3(b) of this Article at the cut-off date of the request for funds increased by any amount funded by the IPA II beneficiary under paragraph 5 of this Article and not yet reimbursed.

The Commission reserves the right to reduce each subsequent pre-financing payment if the total bank balances held by the IPA II beneficiary under this Programme and on all other IPA I or IPA II programmes managed by the IPA II beneficiary exceeds the disbursement forecast for the next fourteen months.

- (5) Where the payment is reduced under paragraph 4 of this Article, the IPA II beneficiary must fund the Programme from its own resources up to the amount of the reduction. The IPA II beneficiary may then request the reimbursement of that funding as part of the next request for funds as specified in paragraph 4 of this Article.
- (6) The Commission shall have the right to recover excessive bank balances which have remained unused for more than twelve months. Before exercising this right, the Commission shall invite the IPA II beneficiary to give reasons for the delay in disbursing the funds and demonstrate a continuing need for them within the next following two months.
- (7) Interest generated by the bank accounts used for this Programme shall not be due to the Commission.
- (8) Following Article 33(4) of the Framework Agreement, if interruption of time limit for payment request exceeds two months, the IPA II beneficiary may request a decision by the Commission on whether the interruption of time limit is to be continued.
- (9) The final financial declaration referred to in Article 37(2) of the Framework Agreement shall be submitted by the NAO no later than 16 months after the end of operational implementation period.

Article 6 - Interruption of payments

- (1) Without prejudice to the suspension or termination of this Financing Agreement according to Articles 18 and 19 respectively, as well as without prejudice to Article 39 of the Framework Agreement, the Commission may interrupt payments partially or fully, if:
 - (a) the Commission has established, or has serious concerns that the IPA II beneficiary has committed substantial errors, irregularities or fraud questioning the legality or regularity of the underlying particular transactions in the implementation of the Programme, or has failed to comply with its obligations under this Financing Agreement, including obligations regarding the implementation of the Visibility and Communication plan;

- (b) the Commission has established that or has serious concerns, whether the IPA II beneficiary has committed systemic or recurrent errors, irregularities, fraud or breach of obligations under this or other Financing Agreements, provided that those errors, irregularities, fraud or breach of obligations have a material impact on the implementation on this Financing Agreement or call into question the reliability of the IPA II beneficiary's internal control system or the legality and regularity of the underlying expenditure.

Article 7 - Recovery of funds

- (1) In addition to cases referred to in Article 41 of the Framework Agreement, the Commission may recover the funds from the IPA II beneficiary as provided in the Financial Regulation, in particular in case of:
 - (a) the Commission established that objectives of the Programme set out in Annex I are not achieved;
 - (b) non eligible expenditure;
 - (c) non respect of the contribution rate, as provided in Annex I;
 - (d) expenditure incurred as a result of errors, irregularities, fraud or breach of obligations in the implementation of the Programme, in particular in the procurement and grant award procedure.
- (2) In accordance with national law, the IPA II beneficiary shall recover the Union contribution paid to the IPA II beneficiary from recipients who were in any situation defined in paragraph 1 points b) or d) of this Article or referred to in Article 41 of the Framework Agreement. The fact that the IPA II beneficiary does not succeed in recovering all or part of the funds shall not prevent the Commission from recovering the funds from the IPA II beneficiary.
- (3) Amounts unduly paid or recovered by the IPA II beneficiary, amounts from financial, performance and pre-financing guarantees lodged on the basis of procurement and grant award procedures, amounts from financial penalties imposed by the IPA II beneficiary on candidates, tenderers, applicants, contractors or grant beneficiaries, to the IPA II beneficiary shall be either re-used for the Programme or returned to the Commission.

Part Two: Provisions Applicable to Budget Support

Article 8 - Policy dialogue

The IPA II beneficiary and the Commission commit to engage in a regular constructive dialogue at the appropriate level on the implementation of this Financing Agreement.

Article 9 - Verification of conditions and disbursement

- (1) The Commission shall verify the conditions for the payment of the tranches of the budget support component, as identified in Annex I and Annex IA.
- (2) Where the Commission concludes that the conditions for payment are not fulfilled, it shall inform the IPA II beneficiary thereof without undue delay.
- (3) Disbursement requests submitted by the IPA II beneficiary shall be eligible for EU financing provided that they are in accordance with the provisions set out in Annex I and Annex IA and that they are submitted during the operational implementation phase.



- (4) The IPA II beneficiary shall apply its national foreign exchange regulations in a nondiscriminatory manner to all disbursements of the budget support component.

Article 10 - Transparency of budget support

The IPA II beneficiary hereby agrees to the publication by the Commission, of this Financing Agreement and any amendment thereof, including by electronic means, and of such basic information on the budget support which the Commission deems appropriate. The content of such publication shall be in accordance with the EU laws applicable to the protection of personal data.

Article 11 - Recovery of budget support

All or part of the budget support disbursements may be recovered by the Commission, with due respect to the principle of proportionality, if the Commission establishes that payment has been vitiated by a serious irregularity attributable to the IPA II beneficiary, in particular if the IPA II beneficiary provided unreliable or incorrect information, or if corruption or fraud was involved.

Part Three: Provisions Applicable to this Financing Agreement Irrespective of the Management Mode

Article 12 - Execution period, operational implementation period and contracting deadline

- (1) The execution period is the period during which the Financing Agreement is implemented and includes the operational implementation period as well as a closure phase. The duration of the execution period is stipulated in Article 2(2) of the Special Conditions, and it shall start on the entry into force of this Financing Agreement.
- (2) The operational implementation period is the period in which all operational activities covered by procurement, grant contracts and delegation agreements are completed. The duration of this period is stipulated in Article 2(2) of the Special Conditions, and it shall start on the entry into force of this Financing Agreement.
- (3) The execution and operational implementation periods shall be respected by the Contracting Authority when concluding and implementing procurement, grant contracts and delegation agreements within this Financing Agreement.
- (4) Costs related to the activities shall be eligible for EU financing only if they have been incurred during the operational implementation period; the costs incurred by the IPA II beneficiary before the entry into force of the Financing Agreement shall not be eligible for EU financing.
- (5) The procurement and grant contracts shall be concluded at the latest within three years of the entry into force of the Financing Agreement, except:
 - (a) amendments to contracts already concluded;
 - (b) individual procurement contracts to be concluded after early termination of an existing procurement contract;
 - (c) contracts relating to audit and evaluation, which can be signed after operational implementation;
 - (d) change of the entity charged with entrusted tasks.



- (6) A procurement or grant contract which has not given rise to any payment within two years of its signature shall be automatically terminated and its funding shall be de-committed, except in case of litigation before judicial courts or arbitral bodies.

Article 13 - Permits and authorisation

Any type of permit and/or authorisation required for the implementation of the Programme shall be provided in due time by the competent authorities of the IPA II beneficiary, in accordance with national law.

Article 14 - Reporting requirements

- (1) For the purpose of the general reporting requirements to the Commission set out in Article 58 of the Framework Agreement and the specific reporting requirements under indirect management set out in Articles 59(1) of the Framework Agreement on the annual report on the implementation of IPA II assistance, the NIPACs shall use the template provided for in Annex III to this Financing Agreement.
- (2) For the purpose of the specific reporting requirements under indirect management set out in point (a) of Article 59(2) of the Framework Agreement on the annual financial report or statements, the NAO in the IPA II beneficiary shall use the templates provided for in points (a) and (b) of Annex IV to this Financing Agreement.
- (3) For the purpose of Article 59(4) of the Framework Agreement, the NIPAC shall submit a final report on the implementation of IPA II assistance of this Programme to the Commission no later than four months after the last disbursement to its contractors or grant beneficiaries.
- (4) For the purpose of Article 59(6) of the Framework Agreement the NAO shall provide by 15 January of the following financial year in electronic format a copy of the data held in the accounting system established under Article 4(4). This should be supported by a signed un-audited summary financial report in accordance with point (c) of Annex IV.

Article 15 - Intellectual property rights

- (1) Contracts financed under this Financing Agreement shall ensure that the IPA II beneficiary acquire all necessary intellectual property rights with regard to information technology, studies, drawings, plans, publicity and any other material made for planning, implementation, monitoring and evaluation purposes.
- (2) The IPA II beneficiary shall guarantee that the Commission, or anybody or person authorised by the Commission, shall have access and the right to use such a material. The Commission will only use such material for its own purposes.

Article 16 - Consultation between the IPA II beneficiary and the Commission

- (1) The IPA II beneficiary and the Commission shall consult each other before taking any dispute relating to the implementation or interpretation of this Financing Agreement further pursuant to Article 20.



- (2) Where the Commission becomes aware of problems in carrying out procedures relating to the implementation of this Financing Agreement, it shall establish all necessary contacts with the IPA II beneficiary to remedy the situation and take any steps that are necessary.
- (3) The consultation may lead to an amendment, suspension or termination of this Financing Agreement.
- (4) The Commission shall regularly inform the IPA II beneficiary of the implementation of activities described in Annex I which do not fall under Part One of these General Conditions.

Article 17 - Amendment of this Financing Agreement

- (1) Any amendment of this Financing Agreement shall be made in writing, including an exchange of letters.
- (2) If the IPA II beneficiary requests an amendment, the request shall be submitted to the Commission at least six months before the amendment is intended to enter into force.
- (3) The Commission can amend the Model Documents in Annex III, IV and V without this necessitating an amendment to this Financing Agreement. The IPA II beneficiaries shall be informed in writing about any such amendment and its entry into force.

Article 18 - Suspension of this Financing Agreement

- (1) The Financing Agreement may be suspended in the following cases:
 - (a) The Commission may suspend the implementation of this Financing Agreement if the IPA II beneficiary breaches an obligation under this Financing Agreement;
 - (b) The Commission may suspend the implementation of this Financing Agreement if the IPA II beneficiary breaches any obligation set under the procedures and standard documents referred to in Article 18(2) of the Framework Agreement;
 - (c) The Commission may suspend the implementation of this Financing Agreement if the IPA II beneficiary does not meet requirements for entrusting budget implementation tasks;
 - (d) The Commission may suspend the implementation of this Financing Agreement if the IPA II beneficiary decides to suspend or cease the EU Membership accession process;
 - (e) The Commission may suspend this Financing Agreement if the IPA II beneficiary breaches an obligation relating to respect for human rights, democratic principles and the rule of law and in serious cases of corruption;
 - (f) This Financing Agreement may be suspended in cases of force majeure, as defined below. "Force majeure" shall mean any unforeseeable and exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations, not attributable to error or negligence on their part (or the part of their contractors, agents or employees) and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as force majeure. A party shall not be held in breach of its obligations if it is prevented from fulfilling them by a case of force majeure of which the other party is duly informed. A party faced with force majeure shall inform the other party without delay, stating the nature, probable duration and foreseeable effects of the problem, and take any measure to minimise possible damage. If force majeure impacts only part of the Programme, the suspension of the Financing Agreement can be partial;

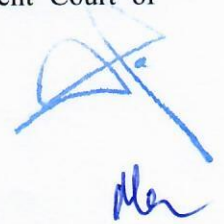
- (g) Neither of the Parties shall be held liable for breach of its obligations under this Financing Agreement if it is prevented from fulfilling them by force majeure, provided it takes measures to minimise any possible damage.
- (2) The Commission may suspend this Financing Agreement without prior notice.
- (3) The Commission may take any appropriate precautionary measure before suspension takes place.
- (4) When the suspension is notified, the consequences for the on-going or to be signed procurement and grant contracts, and delegation agreements shall be indicated.
- (5) A suspension of this Financing Agreement is without prejudice to the interruption of payments and termination of this Financing Agreement by the Commission in accordance with Article 6 and Article 19.
- (6) The parties shall resume the implementation of the Financing Agreement once the conditions allow with the prior written approval of the Commission. This is without prejudice to any amendments of this Financing Agreement which may be necessary to adapt the Programme to the new implementing conditions, including, if possible, the extension of the operational implementation and execution periods, or the termination of this Financing Agreement in accordance with Article 19.

Article 19 - Termination of this Financing Agreement

- (1) If the issues which led to the suspension of this Financing Agreement have not been resolved within a maximum period of 180 days, either party may terminate the Financing Agreement at 30 days' notice.
- (2) Except when the Commission acts as the Contracting Authority, this Financing Agreement shall be automatically terminated, if no payment has been made within the period of two years after this Financing Agreement entered into force.
- (3) When the termination is notified, the consequences for the on-going procurement and grant contracts, delegation agreements and such contracts or grants, and delegation agreements to be signed shall be indicated.
- (4) The termination of this Financing Agreement shall not preclude the possibility of the Commission to make financial corrections in accordance with Articles 36 to 44 of the Framework Agreement.

Article 20 - Dispute settlement arrangements

- (1) Any dispute concerning the Financing Agreement which cannot be settled within a six-month period by the consultations between the parties provided for in Article 16 may be settled by arbitration at one of the parties' request.
- (2) Each party shall designate an arbitrator within 30 days of the request for arbitration. Failing that, either party may ask the Secretary-General of the Permanent Court of Arbitration (The Hague) to designate a second arbitrator. The two arbitrators shall in their turn designate a third arbitrator within 30 days. Failing that, either party may ask the Secretary-General of the Permanent Court of Arbitration to designate the third arbitrator.



- (3) Unless the arbitrators decide otherwise, the procedure laid down in the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States shall apply. The arbitrators' decisions shall be taken by a majority within a period of three months.
- (4) Each party shall be bound to take the measures necessary for the application of the arbitrators' decision.

A handwritten signature in blue ink, consisting of a stylized, abstract shape followed by the letters 'Aler'.

Period covered by the report:

01/01/20XX-31/12/20XX

Report issued on XX/XX/20XX

Annual Report on the implementation of IPA II assistance under direct and indirect management by [country] submitted by the National IPA Coordinator

I. Executive Summary

1. Reference to the objectives of the Country Strategy Papers and a brief overview of challenges in the sectors
2. Involvement in programming
3. Relations with the European Commission.
4. Problems encountered in meeting the required conditions for implementation and in ensuring sustainability, related measures taken/planned, recommendations for further action.
5. Relevant issues stemming from the IPA II beneficiary's participation in the IPA monitoring committee and in sectoral monitoring committees (including Joint Monitoring Committee for CBC), if any.
6. Involvement in Multi-country actions and any related issues.
7. Monitoring and evaluation activities, main lessons learned & follow-up to recommendations.
8. Communication and visibility activities.
9. Donor coordination.

In case of indirect management the executive summary should also cover:

10. Overall implementation of IPA assistance under indirect management (max. one page).
11. Main horizontal problems encountered in the implementation of IPA assistance and subsequent measures taken/planned (max. half page).
12. Recommendations for further actions (max. half page).
13. Audits – main findings and recommendations and corrective actions taken



II. Information per Sector

Sector title¹: [*Transport*]

Narrative part: summary per sector, including the following information:

1. Involvement in programming
2. Overview of results in moving towards a fully-fledged sector approach (i.e. targets reached as per sector roadmap in the Sector planning document).
3. Coordination with other instruments and/or donors/ IFI's within the sector
4. The impact of IPA II actions within the sector on the development of the relevant national administrative capacity in the sector, strategic planning and budgeting

Under indirect management the following information should also be included:

5. Operating structure(s) in place and related changes, if relevant: [*Ministry of Transport*]
6. Information on the implementation of programmes in the sector
7. Main achievements in the sector
8. Any significant problems encountered in implementing the tasks entrusted e.g. delays in contracting, and subsequent measures taken/planned.
9. Recommendations for further actions
10. Implemented monitoring and evaluation activities, audits – main findings & lessons learned, recommendations, follow-up and corrective action taken

Sector title: Cross-Border Cooperation²

1. Involvement in programming as appropriate.
2. Progress made in implementing the CBC programme and in particular in achieving the specific objectives per thematic priority (including qualitative and quantitative elements indicating progress in relation to targets)
3. A summary of problems encountered in implementing the CBC programme and any corrective actions taken, as well as recommendations for further corrective actions.

¹ As per the sectors in the indicative Strategy Papers.

² For Cross-border Cooperation specific reporting is required.




Annex III Model Annual Report

4. Monitoring, including data collection arrangements and where applicable evaluation activities.
5. Communication and visibility activities.
6. Coordination with the partner country.

Under indirect management the following information should also be included:

1. Operating structure in place and related changes, if relevant.
2. Any significant problems encountered in implementing the tasks entrusted e.g. delays in contracting, and subsequent measures taken/planned.
3. Recommendations for further actions
4. Implemented audits – main findings & recommendations and corrective action taken



II a. Performance indicators in the [e.g. Transport] sector covering both direct and indirect management:

Indicators³ per programme

Financing Agreement/Programme reference⁴	Indicator for sector [Transport]	Source	Baseline	Milestone (2017)	Target (2020)	Value (2014⁵)
<i>2014 country programme</i>	<i>Reduction of average travel time of passengers between major urban centres by transport mode</i>					
<i>2014-20xx multiannual programme</i>	<i>Reduced transportation costs per unit of output</i>					

³ These should be mostly outcome, as well as selected relevant output indicators

⁴ It has to be consistent with the way of programming (annual, multi-annual with or without split commitments) and with the NAO report

⁵ Number of columns to be adjusted for all years from 2014 up to the year of the reporting period. Values should be cumulative.

II b. Overview at the action level for sector [*e.g. Transport*]

Financing Agreement/ Programme reference	Action	State of play/Progress for particular action (e.g. ToR in preparation, tender launched, contracted, under implementation, completed)	Main achievements and their assessment	Significant problems encountered in implementing the entrusted tasks and the measures taken/planned to overcome them	Developments that influence implementation for the future	Recommendations for corrective further actions
[2014 country programme]	<i>Electrification of the railway line from xxx to border with xxx</i>	<i>e.g. Service contract for preparation of ToR for the works contract signed and under implementation, tender for works contract to be launched in the second quarter of 2015</i>		<i>e.g. The service contract for the preparation of ToR for the works contract was delayed as the negotiated procedure failed and had to be re-launched</i>	<i>e.g. change of local law, like alignment with and implementation of the fourth Railway package</i>	



Under indirect management the following annexes should also be provided:

Annex 1

Overview of the functioning of the management and control systems (including changes in the institutional structure) (max. one page).

Transparency, visibility, information and communication activities in line with FWA (max. one page)

Annex 2

Success stories (N.B. this section may be used for the annual financial assistance report prepared by the European Commission)

Annex 3

Annual procurement plan

For both direct and indirect management, the following annex should be provided:

Annex 4

Sector approach roadmap – achievements (highlighting whether planned targets have been fulfilled or not)

IPA II beneficiary financial report (*)

Programme Reference	Financing Agreement contract number	Programme Budget		Local Contract Activities																		Recovery context				Bank Balances (EU contribution)			Forecast disbursements (EU)															
				Total Amount Contracted			Contracted %			Total Amount Decommitted on closure			Decommitted %			Total Amount Disbursed			Disbursed %			Total Costs Recognised			Costs %			Total Open Pre-financing			Open Pre-financing %			Errors	Irregularities	Fraud	No context	Total	Total as % budget	Total as months' forecast disbursements	Next 12 months	% programme budget		
				4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22																						
1	2	3a	3b	3c	4a	4b	4c	5a	5b	5c	6a	6b	6c	7a	7b	7c	8a	8b	8c	9a	9b	9c	10a	10b	10c	11a	11b	11c	12a	12b	12c	13a	13b	13c	14	15	16	17	18	19	20	21	22	
		EU contribution	National contribution	Other sources	EU contribution	National contribution	Other sources	EU contribution	National contribution	Other sources	EU contribution	National contribution	Other sources	EU contribution	National contribution	Other sources	EU contribution	National contribution	Other sources	EU contribution	National contribution	Other sources	EU contribution	National contribution	Other sources	EU contribution	National contribution	Other sources	EU contribution	National contribution	Other sources	EU contribution	National contribution	Other sources										
NP2010	2010123-656																																											
CBZ AAA/B/B/2010																																												

(*) 15 February

IPA II beneficiary financial report (*)

Programme Reference	Financing Agreement contract number	Programme EU Contribution Budget	Local Contract Activities									
			Total Amount Contracted	Contracted %	Total Amount Decommited on closure	Decommited %	Total Amount Disbursed	Disbursed %	Total Costs Recognised	Costs %	Total Open Pre-financing	Open Pre-financing %
1	2	3	4	5	6	7	8	9	10	11	12	13
				4/3*100%		6/4*100%		8/4*100%		10/4*100%		12/4*100%
NP2010	2010/123-456											
Sub-programme Action												

(*) 15 February

IPA II beneficiary financial report (*)

Programme Reference	Financing Agreement contract number	Programme EU Contribution Budget	Local Contract Activities					Bank Balances
			Total Amount Contracted	Total Amount Decommited on closure	Total Amount Disbursed	Total Costs Recognised	Total Open Pre-financing	Total
1	2	3	4	5	6	7	8	9
NP2010	2010/123-456							

(*) 15 January



Annex IV (d) - payments forecast

Programme Reference	Planned Disbursement Forecasts (Add years as necessary)																		
	Monthly Disbursement Forecast (12 months for first pre-financing/ 14 months for subsequent prefinancing)														Total Year 1	Year 2	Year 3		
	1	2	3	4	5	6	7	8	9	10	11	12	13	14					
NP2010																	0		
CBC AA/BB 2010																	0		

Annex V to the Financing Agreement
Accrual Based Accounting System Minimum Specification

The accounting system of the IPA II beneficiary shall meet following requirements:

1. Reflect the organisational structure put in place for the internal control systems suited to the performance of duties. In particular before an operation is authorised, all aspects (both operational and financial) of the operation have to be verified by members of staff other than the one who initiated the operation. The person dealing with the verification cannot be subordinated to the initiator of the transaction.
2. Include an audit trail for all transactions and amendments.
3. Possess adequate physical and electronic security including back-up and recovery systems.
4. The accounting system should hold at least the following information for the local contracts managed under each programme:
 - (a) Contract reference;
 - (b) Contract value including any amendments;
 - (c) Contract signature dates (both parties);
 - (d) Contract implementation start date;

This is in addition to the contract signature date and may differ from it, as when the contract works start date is given after the signature of the contract through an Administrative Order.

- (e) Contract implementation end date including any amendments;

This is the final date on which eligible costs can be incurred. It does not include any guarantee period or time allowed for report preparation by the contractor.

- (f) Total paid (cash) by contract;
 - (g) Pre-financing paid by contract;

Explicit recognition and recording on the balance sheet of contractually required pre-financing.

- (h) Cost recognised – direct (by contract);

Explicit recognition of cost as a charge to expenses for the year. Some payments will directly cover costs already incurred. No pre-financing is involved. They may be final



Annex V to the Financing Agreement
Accrual Based Accounting System Minimum Specification

payments where any pre-financing has already been cleared or interim payments where pre-financing has been cleared or where the contract does not include the provision of pre-financing.

- (i) Cost recognised – indirect (by contract);

Explicit recognition of cost as a charge to expenses for the year. Some invoices or cost claims submitted by a grant beneficiary or contractor will relate to costs that are covered by pre-financing paid earlier in the implementation period of the grant agreement or contract. In these cases the payment made will be less than the reported cost. It may even be zero if all the cost is covered by pre-financing. (it will certainly be zero if the reported costs are insufficient to absorb the pre-financing and a recovery order is issued for the unused balance of the pre-financing.) In all such cases the system should record the full value of the reported eligible cost as expenses for the year and reduce the balance of pre-financing by the amount of cost offset against the pre-financing when determining the amount payable.

- (j) Recovery orders to reduce pre-financing (by contract);

Recognition of the reduction of pre-financing on the balance sheet following a recovery of unused pre-financing.

- (k) Recovery orders to reduce cost (by contract);

When a recovery is made against cost that had earlier been accepted – possibly following an investigation for fraud. In such cases the recorded costs for the year must be reduced if the cost was accepted in the same year as the subsequent recovery; or income must be recorded where the cost was accepted in an earlier year than that of the recovery.

- (l) Supplier's invoice date for each invoice or other document accompanied by a financial report giving rise to recognised costs;

- (m) Recovery context information on ineligible cost and recoveries.



Annex VI: *Ad hoc measures* for entrusting budget implementation tasks under Country Action Programme for Montenegro for the year 2016

The conditions stipulated in Annex VI of the Financing Agreement National Programme Montenegro 2014 (Objective 1 - part 1 and Objective 2- part 1) 2014/032-022 and 2014/032-803 are applicable in their entirety to this financing agreement except for the conditions 5a), 5b) and 5c) which have been fulfilled.

The implementation of this Financing Agreement shall be subject to the fulfilment by Montenegro of any further conditions and/or recommendations set out in any Commission's audit reports related to the request for entrustment of budget implementation tasks for the Country Action Programme for Montenegro for the year 2016.

The NAO will report on quarterly basis to DG NEAR about the progress made until all the conditions are addressed.

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