



EaPTC

Eastern Partnership
Territorial Cooperation

UKRAINE

**A Guide to the National Requirements
Relevant for the Implementation
of the Projects Financed under
EaPTC Programme in Ukraine**



The Programme is funded
by the European Union



Territorial Cooperation Programmes open an opportunity for Eastern Partnership countries to identify and jointly address common challenges in their border regions towards sustainable economic and social development at a local level. Eastern Partnership Territorial Cooperation (EaPTC) comprises four territorial cooperation programmes: Armenia – Georgia, Azerbaijan – Georgia, Belarus – Ukraine and Moldova – Ukraine.

This Guide is produced with the assistance of the European Union. The content of this Guide is the sole responsibility of the Altair Asesores-led consortium and can in no way be taken to reflect the views of the European Union.

All information given in this Guide reflects the actual status as of 1 November 2014. Later changes to the legislative and administrative framework could not be taken into account.

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INTRODUCTION**Legal Framework**

1) Framework Agreement between the Government of Ukraine and the Commission of European Communities ratified by the Law of Ukraine

№ 360-VI dd. 03.09.2008

(published on the official Parliament web-site: http://zakon3.rada.gov.ua/laws/show/994_763)

2) Strategy for the Eastern Partnership Territorial Cooperation Programmes

(published on the web-site of the EU-funded project EaPTC Support Programme: www.eaptc.eu)

In the Joint Declaration of the Eastern Partnership Summit in Warsaw, held on September 29 – 30, 2011, the participants recognized the significance of multilateral cooperation and underlined that the Eastern Partnership could help to strengthen ties between the partner countries themselves.

In this context the European Commission, together with the partner countries, developed a Strategy for the Eastern Partnership Territorial Cooperation Programmes. In total, four Eastern Partnership Territorial Cooperation Programmes (Eastern Partnership Territorial Cooperation – EaPTC) have been proposed for financing by the European Union from the budget of the Eastern Regional Programme 2010 – 2013 under the European Neighbourhood and Partnership Instrument.

Ukraine participates in two Eastern Partnership Territorial Cooperation Programmes: Belarus – Ukraine and the Republic of Moldova – Ukraine.

Lead Partners¹ and Partners², implementing their projects under the Eastern Partnership Territorial Cooperation Programmes (further referred to as EaPTC Programmes) in Ukraine, shall follow both the rules of the EaPTC Programmes and the national requirements of Ukraine.

Implementation of the EaPTC projects in Ukraine shall be based on the Framework Agreement between the Government of Ukraine and the Commission of European Communities as well as on the respective Joint Operational Programmes developed for each of the Eastern Partnership Territorial Cooperation Programme.

The Joint Operational Programmes specify the priorities and rules of the calls for proposals and implementation of the EaPTC projects. Practical Guide to Contract procedures for EU external actions (PRAG)³ is another important document of the European Commission laying down the implementing procedures for the EaPTC projects. At a project level, the detailed applicable rules are stipulated in the Grant Contract and its Annexes, a copy of which shall be received by all project partners.

1 Project Lead Partner is an organization that signs a Grant Contract with the donor organization.

2 Project Partner is an organization that contributes to the implementation of the project as provided for by the Grant Contract.

3 More information on PraG can be found at: http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm



PURPOSE OF THIS GUIDE

The Guide provides comprehensive information on the national requirements and procedures to be followed in Ukraine when implementing projects funded under the EaPTC Programmes.

The Guide will be useful to beneficiaries and partners of the EaPTC Programmes projects in Ukraine. It will also be helpful for managers of the EaPTC Programmes and project partners outside of Ukraine while implementing the EaPTC projects in Ukraine.

The document will be useful to potential applicants / partners from Ukraine and abroad in the process of project proposals development for participation in the EaPTC calls for proposals.

Throughout the Guide you will find references to a variety of legislative acts and forms, the most important of which are enclosed as Annexes 1-4 to the given Guide. A separate Annex 5 contains slides that show schematically the basic rules and procedures. Other relevant information can be found on the web-sites of the official authorities, with the corresponding links provided in the Guide.

The Guide is designed to serve as a manual for users in order to help them in finding answers to specific questions when necessary.

The information provided in this Guide is relevant for all Ukrainian organizations (government agencies, local authorities, NGOs, etc.). Issues that are important for the state-financed organizations allocated separately.

Requirements and procedures of the EaPTC Programmes can be found in the relevant Joint Operational Programmes.



Part 1

Basic Rules and Procedures according to Ukrainian Legislation



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GENERAL INFORMATION

All the activities related to attraction and utilization of international technical assistance in Ukraine are coordinated by the Ministry of Economic Development and Trade of Ukraine (MEDTU). In pursuance of its tasks set forth in the Regulations on the Ministry of Economic Development and Trade of Ukraine, the MEDTU performs state registration/re-registration of international technical assistance projects in Ukraine, maintains the state register of such projects, and monitors their progress and compliance with the implementation requirements.

Inter alia, the MEDTU coordinates all activities under the EaPTC Programmes in Ukraine and oversees the implementation of territorial cooperation projects.

At this stage, the MEDTU is participating in the development of Joint Operational Programmes Belarus – Ukraine and The Republic of Moldova – Ukraine. Representatives of the MEDTU shall be included in the Joint Decision Making Committees that will manage the implementation of these Programmes.

Ukrainian organizations – participants of the EaPTC projects – are entitled to address the MEDTU on the project preparation and implementation issues.

CONTACT DETAILS

Ministry of Economic Development and Trade of Ukraine

Web-site: www.me.gov.ua

Directorate for Cooperation with International Financial Organizations and Coordination of International Technical Assistance

Contact phone number: +380 (44) 226-20-66, 253-04-31

Address for inquiries: 01008, Kyiv, 12/2 Hrushevskoho St.



1. PROJECT REGISTRATION

Legal Framework	<p>Resolution of the Cabinet of Ministers of Ukraine No 153 of 15.02.2002</p> <p>“On the Establishment of a Unified System for Attraction, Utilization and Monitoring of International Technical Assistance» with corresponding amendments introduced by the following Resolutions of the Cabinet of Ministers of Ukraine:</p> <ul style="list-style-type: none"> • No 902 dd. 11.07.2007 • No 30 dd. 19.01.2011 • No 1301 dd. 07.12.2011 • No 623 dd. 04.07.2012 • No 629 dd. 28.08.2013 <p><i>(published on the official Parliament web-site: http://zakon2.rada.gov.ua/laws/show/153-2002-n)</i></p>
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In compliance with the Resolution of the Cabinet of Ministers of Ukraine No 153 dd. 15.02.2002, all international technical assistance projects (including projects under the EaPTC Programmes) are subject to obligatory state registration performed by the MEDTU.

State registration of projects implemented under the EaPTC Programmes is a very important procedure, being confirmed by the project registration card bearing a stamp of the MEDTU and containing basic information on the project. State registration constitutes grounds for further exercise of the right for obtaining relevant benefits provided for by the Framework Agreement between the Government of Ukraine and the Commission of European Communities as well as Ukrainian national legislation.

Application for providing state registration of project shall be submitted to the MEDTU by all the project participants, namely:

- 1) Ukrainian organization/institution that signed the Grant Contract with the duly authorized European Commission agency (Managing Authority of the EaPTC Programmes – *Die Deutsche Gesellschaft für Internationale Zusammenarbeit - GIZ*), i.e. «Lead Partner» of the project
and/or
- 2) Ukrainian organizations/institutions that are the project “Partners” (provided when the Lead Partner is a foreign organization)

! *Please pay attention to the terminology in the documents:*

Grant Application Form/Grant Contract	Resolution of the Cabinet of Ministers of Ukraine No 153 dd. 15.02.2002
Lead Partner	“Contractor” (legal entity – resident or non-resident)
Partner	“Recipient” (legal entity – resident)



Grant Application Form/Grant Contract	Resolution of the Cabinet of Ministers of Ukraine No 153 of 15.02.2002
	"Beneficiary" – central executive authority, regional or municipal state administration, interested in the project results.
<p>! Please note that further on this Guide will use the terminology of the Resolution of the Cabinet of Ministers of Ukraine No 153 in order to avoid confusion.</p>	

<p>List of documents required for project registration</p>	<ol style="list-style-type: none"> 1) Application letter for providing state registration of the project from each Ukrainian project partner; 2) Application letter from the Managing Authority; 3) Letter from the responsible state executive authority, confirming its support to the project implementation and expressing its interest in the project results (in free format); 4) A copy of the Grant Contract between the Managing Authority and the Contractor, certified by the Managing Authority; 5) Plan for procurement of goods, works and services to be purchased out of the project funds, certified by the Contractor of the project (as a rule) and agreed by the project Beneficiary. The plan shall be drawn up in the corresponding format (see Annex 1) and submitted to the MEDTU in 2 hard and electronic copies; 6) A copy of the Partnership Agreement, certified by the Contractor or Recipient of the project; 7) A copy of the Grant Application Form with Annexes. <p>Please note: All documents required for providing state registration shall be submitted in their original language with obligatory translation into Ukrainian, certified by translation agency or by the Contractor/Recipient directly.</p>
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The MEDTU shall consider submitted documents within 15 working days starting from the date of their receipt, and decide on providing state registration of the project (provided that all the required documents are available).

State registration of the EaPTC project shall be confirmed by the registration card drawn up in due format (see Annex 2). The project registration card shall be issued to the applicant in parallel with sending a copy to the Beneficiary within 5 working days starting from the date of the final decision on providing state registration of the project.

! In case of loss (destruction) of the registration card the project must apply to the MEDTU with the request to obtain the corresponding duplicate.

The plan for procurement of goods, works and services under the EaPTC project shall be placed on the official MEDTU website. A copy of the registration card together with a copy of the procurement plan shall be sent to the Ministry of Revenues and Duties of Ukraine in order to provide information on tax benefits.

In case of introduction of changes to the existing procurement plan a new procurement plan shall be submitted to the MEDTU with an indication of the corresponding date of amendments.

! *Projects are subject to re-registration in case of changing the Contractor, Recipients, budget, duration, title, objectives and content of the project.*

In case of changing the Contractor, the Contractor and Recipients shall submit the following documents to the MEDTU:

<p>List of documents required for project re-registration</p>	<ol style="list-style-type: none"> 1) Application letter for providing state re-registration of the project from each Ukrainian project partner; 2) Application letter from the Managing Authority; 3) A copy of Addendum to the Grant Contract on the introduction of amendments to the Grant Contract, certified by the Managing Authority; 4) A copy of the Partnership Agreement certified by the project Contractor or Recipient.
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In case of changing the Recipient: the Contractor and Recipients shall submit the following documents to the MEDTU:

<p>List of documents required for project re-registration</p>	<ol style="list-style-type: none"> 1) Application letter for providing state re-registration of the project from each Ukrainian project partner; 2) Application letter from the Managing Authority; 3) A copy of the Partnership Agreement, certified by the project Contractor or Recipient, including Addendum to the Partnership Agreement on the introduction of amendments.
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In case of changing the project budget and duration: re-registration of the project shall be provided in accordance with the same procedure as established for registration upon submission of the following documents:

<p>List of documents required for project re-registration</p>	<ol style="list-style-type: none"> 1) Application letter for providing state re-registration of the project from each Ukrainian project partner; 2) Application letter from the Managing Authority; 3) A copy of Addendum to the Grant Contract on the introduction of amendments to the Grant Contract, certified by the Managing Authority..
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In other cases: re-registration of the project shall be provided according to the registration procedure.

2. TAX EXEMPTION

Ukrainian organizations/institutions participating in the EaPTC projects are entitled to tax exemption provided for by international agreements signed by Ukraine, namely:

Legal Framework	<p>Framework Agreement between the Government of Ukraine and the Commission of European Communities ratified by the Law of Ukraine No 360-VI dd. 03.09.2008</p> <p>Pursuant to Article 3 – Provision on taxation and customs duties</p> <p><i>«Activities, totally or partially financed from the Community funds, are not subject to taxes, customs duties or any other charges of a similar nature.»</i></p>
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The right to tax exemption arises in two cases:

- If goods, works and services are purchased on the territory of Ukraine in the framework of the EaPTC projects. Such transactions are not subject to value added tax (VAT).
- If goods, brought (sent) to the territory of Ukraine, are required for the implementation of activities under the EaPTC projects. In this case the imported goods are not subject to customs duties and VAT.

! Please note. State registration of project is a precondition for exercising the right to tax or customs exemption.

The following documents constitute grounds for exercising the right to tax exemption under the EaPTC project:

- Project registration card, and
- Plan for procurement of goods, works and services to be purchased out of the project funds

! Please note. Failure to submit the procurement plan under the EaPTC project to the MEDTU shall be considered as a lack of necessity to exercise the right to tax exemption in the framework of the given project that will be reflected accordingly in the project registration card.

The project registration card contains the following information:

- Reference to the article of international agreement of Ukraine on the exemptions provided;
- Confirmation of the procurement plan availability;
- Official web-site address of the MEDTU where the project procurement plan and the list of implementing organizations, claiming their right to tax exemptions, are posted.

In case the above mentioned record has been made in the project registration card, it means that the project claimed the right to obtain tax exemptions provided for by the national legislation of Ukraine.

Consequently, in the framework of the given project:

- Goods, works and services purchased (performed, supplied) in Ukraine out of the project funds are exempt from VAT;
and
- Goods imported into the territory of Ukraine under the given project are exempt from VAT and customs duties.

The MEDTU sends a copy of the procurement plan together with a copy of the project registration card to the State Tax Service in order to provide information on tax benefits in the framework of the EaPTC project implementation.

Legal Framework	<p>Resolution of the Cabinet of Ministers of Ukraine No 153 dd. 15.02.2002</p> <p>«On the establishment of a Unified System for Attraction, Utilization and Monitoring of International Technical Assistance» with corresponding amendments introduced by the following Resolutions of the Cabinet of Ministers of Ukraine:</p> <ul style="list-style-type: none"> • No 902 dd. 11.07.2007 • No 30 dd. 19.01.2011 • No 1301 dd. 07.12.2011 • No 623 dd. 04.07.2012 • No 629 dd. 28.08.2013
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Procurement of goods, works and services on the territory of Ukraine in the framework of the EaPTC projects

Legal Framework	<p>Letter of the State Tax Service of Ukraine to the State Tax Services in the Autonomous Republic of Crimea, regions and cities of Kyiv and Sevastopol No 6125/7/12-1017 dd. 01.03.2012</p> <p>«On Information Inquiries»</p> <p>(see Annex 3)</p>
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Ukrainian organization/institution (project Contractor or Recipient) purchasing goods, works or services in the framework of the EaPTC project shall:

1. Conclude a contract for the amount that excludes VAT with the goods supplier/works contractor/ services provider (the contract stipulates that the procurement of goods, works and services is performed at the expense of the project under the EaPTC Programme, and complies with the category (type) of goods, works and services specified in the corresponding procurement plan);
2. Provide a copy of the project registration card and a copy of the procurement plan to goods supplier/works contractor/ services provider.

In its turn, the goods supplier/works contractor/ services provider (taxpayer) shall:

1. Indicate in its VAT Declaration the EaPTC project registration card number and the title of the relevant international treaty (Framework Agreement between the Government of Ukraine and the Commission of European Communities) as a basis for tax exemption;
2. Keeps in its files the following documents: a copy of the project registration card, a copy of the procurement plan and the contract for supplying goods/performing works/ providing services at the expense of the project funds.

Customs clearance of goods imported into the territory of Ukraine in the framework of the EaPTC projects

Legal Framework	<ol style="list-style-type: none">1) Tax Code of Ukraine Paragraph 197.11 of Article 197, Paragraph 213.3.9 of Article 213.2) Customs Code of Ukraine Paragraph 6 of the first part of Article 282.3) Letter of the Ministry of Revenues and Duties of Ukraine to the customs offices No 4461/7/99-99-19-05-01-17 dd. 21.02.2014 «On the Customs Clearance of International Technical Assistance» (see Annex 4)
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Ukrainian organization/institution (project Contractor or Recipient), obtaining goods required for the EaPTC project performance on the customs territory of Ukraine, shall submit the following documents to the Revenues and Duties Authority:

1. Customs declaration;
2. A copy of the project registration card;
3. A copy of the plan for procurement of goods, works and services to be purchased out of the project funds.

3. PROJECT MONITORING

The MEDTU jointly with the EaPTC project Beneficiary performs:

- ongoing monitoring during the project implementation period
- final monitoring at the final stage of the project

Monitoring procedures are determined by the Resolution of the Cabinet of Ministers of Ukraine No 153 dd. 15.02.2002 «On the Establishment of a Unified System for Attraction, Utilization and Monitoring of International Technical Assistance»

In order to ensure the ongoing monitoring, Ukrainian organizations/institutions – project Recipients and Contractor (legal entities – residents) – shall submit the following documents to the MEDTU (with copies to the project Beneficiary):

List of documents to be submitted	<ol style="list-style-type: none"> 1) Semi-annual project monitoring card (drawn up using a standard form – see the Resolution of the CMU No 153 dd. 15.02.2002); 2) Copies of the minutes of meetings of Steering Committees and expert groups established for the purpose of supporting the project activities, if envisaged by the project; 3) Annual report on the project implementation progress.
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In order to ensure the final monitoring, Ukrainian organizations/institutions – project Recipients and Contractor (legal entities – residents) – shall submit to the MEDTU (with copies to the project Beneficiary) the final report on the results achieved in compliance with criteria defined at the project start (drawn up using a standard form – see the Resolution of the CMU No 153 dd. 15.02.2002).

⚠ Please note. Failure to submit the above mentioned monitoring documents to the MEDTU shall be deemed as unsatisfactory implementation of the project.

In its turn, the EaPTC project Beneficiary shall semiannually analyse and submit to the MEDTU the conclusions and results of the ongoing and final monitoring (drawn up using a standard form – see the Resolution of the CMU No 153 dd. 15.02.2002) with respect to:

- achievement of the expected results;
- impact of the project results on the development of relevant sector or region;
- proposals on the further implementation of the project.

According to the rules laid down in the Resolution of the CMU No 153 dd. 15.02.2002, the project Recipients and Contractor shall ensure the proper use of funds provided for the EaPTC project implementation.

Part 2

Financial Management of Projects



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GENERAL INFORMATION

Legal Framework	<ol style="list-style-type: none"> 1) Practical Guide to Contract procedures for EU external actions (PRAG) 2) Belarus – Ukraine Joint Operational Programme 3) Moldova – Ukraine Joint Operational Programme
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Lead Partner of the project (Contractor), which signs the Grant Contract with the EaPTC Programmes Managing Authority (*Die Deutsche Gesellschaft für Internationale Zusammenarbeit - GIZ*) shall assume full legal and financial responsibility for the project implementation towards the Managing Authority, being directly accountable to the Managing Authority for overall use of the project funds (grant funds and co-financing) in general.

In turn, each project Partner (Recipient) shall be responsible for the fulfillment of its tasks and use of its part of the project budget in compliance with the Partnership Agreement concluded between the Lead Partner (Contractor) and other project Partners (Recipients). Furthermore, each Partner shall be aware of eligible costs provided for by the financial regulations of the EaPTC Programmes, since each Partner bears liability for its own expenditures. In case ineligible costs occur, the project Partner may be subject to the grant funds recovery procedure.



4. BANK ACCOUNT OPENING

Legal Framework	Resolution of the National Bank of Ukraine No 492 dd. 12.11. 2003 «On Approval of Instructions to the Procedure for Opening, Use and Closure of Accounts in National and Foreign Currency»
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Ukrainian organization/institution – Lead Partner (Contractor) or Partner (Recipient) of the EaPTC project – is entitled to open a foreign currency account required for the project implementation in one of the duly authorized banks of Ukraine and in conformity with the procedure established by the National Bank of Ukraine.

Practical Tips	<ul style="list-style-type: none"> • In case your organization is a project Lead Partner, you will have to open an account in EUR, as the Grant Contract is concluded in EUR and the grant funds will be transferred in this currency. • In case your organization is a project Partner, the decision to use a particular currency while transferring the grant funds is at the discretion of your organization and the Lead Partner. However, it is still recommended to use/open an account in EUR wherever possible. This will allow you to avoid discrepancies related to currency exchange rates by keeping the funds received in EUR and converting them into UAH simultaneously with performing transactions with Ukrainian suppliers.
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For state-financed organization

Ukrainian organization, which is financed from the state budget, shall open a foreign currency bank account in an authorized bank under the relevant balance sheet account in compliance with the National Bank of Ukraine regulations. After having opened an account for transactions in foreign currency, such organization shall submit a bank statement on the account opening to the relevant authority of the State Treasury.

The above mentioned procedures are regulated by the following special documents:

Legal Framework	<ol style="list-style-type: none"> 1) Order of the Ministry of Finance of Ukraine No 1407 dd. 24.12. 2012 “On Approval of the Procedure for Treasury Maintenance of the State Budget by Expenditures” (Chapter XIII). 2) Order of the Ministry of Finance of Ukraine No 938 dd. 23.08.2012 «On Approval of the Procedure for Treasury Maintenance of Local Budgets» (Article 11).
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For the purposes of the EaPTC project implementation a state-financed organization is entitled to open corresponding national currency accounts, namely special registration accounts, in the relevant bodies of the State Treasury and in compliance with the procedure prescribed by the national legislation.

Legal Framework	Order of the Ministry of Finance of Ukraine No 758 dd. 22.06.2012 «On Approval of the Procedure for Opening and Closure of Accounts in National Currency at the Authorities of the State Treasury of Ukraine»
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A state-financed organization shall submit costs estimation provided for by the EaPTC project and prepared in compliance with the project budget to the relevant Authorities of the State Treasury.

Grant received by a state-financed organization shall be included in the revenues of either state or local budget. Consequently, the funds are used in compliance with the procedure prescribed by the budgetary legislation and decision on local budget. According to the Budget Code of Ukraine, grant refers to the own revenues of the state-financed institution (i.e. "Other sources of revenues") being included in a special budget fund.

Legal Framework	Budget Code of Ukraine (subparagraph 15 of paragraph 1 of Article 2; paragraph 4 of Article 13; subparagraph 13 of paragraph 3 of Article 29)
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State-financed institutions shall perform transactions related to using the grant funds in accordance with the Procedure of Treasury Maintenance of the State Budget by Expenditures and the Procedure of Treasury Maintenance of Local Budgets approved by the Ministry of Finance of Ukraine.

5. RECEIPT AND TRANSFER OF FUNDS INSIDE AND OUTSIDE THE TERRITORY OF UKRAINE

Legal Framework	Resolution of the National Bank of Ukraine No 453 dd. 14.11.2013 «On the Alterations in Timing of Payments for Export and Import Operations and Mandatory Sale of Revenues in Foreign Currency»
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The EaPTC Programmes Managing Authority (*Die Deutsche Gesellschaft für Internationale Zusammenarbeit - GIZ*) shall transfer the grant funds to the project Lead Partner (Contractor) on the basis of signed Grant Contracts. The payments are made in parts according to the following scheme: initial pre-financing installment after signing the Contract, further pre-financing installments and the balance (final payment) after accepting the final project report by the EaPTC Programmes Managing Authority. The amount of payments for each EaPTC project shall be determined by the Grant Contract for this particular project.

! Please note. Revenues in foreign currency under the EaPTC projects that have passed state registration shall not be subject to mandatory sale in the interbank currency market of Ukraine.

Hence, state registration of the project shall be completed before the initial pre-financing installment enters into a foreign currency account of the project Lead Partner (Contractor). A copy of the project registration card and a copy of the Grant Contract shall be submitted to the bank, in which the foreign currency account is open.

After having received payments from the EaPTC Programmes Managing Authority the project Lead Partner (*Contractor*) shall transfer corresponding amounts of the grant funds to the other project Partners (*Recipients*) (as provided for by the project Partnership Agreement).

For state-financed organization

Legal Framework	Order of the Ministry of Finance of Ukraine No 372 dd. 02.04.2014 «On Approval of the Procedure for Accountancy of Separate Assets and Liabilities of State-Financed Institutions and Introduction of Amendments to Particular Legislative Acts Related to Accountancy of State-Financed Institutions».
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If the project Lead Partner (Contractor) is a state-financed institution, it shall transfer the grant funds to the other project Partners (Recipients) upon the authorization of the State Treasury Authority and in compliance with the agreed costs estimation.

Rules applicable to transactions on using foreign currency by the state-financed institutions are set forth in the Order of the Ministry of Finance of Ukraine No 372 dd. 02.04.2014.

! Please note. Funds received at the project start as initial pre-financing installment shall be used for implementation of the project tasks, while balance (or final) payment, which is received after the project end, shall be used for statutory purposes of the organization – project Partner – as compensation of its expenditures related to the project implementation.

6. CURRENCY EXCHANGE REGULATIONS

Ukrainian organization/institution participating in the EaPTC project on the territory of Ukraine shall effect payments envisaged by the project budget in national currency of Ukraine – Ukrainian hryvnya (UAH). In order to receive money in UAH the organization has to apply to the bank, in which its foreign currency account has been opened. The bank sells the requested amount of foreign currency at the exchange rate fixed in the Interbank Currency Exchange. In this case there are no special regulations on currency exchange of the project funds.

For state-financed organization

The state-financed organization performs foreign currency exchange upon the authorization of the State Treasury and allocates the corresponding amount in UAH on a special account of the State Treasury, as well as further reflects this operation in its financial reports.

Bookkeeping of the EaPTC project expenditures and financial reporting shall be performed by the Ukrainian organization participating in the EaPTC project in national currency and in compliance with the legislation of Ukraine.

On the other hand, financial reports of the EaPTC project submitted to the Managing Authority shall meet the requirements of the EaPTC Programmes and EU rules. The reporting forms shall contain data both in national and foreign currency (EUR). The final amount of payments under the project must be expressed in Euro, using the official currency exchange rate set forth by the European Commission and published on the web-site at: <http://ec.europa.eu/budget/inforeuro>. In order to identify the exchange rate for a certain reporting period the arithmetic average of the exchange rates for the given reporting period should be applied⁴.

! Please note. Currency exchange losses are not eligible costs and therefore cannot be covered from the grant funds.

Thus, the difference in exchange rates faced by the organization's accountancy shall be attributed to the increase or decrease of revenues and expenses of this organization, while further negative difference shall be debited to the increase of expenditures.

⁴ For example, in order to prepare a financial report for the period March – November it is necessary to find the exchange rates for each out of 9 months at Inforeuro, put them together and divide by 9. This average exchange rate will be applicable to all the transactions during the reporting period (not taking into account the actual exchange rates at the time when these transactions occurred). In this way the project expenditures shall be reflected in the financial report.



7. PROJECT ACCOUNTING REQUIREMENTS

Legal Framework	Law of Ukraine N 996 - XIV dd. 16.07.1999 «On accounting and financial reporting in Ukraine» (with amendments)
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Ukrainian organization participating in the EaPTC project shall maintain its accounting records and prepare internal financial reports in accordance with the current legislation of Ukraine. Accounting and financial reporting shall be performed in the national currency of Ukraine.

Methodology for accounting and financial reporting is developed by the Ministry of Finance of Ukraine, which adopts national accounting regulations (standards) and other regulatory acts related to accounting and financial reporting.

Financial management rules of the EaPTC projects provide for the Lead Partner (Contractor) to ensure overall cost management of the project in terms of their eligibility and compatibility with the project tasks. All project Partners (Recipients) are recommended to apply unified approaches in their accounting.

! Every financial transaction in the framework of the project (at the expense of both grant funds and co-financing) must be confirmed by the relevant supporting documents.

Project Partners shall keep the originals of these documents and provide the Lead Partner with copies required for preparing project financial reports and archiving. Supporting documents shall be archived as they might be requested in the process of inspections and monitoring procedure after the end of the project (up to 7 years after receiving the final payment under the project).

Practical Tips	Ukrainian Lead Partners / Partners are recommended to apply two types of accounting: <ul style="list-style-type: none"> • Regular bookkeeping within their own accounting system in compliance with the national requirements • Accounting under the project management according to the project budget positions
	All relevant contracts, invoices and bills shall contain a clear reference to the EaPTC project budget.
	Municipal and regional authorities are recommended to adopt a municipal/regional target programme covering the project implementation period and reflecting its activities, planned expenditures and sources of revenues (including grant funds and co-financing) in order to earmark them in the State Treasury.

8. HUMAN RESOURCES

Legal Framework	Law of Ukraine N 996 - XIV dd. 16.07.1999 «On accounting and financial reporting in Ukraine» (with amendments)
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Financial regulations for grant contracts (see «Practical Guide to Contract procedures for EU external actions» – PRAG) envisage providing remuneration for specialists, engaged in the project tasks performance under the grant contract, namely: staff of organizations participating in projects and external experts.

! Please note that the Grant Contract distinguishes between:

- Remuneration for staff of the organization participating in the EaPTC project and employed under labour contracts (full/part time, as an employer of this institution or specifically hired specialist). The given expenditures shall be provided for in the project budget under the budget line “Human resources”;
- and
- Remuneration for external experts who are not involved in the project activities under labour contracts, being considered as service providers. These expenditures shall be included in the project budget line “Other costs and services” and managed by procurement procedures (like any service contract).

In order to calculate the cost of remuneration for staff and external experts involved in the EaPTC project tasks performance, a financial manager of the participating organization/ institution should:

1. Prepare the list of all human resources planned to be involved in the project implementation (including internal staff and external experts),
2. Collect all internal documents regulating employment issues of internal staff of the organization and external experts within the framework of the project (orders, agreements, etc.).

Calculation of remuneration cost and working time record for staff of the organizations participating in the EaPTC project

Ukrainian organization/institution participating in the EaPTC project shall perform calculation and record of remuneration costs in compliance with the current legislation, internal rules of the organization and personal staff contracts (in particular, with regard to working time and overtimes etc.).

Labour remuneration costs reflected in the financial reporting of the EaPTC project must correspond to the actual gross salaries and other related mandatory costs (including social insurance, contribution to the Pension Fund, income tax etc.).

Remuneration rate should normally correspond to the one accepted by this Ukrainian organization/institution (unless the difference is justified by showing that it is essential for the project implementation).

Working time record document for staff of the Ukrainian organization/ institution participating in the EaPTC project (in format – Timesheet) must comply with the actual working time of the staff reflected in their performance record sheets.

Involvement of external experts (local and international)

Pursuant to the current legislation of Ukraine performance of works or provision of services by an individual person shall be based on the civil-law agreement (employment contract). The subject of such contract may be information, consulting or other services. In practice such civil-law agreement may be referred to in Ukraine as “Work performance contract” or “Service contract”.

While drafting an “employment contract” (civil-law agreement), civil (and not labour) law requirements must be observed. The provisions of Chapter 63 of the Civil Code of Ukraine may be applied to any service contract given that it does not contradict the substance of obligation. In accordance with Article 901 of the Civil Code of Ukraine “under the service contract one party (Contractor) undertakes upon the assignment of another party (Client) to provide a service that is consumed in the process of committing a certain action or performing a certain activity, while the Client undertakes to pay the Contractor the above mentioned service unless otherwise provided by the contract”.

Work performance is confirmed by the Act of Services Rendered, on the basis of which remuneration is provided, unless otherwise prescribed by the contract.

No contributions to social security funds shall be withheld or charged from the amount of remuneration under civil-law contracts due to the fact that the object for charging social insurance contributions is a hired employee’s salary.

Employment agreement does not provide for entering any record on work performance in the work record book.



9. TRAVELS AND MISSIONS

Legal Framework	<p>1) Tax Code of Ukraine (Subparagraph 140.1.7 of Article 140);</p> <p>2) Resolution of the Cabinet of Ministers of Ukraine No 98 dd. 02.02.2011</p> <p>«On the amount and composition of expenditures for missions of civil servants and other persons sent on missions by enterprises, establishments and organizations either totally or partially financed from the budget funds»</p>
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Travel expenses related to implementation of the EaPTC project are considered eligible costs (in accordance with the General Conditions of the Standard Grant Contract. These costs consist of two categories as follows:

- 1) travel expenses, including reimbursement of tickets and travelling by car, visa issuing charges etc.
and
- 2) subsistence costs, including expenses for accommodation and meal. In this manner the two categories of expenses shall be reflected in the project budget and financial reports.

⚠ While calculating subsistence costs, organizations participating in the EaPTC projects shall apply national requirements. Travel and subsistence costs should not exceed those normally borne by the organization/institution.

Moreover, subsistence costs per overnight stay must not exceed the limits fixed by the European Commission and published at their web-site:

http://ec.europa.eu/europeaid/work/procedures/implementation/per_diems/index_en.htm

Methodology for calculation of mission expenditures for individual persons in Ukraine is determined by the Tax Code of Ukraine and specified for particular categories of employees by corresponding Resolutions of the Cabinet of Ministers of Ukraine.

All Ukrainian organizations, which are totally or partially financed from the state budget, as well as government institutions, should apply the rules provided for by the Resolution of the Cabinet of Ministers of Ukraine No 98 dd. 02.02.2011 for calculation of subsistence costs during missions.

Other organizations should apply the rules prescribed by the Tax Code of Ukraine.

Ukrainian legislative and regulatory acts distinguish the following specific terms:

- Travel costs,
- Accommodation costs,
- Daily allowances (including meal and other sundry expenses of an individual person). The rates of daily allowances for each are fixed in the Resolutions of the Cabinet of Ministers of Ukraine.

⚠ Note that travel and accommodation costs shall be confirmed by corresponding documents that prove actual amounts of such expenses. Daily allowances do not require any confirming documents.

Practical Tips	For external experts, who work on the basis of work contract or service contract, daily allowances and other costs related to missions should be included in the contract with a particular expert and calculated within the total amount of the contract.
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10. PROCUREMENT OF EQUIPMENT, SUPPLIES AND SERVICES

Implementation of almost every EaPTC project provides for procurement of equipment or services from organizations that are not project Partners. Procedures and rules of procurement at the expense of the project budget are determined in the Grant Contract, namely in Annex IV - Procurement by grant Beneficiaries in the context of European Community external actions.

In this regard the following two procurement rules must be respected – «rule of origin» and «rule of nationality»:

- Rule of origin means that all equipment purchased by the EaPTC project Partners on the basis of sub-contracts (with the amount equal to or exceeding 100 000 EUR), shall originate either from the EU Member States, or from the countries of the European Neighbourhood and Partnership Instruments (ENPI), or the Instrument for Pre-Accession Assistance countries (IPA), or the countries of the European Economic Area (EEA) (see table below).
- Rule on nationality means that sub-contracts for procurement of equipment and services under the EaPTC projects shall be awarded only to natural persons and legal entities from the EU Member States, or from the countries of the European Neighbourhood and Partnership Instruments (ENPI), or the Instrument for Pre-Accession Assistance countries (IPA), or the countries of the European Economic Area (EEA) (see table below).

Rule of origin and rule of nationality countries listed in the ENPI Regulation

EU Member States	Portugal, Spain, France, Italy, Malta, Greece, Cyprus, Bulgaria, Romania, Poland, Czech Republic, Slovakia, Hungary, Slovenia, Austria, Germany, Lithuania, Latvia, Estonia, Finland, Sweden, Denmark, The Netherlands, Belgium, Luxemburg, Croatia, United Kingdom and Ireland
ENPI Partner Countries	Russia, Belarus, Ukraine, Moldova, Georgia, Armenia, Azerbaijan, Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Occupied Palestinian Territories, Syria and Tunisia
IPA Countries	Turkey, Albania, Bosnia, Montenegro, Serbia, Kosovo, Macedonia, Iceland
EEA	Norway, Iceland and Liechtenstein

The above mentioned “rule of origin” and “rule of nationality” are not provided for by the national legislation of Ukraine in the field of procurement. However, Ukrainian participants of the EaPTC projects must follow the “rule of origin” and the “rule of nationality” in compliance with the Grant Contract (even if they use the project co-financing funds).

As for the procurement procedures (organizing tenders, drafting tender documentation etc.), the above mentioned Annex IV to the Grant Contract stipulates that tender documentation must be prepared in accordance with the best international practice. In case there is no such documentation developed at the national level, Partners are entitled to use the PRAG formats.

⚠ Please note. Recipients and Contractor of the EaPTC project shall ensure the targeted use of material assets acquired in the framework of the given project, as well as including them in the balance sheet of their organizations.



11. VERIFICATION OF EXPENDITURES AND AUDIT

Lead Partner (Contractor) and Partners (Recipients) of the EaPTC project shall ensure a transparent and effective system of internal control over the use of the project funds (grant funds and co-financing).

In accordance with the European Commission rules set forth in Practical Guide to Contract procedures for EU external actions (PRAG) and with the General Conditions to the Grant Contract, financial reports should be supplemented by an expenditure verification report that confirm costs incurred in the framework of the project.

The expenditure verification report must be prepared by an auditor who is a member of International Federation of Accountants (IFAC) or the one who undertakes to carry out his activities in compliance with the IFAC standards and ethics.

The auditor verifies whether the costs declared by the project Partners are actual and eligible in accordance with the Grant Contract, as well as produces an expenditure verification report (in the format provided in Annex VII to the Standard Grant Contract). Remuneration of the auditor's services shall be covered by the project budget within the eligible project costs.

Project Partners shall jointly decide on the procedure to be applied for the project expenditures verification. They may select different auditing companies and sign separate agreements with each of them or chose one auditing company with its branch offices in all countries participating in the project that will sign an agreement with the Lead Partner.

In order to find an experienced auditor in Ukraine they may address the Federation of Professional Accountants and Auditors of Ukraine (FPAAU), which is a member of International Federation of Accountants (IFAC) and represents the profession of accountant and auditor at the international level. For more information on the FPAAU please visit their web-site: <http://ufpaa.org>

At the same time, Ukrainian organizations/institutions participating in the EaPTC projects shall be ready also to accept the auditors sent by the European Commission, and consequently to keep the project documents up to 7 years since the date of the final payment under the project.



12. OWNERSHIP OF EQUIPMENT, INVESTMENTS, INTELLECTUAL PROPERTY AND PROJECT OUTPUTS

All rights to the project title, tangible assets, intellectual property, outputs, reports and other documents as well as ownership of equipment and supplies in the framework of the EaPTC projects are subject to regulation by relevant provisions of the Grant Contract (Article 7 of the General Conditions to the Grant Contract).

All details related to ownership issues of a particular project are the subject of the relevant Partnership Agreement. In this document the project Partners are entitled to specify their rights at the beginning and at the end of the project, which is especially important for intellectual property rights.

In the framework of the Partnership Agreement the project Partners may authorize the Lead Partner to pay the expenses envisaged by the project budget for procurement of equipment etc. directly to subcontractors. In this case the costs shall be included in the budget of the Lead Partner and reflected in its financial reports as its own expenses. At the end of the project all items that have been purchased for the purpose of the project tasks performance (equipment, machinery etc.) must be transferred to the project Partners according to the Partnership Agreement and the Grant Contract «transfer of ownership» rule (Article 7 of the General Conditions to the Grant Contract).

The transfer of tangible assets to Ukrainian organizations/institutions shall comply with the national regulations, being supported by the relevant documents, which confirm the acceptance of this equipment and including it in the organization's balance sheet.



Part 3

Annexes



The Programme is funded
by the European Union

The Programme is implemented
by the Altair Asesores-led Consortium



ANNEX 1**PROCUREMENT PLAN****Goods, Work and Services
to be Procured with International Technical Assistance Funds**

Project (Programme) title: _____

Donor: _____
(Name)Implementer: _____
(Name, EDRPOU or DRFO code (if any))Recipient: _____
(Name, EDRPOU or DRFO code (if any))

Estimated Project (Programme) costs: _____

Total threshold amount of international technical assistance that may be used to procure goods, work or services with international technical assistance funds as a part of the Project (Programme) implementation: _____

List* of categories (types) of goods, work or services to be procured with international technical assistance funds as a part of Project (Programme) implementation, including information constituting a trade secret	Threshold amount of international technical assistance funds to be allocated as a part of Project (Programme) implementation by type of goods, work or services, intellectual property rights and other resources
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Donor's or implementer's
authorised representative**[Stamp here]****APPROVED**Beneficiary's
authorised representative**

Letter of Agreement _____

(Signature)_____
(Initials and surname)_____
(Signature)_____
(Initials and surname)

* Please do not list goods, work or services to be procured from other sources under co-financing plans.

** Please give details about Beneficiary's Letter of Agreement (if any). In this case, the Beneficiary's authorised representative does not sign the Procurement Plan.



ANNEX 2**PROJECT (PROGRAMME)****REGISTRATION CARD No.** _____Donor: _____
(Name)Implementer: _____
(Name, EDRPOU or DRFO code (if any))Recipient: _____
(Name, EDRPOU or DRFO code (if any))Beneficiary: _____
(Name)Project (Programme) title: _____

_____Project (Programme) objectives and outline: _____

Estimated costs: _____

Implementation period: _____

Implementation stages: _____

Project (Programme) registration number as assigned by the Donor or contract number: _____
_____Any other information⁽¹⁾ specific to the Project (Programme): _____

State registration dd. _____ 20__

Ministry of Economic Development
and Trade of Ukraine,
Authorised representative_____
(Signature)_____
(Initials and surname)**[Stamp here]**⁽¹⁾ Please refer to the specific article of the international treaty or Ukrainian law stipulating preferences.

ANNEX 3

STATE FISCAL SERVICE OF UKRAINE

LETTER

**To State Fiscal Services in
the Autonomous Republic of Crimea,
Regions, cities of Kyiv and Sevastopol**

No. 6125/7/12-1017 dd. March 01, 2012

About Information Certificate

Following adoption of Resolution No. 1301 dd. December 07, 2011 of the Cabinet of Ministers of Ukraine *On Making Changes to the Procedure for Mobilisation, Use and Monitoring of International Technical Assistance*, two Explanatory Notes have been written and sent by the Ministry of Economic Development and Trade of Ukraine to the State Fiscal Service of Ukraine:

- 1) RE: Some considerations on exempting goods, work or services to be procured within the customs territory of Ukraine as a part of international technical assistance projects under Ukraine's international treaties from value added tax ;
- 2) RE: Some tax issues relevant for contractors providing work or services within the customs territory of Ukraine when such contracts are implemented either with international technical assistance funds provided on a gratuitous and non-refundable basis for the period of preparation to decommissioning and decommissioning of Chernobyl NPP units and transformation of the Shelter into an environmentally safe system or with funds of the National Budget as Ukraine's contribution to the Chernobyl Shelter Fund.

Please find enclosed Explanatory Notes by the State Fiscal Service of Ukraine for review and use in practice.

Enclosure: 5 pages

Deputy Chairman

A.P. Ignatov



Addendum

Explanatory note about some considerations on exempting goods, work or services to be procured within the customs territory of Ukraine as a part of international technical assistance projects under Ukraine's international treaties from value added tax.

In pursuance of the Resolution of the Cabinet of Ministers of Ukraine No. 153 dd. February 15, 2002 *On Establishment of the Unified System for Mobilisation, Use and Monitoring of International Technical Assistance*, please be advised of some issues of exempting goods, work or services to be procured within the customs territory of Ukraine as a part of international technical assistance projects¹ under Ukraine's international treaties from the value added tax (VAT).

1. The right to tax relief as set forth by Ukrainian laws and international treaties to which Ukraine is a party shall be exercised against the following documents:

- International Technical Assistance (ITA) Project (Programme) Registration Card issued by the Ministry of Economic Development and Trade of Ukraine (MEDTU);
- Procurement Plan for Goods, Work and Services to be Purchased with ITA Funds as a Part of ITA Project (Programme) certified by the Donor or Implementer, approved by the Beneficiary and submitted to MEDTU (hereinafter, the Procurement Plan).

2. The ITA Project (Programme) Registration Card should contain a record with:

- 1) a reference to the specific article of Ukraine's international treaty providing for such tax relief;
- 2) a confirmation that the Procurement Plan is available;
- 3) a link to MEDTU official website where the Procurement Plan and the list of contractors² who have claimed the right to tax relief are uploaded.

Such record in the ITA Project (Programme) Registration Card means that the Donor has claimed its right to tax relief as a part of such ITA Project (Programme) as set forth by Ukrainian tax laws. Therefore, any goods, work or services to be procured by the Project Implementer² with ITA funds as a part of such ITA Project (Programme) shall be shipped (performed or provided) without VAT payment.

Failure to submit the Project Procurement Plan shall be considered as the Donor has no need to exercise its right to tax relief as a part of such international technical assistance project whereof the corresponding endorsement shall be made in the Project Registration Card.

When the ITA Project (Programme) Registration Card contains either record:

- 1) no tax relief is provided for by the international treaty for transactions to be done within the customs territory of Ukraine,
or
- 2) no Procurement Plan has been submitted (no right to tax relief has been claimed),

¹ This Letter does not cover laws relieving contractors providing work or services within the customs territory of Ukraine from taxes when such contracts are implemented with international technical assistance funds under the Framework Agreement between Ukraine and the European Bank for Reconstruction and Development on Chernobyl Shelter Fund Operation in Ukraine and Grant Agreement (Chornobyl NPP Nuclear Safety Project) between the European Bank for Reconstruction and Development, the Government of Ukraine and Chornobyl NPP.

² or the recipient of projects financed by the European Union under the European Neighbourhood and Partnership Instrument (ENPI), Development Cooperation Instrument, and European Instrument for Democracy and Human Rights (see ITA Project (Programme) Registration Card).



this means there is no tax relief for the ITA Project (Programme) or the Donor has not claimed its right to tax relief. Therefore, any goods, work or services to be procured by the Project Implementer² with ITA funds as a part of such ITA Project (Programme) shall be shipped (performed or provided) subject to VAT.

3. When goods, work or services are shipped (performed or provided) without VAT payment, a taxpayer (a seller) shall give reasons for VAT exemption, including the Project Registration Card number whereunder such goods, work or services are procured and the applicable international treaty, in its VAT Declaration (Order No. 1492) issued in accordance with Addendum 6 (Order No. 1492) to the Order of the Ministry of Finance of Ukraine No. 1492 dd. November 25, 2011 *On Approval of Value-added Tax Report Forms, Guidelines for Completing and Submitting VAT Report Forms* (Procedure No. 1492).

A taxpayer (a seller) shall keep on file:

- I. a copy of the Project Registration Card sealed by the Donor or Implementer² whereunder goods, work or services have been procured;
- II. a copy of the Procurement Plan sealed by the Donor or Implementer²;
- III. a copy of the Contract for Supply of Goods, Performance of Work or Provision of Services signed and sealed by Implementer² (such contract shall specify that goods, work or services are procured with international technical assistance funds and correspond to the category (type) of goods, work or services listed in the Procurement Plan).

Addendum

Explanatory note about some tax issues relevant for contractors providing work or services within the customs territory of Ukraine when such contracts are implemented either with international technical assistance funds provided on a gratuitous and non-refundable basis for the period of preparation to decommissioning and decommissioning of Chernobyl NPP units and transformation of the Shelter into an environmentally safe system or with funds of the National Budget as Ukraine's contribution to the Chernobyl Shelter Fund.

In pursuance of the Resolution of the Cabinet of Ministers of Ukraine No. 153 dd. February 15, 2002 *On Establishment of the Unified System for Mobilisation, Use and Monitoring of International Technical Assistance* (hereinafter, the Procedure), please be advised of some tax issues relevant for contractors supplying goods, work or services within the customs territory of Ukraine when such contracts are implemented either as a part of international technical assistance provided at gratuitous and non-refundable basis for the period of preparation to decommissioning and decommissioning of Chernobyl NPP units and transformation of the Shelter into an environmentally safe system or with funds of the National Budget as Ukraine's contribution to the Chernobyl Shelter Fund to implement the international programme – Shelter Action Plan as set forth by the Framework Agreement between Ukraine and the European Bank for Reconstruction and Development on Chernobyl Shelter Fund Operation in Ukraine and Grant Agreement (Chornobyl NPP Nuclear Safety Project) between the European Bank for Reconstruction and Development, the Government of Ukraine and Chornobyl NPP.

1. The right to tax relief set forth by Ukrainian laws and international treaties to which Ukraine is a party shall be exercised on the following basis:

- International Technical Assistance (ITA) Project (Programme) Registration Card issued by the Ministry of Economic Development and Trade of Ukraine (MEDTU)

² or the recipient of projects financed by the European Union under the European Neighbourhood and Partnership Instrument (ENPI), Development Cooperation Instrument, and European Instrument for Democracy and Human Rights (see ITA Project (Programme) Registration Card).



- Procurement Plan for Goods, Work and Services to be Purchased with ITA Funds as a Part of ITA Project (Programme) certified by the Donor or Implementer, approved by the Beneficiary and submitted to MEDTU (hereinafter, the Procurement Plan).
2. The ITA Project (Programme) Registration Card should contain the following details in the field *Any other information specific to the Project (Programme)*:
- 1) a reference to a specific article of Ukraine's international treaty and/or the Law of Ukraine providing for such preferences;
 - 2) a confirmation that the Procurement Plan is available including a link to MEDTU official website where the Procurement Plan is uploaded;
 - 3) a reference to the contract for supply of goods / performance of work / provision of services between the ITA Project (Programme) Implementer and non-resident entity or details that such non-resident entity is a successful bidder (these details shall be entered upon recipient's request (application) when the project is registered / re-registered in accordance with the standard procedure).

Such record in the ITA Project (Programme) Registration Card means that the Donor has claimed its right to tax relief as a part of such ITA Project (Programme) as set forth by Ukrainian tax laws, i.e. supply of goods / performance of work / provision of services to be procured with ITA funds shall be subject to zero VAT and/or shall be exempt from corporate income tax.

Failure to submit the Project (Programme) Procurement Plan shall be considered as the Donor has no need to exercise its right to apply tax relief as set forth by Ukraine's international treaties for implementation of such international technical assistance project whereof the corresponding endorsement shall be made in the Project Registration Card. When the ITA Project (Programme) Registration Card contains either record:

- 1) no tax relief is provided for by the international treaty;
- 2) no tax relief are provided for by the international treaty for transactions done within the customs territory of Ukraine; or
- 3) no Procurement Plan has been submitted,

this means that there is no tax relief for the ITA Project (Programme) or the Donor has not claimed its right to any tax relief. Therefore, goods, work or services to be procured with ITA funds shall be shipped (performed or provided) exclusive zero VAT and/or corporate income tax exemption.

3. Pursuant to Article 211 of the Tax Code of Ukraine, for the period of preparation to decommissioning and decommissioning of Chernobyl NPP units and transformation of the Shelter into an environmentally safe system financed by international technical assistance provided at gratuitous and non-refundable basis or financed by the National Budget as Ukraine's contribution to the Chernobyl Shelter Fund to implement the international programme – Shelter Action Plan as set forth by the Framework Agreement between Ukraine and the European Bank for Reconstruction and Development on Chernobyl Shelter Fund Operation in Ukraine and Grant Agreement (Chornobyl NPP Nuclear Safety Project) between the European Bank for Reconstruction and Development, the Government of Ukraine and Chornobyl Nuclear Power Plant:

- import of goods (raw materials, materials, machinery and equipment) shall be exempt from taxation;
- supply of goods (raw materials, materials, machinery and equipment), performance of work or provision of services within the customs territory of Ukraine as a part of international technical assistance shall be subject to zero tax rate. Taxes paid by a taxpayer who has performed work or provided services under a contract with a non-resident entity contracted by the Recipient shall be reimbursed from the Budget within a month following the reporting one provided duly executed documents are available and confirmed by the documentary check.



According to Article 154, Section 154.4, of the Tax Code of Ukraine, corporate income obtained through international technical assistance or the National Budget as Ukraine's contribution to the Chernobyl Shelter Fund to implement the international programme – Shelter Action Plan under the Framework Agreement between Ukraine and the European Bank for Reconstruction and Development for further operation, preparation for decommissioning and decommissioning of Chernobyl NPP units and transformation of the Shelter into an environmentally safe system and social protection of Chernobyl NPP staff shall be exempt from tax.

When tax-exempt funds are not used as intended, a taxpayer shall increase its respective tax obligations based on the results of the fiscal period when such violation was committed and shall pay a penalty calculated in accordance with this Code.

4. Goods, work or services subject to tax relief shall be shipped (performed or provided) by a taxpayer (a seller) once a buyer³ submits the following documents:

- copies of the Project Registration Card sealed by SSE Chernobyl NPP for the project whereunder goods, work or services have been procured;
- a copy of the Procurement Plan sealed by SSE Chernobyl NPP or an abstract from the Procurement Plan referring to the category (type) of goods, work or services to be procured;
- a copy of the Contract for Supply of Goods, Performance of Work or Provision of Services signed and sealed by SSE Chernobyl NPP. The contract shall state that goods, work or services are procured with international technical assistance funds and correspond to the category (type) of goods, work or services listed in the Procurement Plan.

In this case, these documents shall be kept by a taxpayer as a reason to claim zero rate VAT and/or exemption from taxation.

5. For fiscal reporting purposes with regard to supply of goods (raw materials, materials, machinery and equipment), performance of work or provision of services subject to zero VAT, taxpayers shall define their VAT obligations for such transactions at zero rate and shall issue a zero-rate VAT invoice as set forth by applicable laws. Such tax invoice (Order No. 1379) shall refer to the grounds for tax exemption pursuant to Order No. 1379 dd. November 01, 2011 of the Ministry of Finance of Ukraine On Approval of Tax Invoice Form and Guidelines for Completing Tax Invoice Form (Procedure No. 1379) registered on November 22, 2012 by the Ministry of Justice of Ukraine, No. 1333/20071.

Taxpayers shall keep records of zero VAT transactions and submit their VAT invoice (Order No. 1492) to an authority of the State Fiscal Service at the place of their registration within the time limits set forth by the law. Such VAT invoice shall refer to zero VAT transactions in applicable fields.

6. Taxpayers entitled to tax exemptions shall keep records of tax-exempt income separately. Amounts of tax-exempt income shall be stated in the Income Tax Declaration Form (Order No. 1213) as set forth by applicable laws.

³ Seller means SSE Chernobyl NPP; non-resident entity contracted by SSE Chernobyl NPP; resident entity contracted by SSE Chernobyl NPP; non-resident entity contracted by a project implementer.

ANNEX 4**MINISTRY OF REVENUE AND DUTIES OF UKRAINE****LETTER**

**To the Ministry of Revenue and Duties of Ukraine,
Customs Office**

No. 4461/7/99-99-19-05-01-17 dd. February 21, 2014

Customs Clearance of International Technical Assistance (ITA)

The Ministry of Revenue and Duties of Ukraine would like to inform you that the Ministry of Economic Development and Trade of Ukraine (MEDTU) has submitted its Order *On Recognising Order No. 291 dd. September 05, 2007 of the Ministry of Economy of Ukraine as Having Become Inoperative* to the Ministry of Justice of Ukraine for registration.

In order to promote common approach in applying provisions of the Tax and Customs Codes of Ukraine in customs clearance procedures and taxation of international technical assistance items when this Order comes into force and cancels the procedure confirming tax relief upon customs clearance of goods shipped under international treaties providing for international technical assistance to Ukraine, please be advised of the following:

General procedure for customs clearance and taxation of international technical assistance items

Under Ukraine's international treaties, goods imported to Ukraine as a part of international technical assistance (ITA) projects (programmes) shall be exempt from taxes.

To apply these international treaties in practice, the Customs and Tax Codes of Ukraine incorporate the respective provisions on ITA customs clearance.

According to Article 282, Section 6, Part One, of the Customs Code of Ukraine, goods imported to the customs territory of Ukraine as a part of international technical assistance under international treaties consented by Verkhovna Rada as binding shall not be subject to customs duties upon importation to the customs territory of Ukraine.

Furthermore, importation of this category of goods to the customs territory of Ukraine shall be exempt from value added tax as set forth by Article 197, Section 197.11, of the Tax Code of Ukraine and excise duty as set forth by Article 213, Section 213.3.9, of the Tax Code of Ukraine.

Under Article 335 of the Customs Code of Ukraine, a customs declaration including *inter alia* documents confirming the right to customs payment privileges shall be submitted to a revenue authority.

Specifically, to be eligible for tax relief set forth by Ukrainian laws and international treaties to which Ukraine is a party, the Recipient shall provide the following documents:

- ITA Project (Programme) Registration Card issued by the Ministry of Economic Development and Trade of Ukraine;



- Procurement Plan for Goods, Work or Services to be Procured with ITA Funds as a Part of ITA Project (Programme) certified by the Donor or Implementer, approved by the Beneficiary and submitted to MEDTU.

The ITA Project (Programme) Registration Card shall contain the following record:

- an abstract from an international treaty or the law of Ukraine providing such preferences including the applicable articles;
- a confirmation that the Procurement Plan is available; and
- a link to MEDTU official website where such Procurement Plan is uploaded including the list of implementers which have claimed their right to tax relief

When the ITA Project (Programme) Registration Card contains such record, the right to tax relief set forth by Ukrainian tax laws has been confirmed as a part of such ITA project (programme).

Specific considerations on customs clearance and taxation of international technical assistance goods to be imported for the purposes of preparation for decommissioning Chornobyl NPP units and transformation of the Shelter into an environmentally safe system

Pursuant to Section 7.01, subsection (b), of the Grant Agreement (Chornobyl NPP Nuclear Safety Project) between the European Bank for Reconstruction and Development as a nuclear safety grant administrator, the Government of Ukraine and Chornobyl Nuclear Power Plant dd. November 12, 1996, grant funds may not be allocated to cover any taxes imposed by the country or in the territory of the country where the Recipient is located.

According to Section 6 of the Framework Agreement between Ukraine and the European Bank for Reconstruction and Development on Chernobyl Shelter Fund Operation in Ukraine dd. November 20, 1997, equipment, materials, work and services financed by the Bank through Fund's grant originating from Fund's sources and intended to facilitate Project implementation and management shall be exempt from any taxes, duties or any other charges or compulsory payments applied by or in Ukraine as set forth by applicable Ukrainian laws.

According to Section 8.01 of the Agreement for Cooperation and Operation of EBRD Representative Office to Ukraine between the Government of Ukraine and the European Bank for Reconstruction and Development dd. June 12, 2007, any equipment, materials, work and services imported to or produced in Ukraine, including consulting services, intended for provision of technical assistance or for grant co-financing and financed through grants shall be exempt from any taxes and duties or compulsory payments applied by or in Ukraine.

According to Article 282, Section 10, Part One, of the Customs Code of Ukraine, goods (raw materials, materials, machinery and equipment) imported to Ukraine as a part of international technical assistance provided on a gratuitous and non-refundable basis for further operation, preparation for decommissioning and decommissioning of Chornobyl NPP units and transformation of the Shelter into an environmentally safe system and social protection of Chornobyl NPP staff shall be exempt from customs duties for the period of performance of such work for preparation for decommissioning and decommissioning of Chornobyl NPP units and transformation of the Shelter into an environmentally safe system.

Furthermore, importation of such category of goods to the customs territory of Ukraine shall be exempt from value added tax as set forth by Article 211, Section 211.1 of the Tax Code of Ukraine.

To be eligible for tax relief, the Recipient shall submit a copy of the Project (Programme) Registration Card certified by SSE Chornobyl NPP for the Project whereunder goods (raw materials, materials, machinery and equipment) are imported.



According to Section 14, Subsection 21, of the Resolution of the Cabinet of Ministers of Ukraine No. 153 dd. February 15, 2002 *On Establishment of the Unified System for Mobilisation, Use and Monitoring of International Technical Assistance*, no procurement plan shall be submitted by Projects (Programmes) for work to prepare for decommissioning and decommission Chornobyl NPP units and transform the Shelter into an environmentally safe system when such work is performed with international technical assistance funds.

In view of the foregoing, customs clearance of goods imported to the customs territory of Ukraine as a part of international technical assistance under international treaties shall be exempt from customs duties against an ITA Project (Programme) Registration Card which details should be specified in customs declarations as set forth by the Customs Code of Ukraine.

Minister

O.V. Klymenko



ANNEX 5

EAPTC PROJECT REGISTRATION PROCEDURE (1)

Ukrainian organizations/institution — project participants
(Lead Partner-Contractor and Partners-Recipients)

Project registration card
(original)



Application letter for providing state registration
(supported by the package of documents pursuant to the Resolution of the Cabinet of Ministers of Ukraine № 153 of 15.02.2002)

Ministry of Economic Development and Trade Ukraine
Directorate for Cooperation with International Financial Organizations
and Coordination of International Technical Assistance

EAPTC PROJECT REGISTRATION PROCEDURE (2)

Ministry of Economic Development and Trade of Ukraine
Directorate for Cooperation with International Financial Organizations
and Coordination of International Technical Assistance

Submits to the Ministry of Revenues and Duties

Posts on the website

- A copy of the project registration card
- A copy of the plan for procurement of goods, works and services provided in the framework of the project

- Information on the project registration
- Information about the organization which declared rights privileges and the project procurement plan



TAX EXEMPTIONS IN THE FRAMEWORK OF THE EAPTC PROJECT IMPLEMENTATION (1)

Submits to the Ministry of Revenues and Duties?

Ukrainian organization/institutions — project participants

(Lead Partner-Contractor, Partner-Recipient, Supplier of goods or services within the project)

What is the international legal framework for tax exemptions?

Framework Agreement between the Government of Ukraine and the Commission of European Communities
(ratified by the Law of Ukraine № 360-VI of 03.09.2008)

What kind of exemptions and in which cases?

- Operations on the procurement of goods, works and services on the territory of Ukraine under the EaPTC project are subject to VAT exemption
- Goods brought to the territory of Ukraine, required for the implementation of activities under the EaPTC project, are subject to VAT and customs duty exemption

TAX EXEMPTIONS IN THE FRAMEWORK OF THE EAPTC PROJECT IMPLEMENTATION (2)

Which documents constitute grounds for the realization of right for tax exemptions?



- **Project registration card**

(issued by the Ministry of Economic Development and Trade of Ukraine)
and

- **Plan for procurement of goods, works and services to be purchased out of the project funds**

(confirmed by the Lead Partner and agreed with the project beneficiary)

PROCEDURE FOR OPENING OF FOREIGN CURRENCY ACCOUNT IN THE FRAMEWORK OF THE EAPTC PROJECT

Who is eligible to open a foreign currency account (in Euro)?

Ukrainian organization/institution, Lead Partner-Contractor
(other Ukrainian Project Partners may use either national or foreign currency accounts)

What kind of exemptions and in which cases?

In one of the duly authorized banks of Ukraine

What if Ukrainian organization is financed from the state budget?

Ukrainian organization, which is financed from the state budget, opens a foreign currency account in an authorized bank and submits to the relevant authority of the State Treasury of Ukraine a bank statement on the opening of such account

Important! Until receipt for the foreign currency account the first grant funds necessary to complete the project registration. You need to give the Bank a copy of the project registration card and a copy of the grant contract.

CUSTOMS CLEARANCE OF GOODS BROUGHT TO THE TERRITORY OF UKRAINE IN THE FRAMEWORK OF THE EAPTC PROJECT

Ukrainian organization/institution, which obtains goods
(Lead Partner-Contractor or Partner-Recipient)

Submits the following documents:

- customs declaration
- a copy of the project registration card
- a copy of the plan for procurement of goods, works and services to be purchased out of the project funds

Revenues and Duties Authority

TAXATION OF OPERATIONS ON THE PROCUREMENT OF GOODS, WORKS AND SERVICES ON THE TERRITORY OF UKRAINE IN THE FRAMEWORK OF THE EAPTC PROJECT (1)

Ukrainian organization/institution, which purchases goods or services
(Lead Partner-Contractor or ProjectPartners-Recipient)



Submits the following documents:

- a copy of the project registration card
- a copy of the plan for procurement of goods, works and services to be purchased out of the project funds
- contract for delivering goods, performance of works or providing services **(without VAT!)**

Supplier of goods or services

TAXATION OF OPERATIONS ON THE PROCUREMENT OF GOODS, WORKS AND SERVICES ON THE TERRITORY OF UKRAINE IN THE FRAMEWORK OF THE EAPTC PROJECT (2)

Supplier of goods or services

Indicates in the declaration submitted to The Revenue and Duties Authority

Number of the project registration card as a ground for VAT exemption

Keeps in its files

- a copy of the project registration card
- a copy of the plan for procurement of goods, works and services to be purchased out of the project funds
- contract for delivering goods, performance of works or providing services **(without VAT!)**

ANNEX 6**OBSTACLES TO BE CONSIDERED***brief overview and suggestions*

WHAT KIND OF OBSTACLES DOES A UKRAINIAN PARTICIPANT OF THE EaPTC PROJECT ENCOUNTER?	HOW IS IT POSSIBLE TO OVERCOME THESE OBSTACLES?
<ul style="list-style-type: none"> • While studying the documents of the European Commission and Ukrainian legislation related to the EaPTC Programmes implementation, Ukrainian organizations come across the discrepancies in terms and concepts. 	<ul style="list-style-type: none"> • To harmonize the terminology used in the EaPTC Joint Operational Programmes, future formats of grant contracts and Ukrainian legislative acts related to the EaPTC projects
<ul style="list-style-type: none"> • Specific aspects of foreign (and national) currency account opening for the EaPTC projects. Ukrainian legislation does not determine the concept of a separate account for implementation of the EU funded grant projects. The given challenge is becoming even more acute for Ukrainian state-financed institutions, since the received grant funds are included in the special budget fund and therefore cannot be separated from the other public funds. 	<ul style="list-style-type: none"> • To provide all Ukrainian participants of the EaPTC projects with a possibility to open a separate foreign (and national) currency account for the grant funds. State-financed institutions shall be entitled to work directly with the bank (where the foreign currency account is open), without the involvement of the State Treasury Authorities in the process of the grant funds application.
<ul style="list-style-type: none"> • In addition to the above mentioned the problem of further use of the grant funds in compliance with the EaPTC project budget positions and provisions of the Partnership Agreement arises (for example, transfer of the required amount of the grant funds to a foreign partner, or application of the EU rates for calculating per diems for travelling abroad). Again, the given challenge is primarily concerned with the state-financed organizations. 	<ul style="list-style-type: none"> • To provide all Ukrainian participants of the EaPTC projects with a possibility to perform unhindered financial management according to the grant contract provisions. The best option would be to develop specific legislation (for example, Resolution of the Cabinet of Ministers of Ukraine) aimed at regulating the implementation of the EU funded projects in Ukraine.



EaPTC

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