

SUMMARY PROJECT FICHE

Project Number: BG 9910

Title: Reinforcing the administrative capacity to manage the *acquis communautaire* in the field of competition and state aid

Sub-programme: Further integration into the Internal Market

Geographical location: Bulgaria

Objectives:

Wider objectives

The wider objective of the project is to prepare Bulgaria to enter the Internal market by reinforcing its institutional capacity to manage the *acquis* in the field of competition and to increase transparency, control and credibility of the system of granting state aids. The wider objective described above is in line with the priority objectives identified in the Accession Partnership and in the National Programme for Adoption of the Acquis (NPAA).

Immediate objectives

Competition (sub-project 1):

- increase the enforcement capacity of the CPC under the new Law on protection of competition and further develop a consistent, more efficient and effective competition and state aid control authority;
- improve the awareness of the new rules of competition and developing market and competition culture in the various categories of officials engaged in the application of competition and state aid policy as well as of the judges from the Supreme Administrative Court;
- raise market and competition culture among economic operators;
- continue the approximation to EU competition legislation, particularly in the field of block exemptions;
- revise national legislation in particular sectors, in order to align the activities of state monopolies of commercial character and undertakings enjoying special and exclusive rights to the existing competition rules;
- strengthen the co-operation between CPC and DG IV and to improve the information exchange between the CPC and the respective institutions of the European Community;

State Aids (sub project 2) :

- establish the legislative framework to adopt the *acquis* in the State Aid area, developing the necessary legislation and rules based on the legislation and experiences in Member States;
- develop and increase efficiency of the State Aid monitoring system, incl. the regional monitoring system in accordance with the requirements of the new 5-year transition period;
- strengthen the State Aid Monitoring Body (human resource development and equipment);
- develop a state aid culture among public administration, NGOs, local and regional authorities, etc.
- improve the information exchange with the respective institutions of EU member-states.

Description:

Introduction

The project is in complete conformity with the priorities of the EU defined in the Accession Partnership, namely: institutional strengthening of the competition and state aid authorities, enforcement of competition and state aid policy complying with the European legislation, reform and elimination of state monopolies. They are set as short-term (1999) & mid-term priorities (2000-2001) in the NPAA. Their accomplishment will provide for the development of an efficient system for protection of competition and state aid monitoring and control in Bulgaria compatible with EU legislation in this field.

A new Law on the protection of competition was adopted by the Parliament and entered into force in May 1998. The law is compatible with the EU competition legislation. In conjunction with the ongoing legal approximation process the CPC is in the process of human resource development in order to align the organisation to the duties that have to be carried out in the process of implementation of the new law. In this relation, the overall objective of the programme is to foster Bulgaria's preparation for membership, further continue the process of approximation of the competition legislation, strengthen the institution in charge of implementing competition rules and assist the effective application of the harmonised legislation.

The dynamics and complexity of the problems which the CPC faces call for support oriented to the short-term and mid-term measures that it should undertake to adapt the country to the requirements of the Internal Market and the general competition rules of the EU.

The issue of state aids distorting or threatening competition is a new one in Bulgaria and considers the importance of the related work to be of priority. Currently there are certain problems in meeting Bulgarian commitments under the Europe Agreement in respect of state aids control and monitoring.

On 25 October 1996 under the Council of Minister Regulation No263, a monitoring authority on state aid (SAMA) was established at the Ministry of Finance, directly subordinate to the Minister.

According to its basic functions and responsibilities, the monitoring body collects information and monitors on a national level the extended state aids (maintaining an inventory); makes researches, analyses and assessments on the suggestions concerning the extension of the state aids, maintains contacts with the respective authorities in the European Commission on any issues related to state aids, incl. submission of annual reports and notifications on state aids, state aid inventorying, etc.

The State aid Department acts as an advising body on state aid issues in the process of preparation of the state budget in collaboration and interrelations with the other involved government authorities on a national and a regional basis.

The Department has to monitor closely all potential sources of state aids before the decision for granting an aid has been taken, so that to prevent granting of aids incompatible with the European Agreement. It advises both public and private companies concerning the risks of taking such an aid. The department monitors the procedure according to which the aid is disbursed and its expedient spending.

Despite the limited capacity of the State aid Department and its need of institutional and operational strengthening it has done the following work up to now:

- an Annual Report on State aids for 1997-1998 and a notification for subsidies for WTO have been prepared and submitted to the European Commission and WTO Secretariat ;
- a project of the Implementing state aid rules proposed by the European Commission has been co-ordinated with the Bulgarian concerned authorities and approved by the Government(Protocol 4 item 20/28.1.1999).

The Ministry of Foreign Affairs has undertaken the relevant procedure for signing the Rules by the Association Council, after which they will be applied on central, regional and local level.;

- a TA Contract for the elaboration of a state aids inventory for the period 1996-1998 has been realised under the SARA Programme by the consultancy firm “Ernst & Young/Bulgaria”;

- a working group of experts from the different departments of the Ministry of Finance and external advisers has been established at the Ministry of Finance with the objective to help the monitoring body in the implementation of state aid policy, legislation and practice ;

- members of the staff participate in the screening process and attend the Commission’s initiatives related to state aids issues.

Description sub-project 1:

The immediate objectives will be achieved through the following input:

- Technical assistance for the legislative reform;
- Technical assistance for the institutional strengthening of the authority in charge of protecting competition (CPC) and for professional training of the various categories of officials engaged in the application of competition and state aid policy (members of CPC, experts from ministries, public bodies, local government, officials of the authorities, involved in state aid granting, judges from the Supreme Administrative Court);
- Improve the awareness of the new rules of competition and state aid and developing market and competition culture in the business community;
- Strengthening the cooperation between CPC and relevant institutions of the EC and its member states;
- Documentation, software, IT equipment and translation.

Description of sub-project 2:

The immediate objectives will be achieved through the following input:

- technical assistance for the policy and legislative framework including elaboration of a special guidance on the compatibility of aid designed to combat the problems in specific sectors and the regions will be elaborated in accordance with the Implementing rules;
- design of the state aid monitoring system, incl. the regional monitoring system;
- information/training of the target groups (public administration, local and regional authorities, NGOs, economic operators);
- technical assistance for the development and institutional strengthening of the State Aid Department including training, documentation, maintenance and updating of state aid inventory and elaboration of regional maps.

Institutional framework:

Sub-project 1 will be conducted by the CPC under its autonomous status established under the new Law on protection of Competition. For the purposes of this law CPC provides protection against agreements, decisions and concerted practices, abuse of monopolistic and dominant position on the market, concentration of economic activities, unfair competition and other activities which might result in the prevention, restriction or distortion of competition. Among others the CPC also has the competence to pronounce on the admissibility of state aid projects after an obligatory notification of the Commission by the granting authority. This is the a-priori controlling function of the CPC in the process of state aid granting.

The implementation of sub-project 2 will be monitored by the Ministry of Finance - the State Aid Monitoring Authority, which will host and directly work with the pre-accession adviser on state aid. The SAMA will monitor and assess the granting of state aid as to its compatibility with the Europe Agreement according to the procedures provided by the Implementing rules on state aid. Being counterpart of the European Commission in the monitoring process, the Ministry of Finance prepares and submits to the EC all required official documents on state aid : annual reports, notifications, inventories etc.

Various institutions will be directly concerned with this part of the project apart from the direct beneficiaries CPC and State Aid Department at the Ministry of Finance. These are Bulgarian Chamber of Commerce and Industry (BCCI), Bulgarian Industrial Association (BIA), Bulgarian Investors and Business Association (BIBA), Supreme Administrative Court (SAC), state aid funds to the relevant ministries and local government institutions.

Budget (€million)

Project components	Investment	Institution Building	Total Phare	TOTAL
Sub-project 1:		1	1	1
Sub-project 2:		1	1	1
TOTAL:		2	2	2

Implementation arrangements:

The Central Finance and Contracts Unit shall be responsible for the tendering, contracting and payments. The project will be managed in accordance with the Phare Decentralised Implementation System.

The Implementing Authority for sub-project 1 will be the Commission for Protection of Competition (CPC). The CPC will establish a special organisational structure for the technical management and monitoring of the project which comprises of a Co-ordination and Monitoring Unit in the European Integration (EIPD) at the CPC.

The Implementing Authority for sub-project 2 will be the Ministry of Finance. Project performance will be monitored by the Director of the State Aid Body. The Deputy Minister of Finance will be the co-ordinator on behalf of the Ministry of Finance. The PIU of the Ministry of Finance will be responsible of monitoring the administrative paper work to assure the proper compliance with the DIS, and will submit all the information to the Central Finance and Contracting Unit (CFCU).

It is foreseen that two twinning arrangements will be utilised for the implementation of the project. The twinning arrangements would imply two Pre-accession Advisors, one to work on competition protection issues included in sub-project 1 and another for the activities on state aid monitoring and control foreseen in sub-projects 1 and 2. The second one will be a common twinning agent for CPC and MoF and will be situated at the State Aid Department of MoF. Twinning fiches are annexed.

Implementation schedule:

Start of tendering	Start of project activity	Project Completion
October 1999	June 2000	December 2001

Conditionality:

A Memorandum of Understanding between the two authorities, outlining the respective responsibilities in the area of state aid policy, has been drafted and at present is being co-ordinated. Its signing is foreseen for the beginning of May this year.

The preparation and adoption of block exemption decisions will be postponed until the debate and policy followed by the EC Commission in this field are clarified.

The legislative framework and the strategic design has to be developed and put in place. The Bulgarian Government is presently committed to the project, due to its implications to the implementation of the competition and state aid legislation of the EC and the international agreements under the WTO.

Annexes

1. Logframe Planning Matrix for the Project
2. Time Implementation Chart
3. Cumulative Contracting and Disbursement Schedule
4. Detailed Cost Breakdown
5. List of all relevant laws and regulations
6. Memorandum of Understanding between the CPC and the MoF (will be presented after signing)
7. Twinning fiches for competition and state aid..

ANNEX 1

LOGFRAME PLANNING MATRIX FOR THE PROJECT				Date of drafting: 16 april 1999
<i>Reinforcing the administrative capacity to manage the acquis in the field of competition and state aid and institution building of the Commission for Protection of Competition (CPC) and the State Aid Monitoring Body at the Ministry of Finance</i>			Contracting period expires: 31.06.2000	Disbursement period expires: 31.12.2001
			Total Budget of the Project: 2 M EURO	Phare contribution: 2 M EURO
Wider Objective	Indicators of Achievement	How, When and By Whom Indicators Will be Measured	Assumptions and Risks	
1. To prepare Bulgaria to enter the Internal market by reinforcing its institutional capacity to manage the <i>acquis</i> in the field of competition and to increase transparency, control and credibility of the system of granting state aids. The wider objective is in line with the priority objectives identified in the Accession Partnership and in the National Programme for Adoption of the Acquis (NPAA).	1. Legislation compatible with EU one. 2. Institutions able to manage the <i>acquis</i> and to implement the competition and state aid policy.	1. Annual review by the EC-DGIV and DGIA on accession results under the Accession partnership and NPAA 2. Progress Reports from the pre-accession advisers on competition and state aid.	1. Government maintains commitment towards transparency on State Aid granting and monitoring 2. Slow down in the process of privatization	

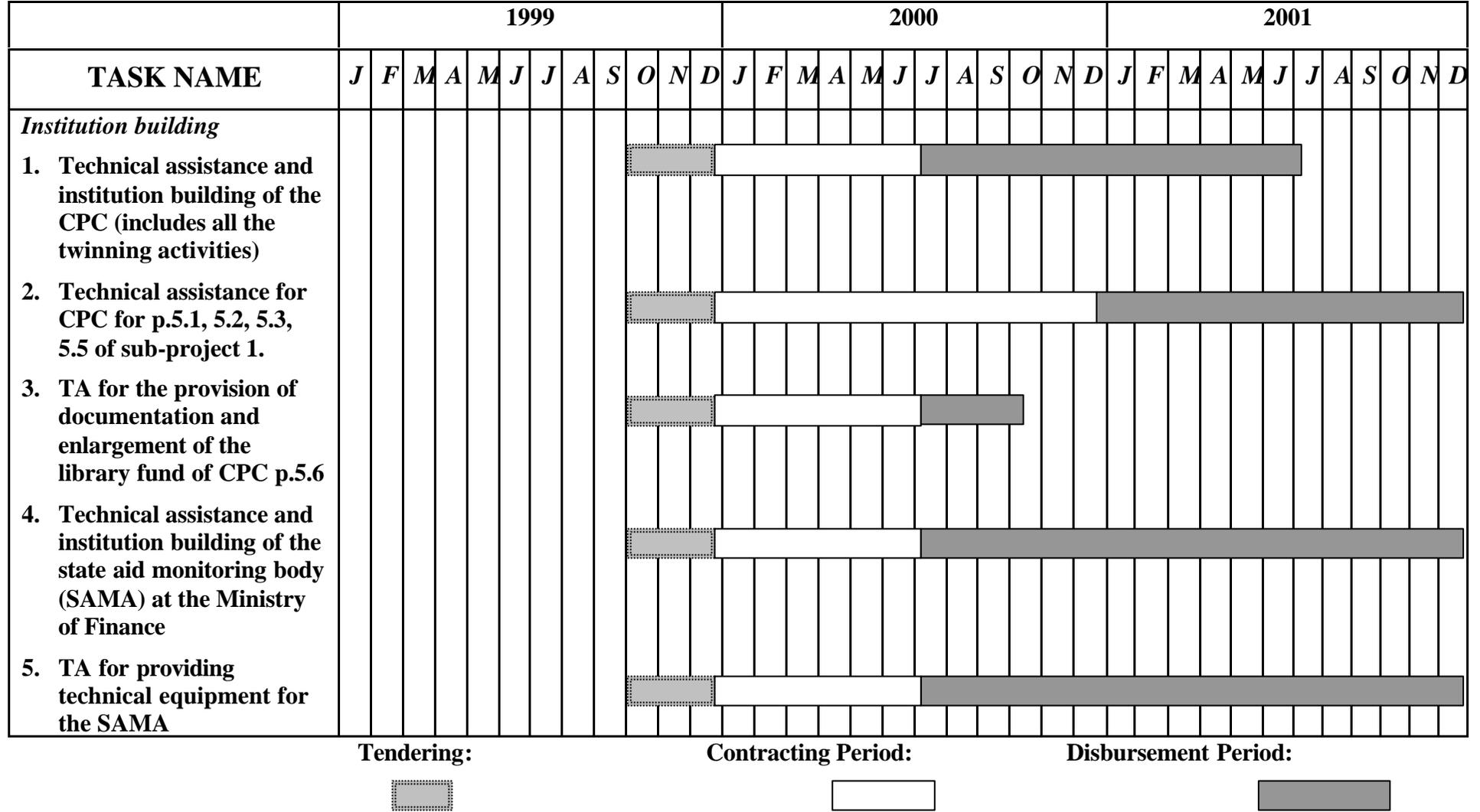
Immediate Objectives	Indicators of Achievement	How, When and By Whom Indicators Will Be Measured	Assumptions and Risks
1. Continue the approximation process to EU competition legislation, particularly in the field of block exemptions; increase the enforcement capacity of the CPC under the new Law on protection of competition and further develop a consistent, more efficient and effective competition and state aid control authority.	<ol style="list-style-type: none"> 1. The CPC will prepare and adopt block exemption decisions 2. The practice of the CPC will be consistent with the practice of the EC Commission and the ECJ 	<ol style="list-style-type: none"> 3. Project monitoring reports 4. Revised NPAA 5. State Gazette 6. Delegation reports 	1. In order to achieve this objective the officials at the CPC have to receive appropriate training. The CPC follows closely the debate in EC concerning the future mechanism of block exemption and will take notice of any changes in the relevant EC legislation
2. Improve the awareness of the new rules of competition and develop market and competition culture	<ol style="list-style-type: none"> 1. Number of notifications 2. Number of violations 3. Number of staff trained 4. Number of training sessions with the participation of representatives of BIBA, BCCI, BIA, SAC and ministries 	<ol style="list-style-type: none"> 1. Project monitoring reports 2. Delegation reports 	
3. Revise national legislation in particular sectors, in order to align the activities of state monopolies of commercial character and undertakings enjoying special and exclusive rights to the existing competition rules	<ol style="list-style-type: none"> 1. Laws or amendments to the laws on particular sectors of the economy 2. Number of CPC opinions asked before the conclusion of privatization contracts 	1. Ministry of Industry and Privatization agency reports	1. Privatization in those sectors.

4. Setting up the legislative framework to adopt the <i>acquis communautaire</i> in the State Aid area	1. Signing of the Implementing rules on state aids and their practical application on central, regional and local level. 2. Elaboration of a special guidance for the granting and monitoring of state aid. 3. Preparation of norms and regulations for internal monitoring of state aid.	1. Progress Reports from the pre-accession adviser on state aid. 2. State Gazette	1. Close co-operation throughout the project implementation between the MoF and CPC as well as with the other ministries and government agencies. 2. Co-ordination with the EC.
5. Increase the efficiency of the State Aid Body as the institution charged to monitor and notify State Aid	1. Approved Government Decision on the monitoring and control system for State Aid	1. Progress Reports from the pre-accession adviser on state aid.	1. Preparation of internal information and training campaigns. 2. Improve co-operation from other ministries involved in the process.
6. Update a State Aid inventory according to the new legal framework and monitoring system	1. Report on State Aid Inventory presented to the Ministry of Finance.	1. Progress Reports from the pre-accession adviser on state aid.	
Outputs	Indicators of Achievement	How, When and By Whom Indicators Will Be Measured	Assumptions and Risks
1. EU competition legislation adopted and efficiently enforced. Business community aware of the new competition rules. Efficient control on granted state aid.	1. Decisions adopted in conformity with the EU competition policy 2. Legal acts compatible with the <i>acquis</i> 3. Raised competition culture	1. EC regular review reports 2. Monitoring, assessment and evaluation reports by the CPC	1. Cooperation with different recipients of the training programs
2. Created legal framework for the adoption of the <i>Acquis</i> in the field of state aids. Efficient monitoring on state aid.	1. Approved norms and regulations for internal monitoring and control of state aid.	1. Progress Reports from the pre-accession adviser on state aid.	
3. Reinforced capacity of the State Aids Body ensuring an efficient organization and management of the granting, monitoring, and reporting mechanisms for state aids, in conformity with the legal framework to be approved.	1. Implementation action plan approved by the State Aids Body. 2. Personnel development plan linked to the norms and regulations.	1. Progress Reports from the pre-accession adviser on state aid.	1. New legislation adopted by the Parliament in due time.
4. Updated inventory on state aids.	1. Report on inventory of State Aids	1. Progress Report from the pre-accession adviser on state aid.	

5.Raised awareness and a higher level of transparency on state aid by an information campaign within the different ministries and agencies.	1.Implementation of Information Campaign 2.Execution of training, workshops, etc.	1.Progress Reports from the pre-accession adviser on state aid. 2.Action Plan on information campaign fulfilled	1. Co-operation of the different institutions involved as recipients of the training programmes.
6.State Aids Body officers introduced to the EU countries practices and legislation.	1. Execution of study visits to member-states, seminars, advising.	1. Progress Reports from the pre-accession adviser on state aid.	
Inputs	Indicators of Achievement	How, When and By Whom Indicators Will Be Measured	Assumptions and Risks
1.A technical assistance team of experts incl. for twinning. Phare funds of € million.	1.Design and implementation of the organizational and strategic plans for State Aids Body. 2.Information Campaigns. 3.Design and implementation of exchange of experiences with member-states and the Commission.	1. Progress Reports from the pre-accession advisers. 2. Monitoring, assessment and evaluation reports by the CPC and contractors	1. Collaboration and deep involvement of all institutions in the State Aid area.

ANNEX 2

TIME IMPLEMENTATION CHART



Note: The project will need two Pre-Accession advisers- one for competition and another for state aid matters. The Pre-Accession advisor on state aid will be a common agent for CPC and MoF.

Annex 3

CUMULATIVE CONTRACTING AND DISBURSEMENT SCHEDULE (MEURO)

Competition and state aid project

	31/12/99	31/03/00	30/06/00	30/09/00	31/12/00	31/03/00	30/06/01	30/09/01	30/12/01
Contracting		1.275	2.000	2.000	2.000	2.000	2.000	2.000	2.000
Disbursement		0.370	0.500	0.800	1.000	1.400	1.600	1.800	2.000

Annex 4 DETAILED COST BREAKDOWN (€million)

Project components	Investment		Institution Building		Total Phare =I+IB	Recipient	Budget	TOTAL
	DIS	HQ	DIS	HQ				
Sub-project 1:								
1) Technical assistance for the legislative reform			0.030		0.030			0.030
2) Technical assistance for institutional strengthening of the authority in charge of protection of competition and state aid control and assistance for professional training of the engaged officials			0.687		0.687			0.687
3) Improving the awareness of the new rules for competition and state aid control and expanding market and competition culture in the business community			0.053		0.053			0.053
4) Strengthening the relations with the European Commission and other relative institutions			0.030		0.030			0.030
5) Provision of documentation, software & hardware, translations and technology equipment			0.200		0.200			0.200

Total for sub-project 1			1.000		1.000			1.000
Sub-Project 2:								
1) Policy and legislative framework			0.300		0.300			0.300
2) Design of the national state aids monitoring system incl. the regional monitoring system.			0.263		0.263			0.263
3) Information/training of the target groups (public administration, local and regional authorities, NGOs, economic operators).			0.100		0.100			0.100
4) Institution building and strengthening of the SA Department.			0.337		0.337			0.337
Total for sub-project 2 :			1.000		1.000			1.000
TOTAL:			2.000		2.000			2.000

Annex 5

List of all relevant laws and regulations

LAW on the Protection of Competition (State Gazette No52 of 8 May 1998)
LAW ON THE STATE BUDGET(adopted every year)
RULES of Organisation and Procedure of the Commission for the Protection of Competition (State Gazette, issue 80 of 14 July 1998)
METHODOLOGY on Investigation and Definition of the Market Position of Undertakings in the Relevant Market
IMPLEMENTING RULES for state aid
IMPLEMENTING RULES for competition
COUNCIL OF MINISTERS REGULATION No 263 (25 October 1996)