

**Meeting between ECHO and the FPA Watch Group
Brussels, 1 December 2005**

**Main Conclusions
Approved by DG ECHO**

I. BACKGROUND

The meeting was convened to discuss two issues:

- the revision of Annex V ; and
- the document submitted on 9 November by VOICE on behalf of the FPA Watch Group entitled “ECHO-NGOs Framework Partnership Agreement – Towards a strengthened partnership”.

II. REVISION OF ANNEX V – MAIN CONCLUSIONS

1. Calendar of the planned revision

In advance of the meeting, ECHO had sent to the members of the FPA Watch Group a revised draft of Annex V, taking into account earlier comments from the members of the FPA Watch Group as well as comments from ECHO services.

ECHO reminded the members of the FPA Watch Group that Annex V is the only part of the FPA to be adopted at Commission level.

Further progress in the revision of Annex V will to a large extent depend on “external” factors. These include the prior adoption by DG EuropeAid of its revised “Annex IV”, and the adoption, by the Commission, of a new Habilitation Decision for the Director-General of ECHO.

It is hoped that the amendment to the current FPA (to include the new Annex V) will be adopted in early 2006.

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| <p>The Watch Group is invited to send its possible further textual modification proposals on the last draft of Annex V to ECHO at its earliest convenience.</p> |
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2. Presentation of the new version of the draft revised Annex V

ECHO summarised the main modifications as compared to previous versions of the document. ECHO indicated that it had, to the extent possible, tried to integrate the Watch Group's earlier recommendations in this new version of the draft revised Annex V.

The following issues were discussed in more detail.

a) Applicability of Annex V to contracting authorities other than NGOs

ECHO explained that the scope of the draft revised Annex V is larger than that of the current text. It will not only cover NGOs and its implementing partners, but also International Organisations (in case the rules of the latter are not equivalent to internationally accepted standards, or in specific cases), as well as the Commission itself.

For this reason, the draft revised Annex V uses both the terms "Humanitarian Organisations" (covering only NGOs) and "contracting authorities" (covering also International Organisations and the Commission).

b) Provisions that are still subject to change

The provisions on medical supplies and medical equipment, food aid and humanitarian procurement centres (HPCs) may undergo further changes, depending on the results of the Annual Conference (medical supplies, HPCs) and legislative developments (food aid).

c) Central Buying Agent / Humanitarian Procurement Centres

The draft revised Annex V includes an enlarged section on Humanitarian Procurement Centres. It is explicitly provided that the list of Humanitarian Procurement Centres will be published on the ECHO Website.

The concept of "Central buying agents" (CBAs) will also be defined. CBAs distinguish themselves from other HPCs in that they do not have their own stocks. As is the case for other HPCs, they may not generate a profit. They should therefore not be confused with private service providers.

d) Operational leasing

Operational leasing (i.e. a form of rental) should be distinguished from financial leasing. The latter will remain ineligible for Community funding under the new version of the draft revised Annex V.

e) Due diligence

The concept of “due diligence”, referred to in Section 3.2, implies an active attitude from the Partner. Partners cannot elude their responsibilities on the basis that they have acted in “good faith”.

f) Derogations to the rules

Paragraph 3.7.1 has been worded as widely as possible, to include all possible justifiable grounds for derogation to the standard procedures of Annex V.

g) Verifications, control and sanctions

In application of draft revised Section 3.8, new FPA applicants will be asked to fill out a questionnaire concerning their procurement rules. This “self-certification” will be followed by verification by external auditors (contracted by ECHO). The aim of these verifications will be to assess these rules’ compliance and compatibility with the principles, rules and procedures of Annex V.

For existing FPA Partners, similar verifications will take place on a bi- or tri-annual basis, in the framework of ECHO’s Headquarter audits. ECHO will take the results of these verifications into account in its Annual Partners’ Assessment (Article 11 of the FPA).

In the framework of the Annual Assessment, Partners will also have to submit an annual report with consolidated information concerning the outcome of the procurement process. Most of this information will already have been provided in the operation-specific final reports, with the exception of information about companies that have submitted bids but were not selected.

- The proposed clause on the verification of prices through specialized certification firms (ex Art. 3.5.3) has been removed. On the other hand, prices must continue to comply with market prices. NGOs will have to be able to prove in one way or another that this compliance has been verified. In addition, the remaining principles of Annex V must continue to be respected.
- Chap. 4: Pablo Ibañez has made some clarifications about the 60.000€ threshold. Below this amount, NGOs follow their own procurement rules “as long as in line with the general principles of Annex V”. Above it, NGOs have to follow specific Annex V procedures.

h) Specific textual modifications to be made

The members of the FPA Watch Group suggested the following textual modifications in order to clarify certain parts of the text:

- In Paragraph 2.1.6, the term “compliant with” should be replaced by “compatible with”;
- Art 3.8.3: the draft Annex V includes the requirement to submit an annual report gathering all information about purchases, including the names of the suppliers and of the other firms having submitted bids. The objective is to verify to what extent NGOs always use the same suppliers. No threshold has yet been decided as regards the contracts to which the requirement will apply. This point was considered as “open to discussion”.
- In Chapter 4, the first sentence should specify more clearly that the rules of this Chapter are only applicable whenever the Humanitarian Organisation is following ECHO rules;
- Paragraph 5.7.3 will be reformulated to specify more clearly which types of framework contract will not be accepted.

3. Follow-up

The FPA Watch Group is invited to submit its possible additional textual modification suggestion to ECHO at its earliest convenience.

MSF Belgium will submit a redrafted text proposal as regards the concept of “stringent regulatory authority” referred to in Paragraph 5.4.2.

III. RECOMMENDATIONS ABOUT AN IMPROVED PARTNERSHIP – MAIN CONCLUSIONS

1. Consultation on the recommendations made

DG ECHO was surprised that this document was not discussed with ECHO in the FPA Watch Group before it was submitted at the SPD meeting dd. 9 November 2005. As the document was prepared by the FPA Watch Group, a prior discussion in the FPA Watch Group with ECHO would seem to have been justified.

Several members of the WG pointed out that the main theme of this document is the concept of partnership. Consequently, the document and its recommendations should reach wider than ECHO 4. ECHO4 stressed however that the Watch Group is the primary forum for addressing Partnership issues with DG ECHO, including those of interest to other DG ECHO Units outside ECHO4.

In any case, DG ECHO will officially respond to these recommendations. DG ECHO considers the discussion of the document at the FPA Watch Group’s meeting of 1 December 2005 as a preparatory step to allow DG ECHO to have a clear understanding of the issues and difficulties expressed by the Partners.

Some of the recommendations concern issues and points of view DG ECHO shares, but where DG ECHO expects also an active role from the side of the Partners. For instance the defence of the humanitarian space and of the principles of impartiality, neutrality and independence of humanitarian aid should be a common effort.

DG ECHO also already addresses certain other issues. The consultation on the revision of Annex V is an example: it is taking place at the same time of the Commission's internal work on this document.

We should also reflect together about the balance between flexibility and detailed codification of procedures. Humanitarian operations are complex, context based and there is a need for a certain degree of flexibility. Increasing the codification of procedures will decrease the degree of flexibility. Specific conditions applicable to operations should rather be codified at operation level, in the proposal and in the grant agreement, in order to give legal security to the Partner.

Training continues to be a key necessity that DG ECHO addresses both internally and externally, in this last case by the funding of capacity building projects in the framework of the Grant Facility, as VOICE's project that has a big FPA training component.

2. Follow-up

Further to this meeting and to the clarifications provided by the Partners, DG ECHO will respond as soon as possible officially to this document and to the recommendations made. **During the Annual Partner Meeting the WG will present this document to all ECHO partner NGOs. The document will be presented on 9th November before the concluding remarks of Mr. Cavaco.**

Discussion at the Annual Partner Conference will also be taken into account.

DG ECHO will continue to defend its concept of partnership where a regular dialogue should always be privileged.

List of Participants

Voice FPA Watch Group:

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| ACF | Elvira Rodriguez |
| ADRA (EU) | Mario Oliveira |
| CARE International | Jerome Lebouc |
| CINS | Cinzia Laurelli |
| CISP | Riccardo Stefanori |
| DanChurchAid | Birgitte Hagelund |
| EU-CORD | Diana White |
| IRCUK | Karine Penrose |
| MDM | Laurent Bacos |
| Mission East | Mags Bird |
| MSF (B) | Inma Vazquez |
| Red Cross/ EU Office (observer) | Jeannette Adriaenssens |
| World Vision Deutschland | Claudia Höchst |
| VOICE | Sonia Giannone |
| | Kathrin Schick |

Apologies: Brid Barrett (Concern), Anna Bergman (Church of Sweden Aid), Simona Poglioni (COOPI), Simonetta Risaio (Handicap International), Gloria Mella (Save the Children), Aleassandra Gjidera (Alisei), Annette Wulf (GermanAgroAction)

DG ECHO:

Stefan de Keersmaecker, Pablo Ibanez, Bela Matias, Martine Fouwels, Silvia Ermini, Gaëlle Nizery