

FRAMEWORK AGREEMENT

BETWEEN

THE SWISS FEDERAL COUNCIL

AND

THE GOVERNMENT OF

THE REPUBLIC OF BULGARIA

CONCERNING

**THE IMPLEMENTATION OF THE SWISS-
BULGARIAN COOPERATION PROGRAMME
TO REDUCE ECONOMIC AND SOCIAL
DISPARITIES WITHIN THE ENLARGED
EUROPEAN UNION**

THE SWISS FEDERAL COUNCIL (hereinafter referred to as "Switzerland")

AND

THE GOVERNMENT OF THE REPUBLIC OF BULGARIA (hereinafter referred to as "Bulgaria")

hereinafter collectively referred to as "the Parties",

- AWARE of the importance of the enlargement of the European Union (hereinafter referred to as "EU") for stability and prosperity in Europe;
- NOTING the solidarity of Switzerland with the endeavours of the EU to reduce economic and social disparities within the EU;
- BUILDING upon the previous successful cooperation between the two countries;
- HAVING regard to the friendly relations between the two countries;
- DESIROUS of strengthening these relations and the fruitful cooperation between the two countries;
- INTENDING to promote further social and economic development in Bulgaria;
- IN VIEW of the fact that the Swiss Federal Council has expressed, in the Addendum of 25 June 2008 (hereinafter referred to as "Addendum") to the Memorandum of Understanding (hereinafter referred to as "Memorandum of Understanding") with the European Community of 27 February 2006, the intention that Switzerland shall increase its contribution of CHF 1,000,000,000 (one billion Swiss francs) to reduce economic and social disparities within the enlarged EU by an additional contribution amounting up to CHF 257,000,000 (two hundred and fifty seven million Swiss francs) to Bulgaria and Romania;

have agreed as follows:

Article 1 – Definitions

For the purpose of this Framework Agreement:

- "Contribution" means the non-reimbursable financial contribution granted by Switzerland to Bulgaria;
- "Swiss-Bulgarian Cooperation Programme" means the bilateral programme for the implementation of this Framework Agreement;
- "Supporting Measure" means a Project, a Thematic Fund, the Project Preparation Facility, the Technical Assistance Fund or other joint activities;

- “Project” means an individual project or a programme. A programme consists of several projects linked by a common theme or shared objectives;
- “Thematic Fund” means a grant-provision scheme for financing activities to address specific thematic areas or to target specific beneficiary groups;
- “Activity” means specific assistance for, inter alia, projects, scholarships, partnerships and knowledge transfer provided within a Thematic Fund;
- “Commitment” means the allocation of a certain amount of the Contribution to a Supporting Measure agreed upon by the Parties;
- “Project Agreement” means an agreement between the Parties and, if needed, additional contracting parties, on the implementation of a Project agreed upon by the Parties;
- “Thematic Fund Agreement” means an agreement between the Parties and, if needed, additional contracting parties, on the implementation of a Thematic Fund agreed upon by the Parties;
- “National Coordination Unit” (NCU) means the Bulgarian unit in charge of the coordination of the Swiss-Bulgarian Cooperation Programme;
- “Intermediate Body” means any legal public or private entity appointed by the NCU which acts under the responsibility of the NCU or which carries out duties on behalf of the NCU with regard to Executing Agencies implementing Projects;
- “Swiss Intermediate Body” means any legal public or private entity mandated by Switzerland for the management of a Thematic Fund;
- “Paying Authority” means the institution established in the Ministry of Finance ensuring on the Bulgarian side appropriate financial control of the Swiss-Bulgarian Cooperation Programme;
- “Audit Authority” means the institution established to the Minister of Finance responsible on the Bulgarian side for the control of the use of financial resources of the Swiss-Bulgarian Cooperation Programme;
- “Executing Agency” means any legal public or private entity, as well as any organisation recognised by the Parties and mandated to implement Supporting Measures;
- “Implementation Agreement” means an agreement between the NCU and/or the Intermediate Body and the Executing Agency for the implementation of a Project;
- “Mandate Agreement” means an agreement between Switzerland, the Swiss Intermediate Body and/or possibly the Executing Agency for the implementation of a Thematic Fund;

- "Project Preparation Facility" means the facility providing financial support for the preparation of the Final Project Proposals;
- "Technical Assistance Fund" means the fund set up to finance the tasks performed by the designated Bulgarian authorities additionally and exclusively for the management of the Contribution.
- "Block Grant" means a fund set up within a Thematic Fund for a clearly defined purpose, dedicated to financing small Activities in a cost-effective way.

Article 2 – Objectives

1. The Parties shall promote the reduction of economic and social disparities within the enlarged EU through Supporting Measures mutually agreed upon between the Parties and in line with the Memorandum of Understanding and its Addendum and the Conceptual Framework for the Swiss-Bulgarian Cooperation Programme as outlined in Annex 1 of this Framework Agreement.
2. The objective of this Framework Agreement is to establish a framework of rules and procedures for the planning and implementation of the cooperation between the Parties.

Article 3 – Amount of the Contribution

1. Switzerland agrees to grant a non-reimbursable Contribution towards the reduction of economic and social disparities within the enlarged EU of up to CHF 76 million (seventy-six million Swiss francs) to Bulgaria for a Commitment period of five years and a disbursement period of up to ten years, starting from the approval date of the Contribution by the Swiss Parliament, which is 7 December 2009.
2. The Parties shall accept submissions of final proposals for Supporting Measures for commitment of funds until two months before the end of the Commitment period.
3. Funds not committed during the Commitment period shall no longer be available for the Swiss-Bulgarian Cooperation Programme.

Article 4 – Scope

The provisions of this Framework Agreement shall apply to national and transnational Supporting Measures financed by Switzerland or co-financed by Switzerland with multilateral institutions and other donors, executed by an Executing Agency, mutually agreed upon by the Parties.

Article 5 – Utilisation of the Contribution

1. The Contribution shall be used to finance Supporting Measures and can take the following forms:

- a) Financial assistance including grants, credit lines, guarantee schemes, equity participations and loans;
- b) Technical Assistance.

2. The Contribution shall be used in line with the objectives, principles, strategies, geographic and thematic focus as outlined in the Conceptual Framework in Annex 1.

3. 5% of the Contribution shall be used by Switzerland for its administration of this Framework Agreement. This includes, inter alia, expenses for staff and consultants, administrative infrastructure, missions, monitoring and evaluation.

4. The Contribution, in the form of grants, may not exceed 60% of the total eligible costs of a Supporting Measure, except in the case of Supporting Measures receiving additional financing in the form of budget allocations from national, regional or local authorities, in which case the Contribution may not exceed 85% of the total eligible costs. Institution-building and technical assistance Supporting Measures, Supporting Measures implemented by non-governmental organisations as well as financial assistance benefiting the private sector (credit lines, guarantees, equity and debt participation) may be fully financed by the Contribution.

5. The following costs shall not be eligible for grant support: expenditures incurred by all parties before the signing of the Agreement for the Supporting Measure, interest on debt, the purchase of land and buildings, recoverable value added tax as specified in Article 7 of this Framework Agreement.

Article 6 – Coordination and Procedures

1. To make sure that Supporting Measures have the greatest possible impact and in order to avoid duplication and overlapping with projects financed through structural and/or cohesion funding as well as through any other funding source, the Parties shall assure effective coordination and share all information needed to that end.

2. All the correspondence exchanged between the Parties, including reports and documents related to Supporting Measures, shall be drafted in English.

3. Each Supporting Measure shall be subject to an Agreement (e.g. Project Agreement, Thematic Fund Agreement), which shall set out the terms and conditions of grant assistance as well as the roles and responsibilities of the contracting parties.

4. In general, Bulgaria is responsible for the identification of Projects to be financed by the Contribution, whereas Thematic Funds are worked out by Switzerland. Switzerland may also suggest to Bulgaria Projects to be financed

by the Contribution, including Projects of multilateral, national or transnational institutions. The rules and procedures for the selection and implementation of Supporting Measures are defined in the Annexes 1 - 5 to this Framework Agreement.

5. All Supporting Measures shall be approved by Bulgaria and Switzerland. The Parties attach high importance to the monitoring, the evaluation and the auditing of Supporting Measures, and of the entire Swiss-Bulgarian Cooperation Programme. Switzerland, or any mandated third party acting on its behalf, is entitled to visit, monitor, review, audit or evaluate all activities and procedures related to the implementation of the Supporting Measures financed by the Contribution, as deemed appropriate by Switzerland. Bulgaria shall provide all requested or useful information and shall take, or cause to be taken, all actions allowing the successful realisation of such mandates.

6. Upon entry into force of this Framework Agreement, Bulgaria shall open a separate bank account in which the funds received from the Swiss Contribution shall be deposited. The accumulated net interest shall be reported to Switzerland on an annual basis. The grants for the Thematic Funds that are managed directly by a Swiss Intermediate Body or an Executing Agency as well as the Swiss administration costs referred to in Article 5, Paragraph 3 of this Framework Agreement shall not be managed through this account.

7. Payment procedures for Projects and the Thematic Funds are outlined in Annexes 3 and 4 respectively.

8. The NCU shall establish a Monitoring Committee, which is responsible for the monitoring of the implementation of the Swiss-Bulgarian Cooperation Programme.

Article 7 – Value Added Tax and other Taxes and Charges

1. Value added tax (VAT) shall be considered eligible expenditure only if it is genuinely and definitively borne by the Executing Agency. VAT which is recoverable, by whatever means, shall not be considered eligible even if it is not actually recovered by the Executing Agency or by the final recipients.

2. Other levies, taxes or charges, in particular direct taxes and social security contributions on eligible salaries and wages, shall constitute eligible expenditure only if they are genuinely and definitively borne by the Executing Agency or by the Intermediate Body.

Article 8 – Annual Meetings and Reporting

1. The parties agree to hold Annual Meetings in order to ensure effective implementation of the Swiss-Bulgarian Cooperation Programme. The first meeting shall be held no later than 18 months after the signing of this Framework Agreement.

2. Bulgaria shall organise the meetings in cooperation with Switzerland. The NCU shall present one month before the meetings a consolidated annual report

covering the whole Swiss-Bulgarian Cooperation Programme. Its content shall include, but not be limited to, the issues listed in Annex 2.

3. Within three months after the final disbursement under this Framework Agreement, Bulgaria shall submit to Switzerland a final report assessing the accomplishment of the objectives of the Swiss-Bulgarian Cooperation Programme and a final financial statement on the use of the Contribution, based on the financial audits of the Supporting Measures.

Article 9 – Competent Authorities

1. Bulgaria has authorised the Monitoring of EU Funds Directorate, Council of Ministers, to act on its behalf as the NCU for the Swiss-Bulgarian Cooperation Programme. The NCU shall have the overall responsibility for the management of the Contribution in Bulgaria. Bulgaria has authorised the Ministry of Finance to act on its behalf as the Paying Authority and the Audit Authority.

2. Switzerland has authorised:

the Federal Department of Foreign Affairs, acting through the Swiss Agency for Development and Cooperation (SDC)

and

the Federal Department of Economic Affairs, acting through the State Secretariat for Economic Affairs (SECO)

to act on its behalf for the implementation of the Swiss-Bulgarian Cooperation Programme.

Supporting Measures are assigned to one or the other institution according to their respective fields of competence.

3. The Swiss Embassy in Sofia shall act as the contact point for the NCU with regard to official information referring to the Swiss-Bulgarian Cooperation Programme. Day-to-day communication between the competent authorities may be maintained directly.

Article 10 – Common Concern

The Parties share a common concern in the fight against corruption, which jeopardises good governance and the proper use of resources needed for development, and, in addition, endangers fair and open competition based upon price and quality. They declare, therefore, their intention to combine their efforts to fight corruption. In particular, they declare that acts of letting himself/herself be promised or accepting an advantage for acting or refraining from acting in the context of a mandate or contract within the scope of this Framework Agreement, will be considered unacceptable. Any actual case of this kind shall constitute sufficient grounds to justify the termination of this Framework Agreement, the termination of the respective Supporting Measure Agreement,

the annulment of the procurement or resulting award, or for taking any other corrective measure laid down by applicable law.

Article 11 – Final Provisions

1. Annexes 1 to 5 shall form an integral part of this Framework Agreement.
2. Any dispute which may result from the application of this Framework Agreement shall be resolved by diplomatic means.
3. This Framework Agreement shall enter into force on the date of the latter notification confirming the completion by both Parties of their respective approval procedures. This Framework Agreement covers a Commitment period of five years and a disbursement period of ten years. It applies until the final report by Bulgaria assessing the accomplishment of the objective of this Framework Agreement is submitted according to Article 8 Paragraph 3. The Commitment period shall start according to Article 3 Paragraph 1. The Parties shall apply this Framework Agreement provisionally starting on the day of its signing.
4. Any amendment to this Framework Agreement shall be made in writing with the mutual agreement of the Parties and according to their respective procedures. Any amendment to the Annexes 1 to 5 of this Framework Agreement shall be made with the mutual agreement of the Swiss competent authorities mentioned in article 9 and an authority designated by the Bulgarian government, in writing.
5. This Framework Agreement can be terminated at any time by one of the Parties upon a six-month prior written notice containing a justification. Prior to making such a decision, the Parties shall enter into a dialogue with a view to ensuring that said decision is based on accurate and correct facts. In case of said termination, the provisions of this Framework Agreement shall continue to apply to the respective Supporting Measure Agreements concluded before the termination of this Framework Agreement. The Parties shall decide by mutual agreement any other consequences of the termination.

Signed at Berne on 7th September 2010, in two authentic copies in the English language.

For the Swiss
Federal Council

For the Government of the
Republic of Bulgaria

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Doris Leuthard
President
of the Swiss Confederation

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Tomislav Donchev
Minister of EU Funds
Management

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Micheline Calmy-Rey
Federal Councillor
of the Swiss Confederation