

FPA Watch Group Meeting
at ECHO, 29 October 2003
11.00 – 16.00

Participants:

NGOs and Red Cross:

Pierre GALLIEN, ACF; Jérôme LÉBOUC, CARE International; Domitille CADET, Croix-Rouge Française; Will DE WOLF, Caritas Europa; Riccardo STEFANORI and Giovanna SOLARI, CISP; Rikke HOLM, DanChurchAid; Diana WHITE, EU CORD; Simonetta RISAIO, Handicap International; Katleen HAYEN, IRC-Belgium; Renee RICHARDSON, IRC-UK; Jean SASLAWSKY, Médecins du Monde International; Floris FABER, Mission East; Inge VANGODTSENHOVEN, MSF-Belgium; Rachel HASTIE, Oxfam GB; François COURTADE, Red Cross (Federation); Elena GONZALEZ, Red Cross (Spain); Jeannette ADRIAENSSENS, Johanna GRIEM, Harri HIEKKANEN, all Red Cross (EU Office); Samantha CHAITKIN and Kathrin SCHICK, VOICE; Jane BACKHURST, World Vision.

ECHO:

Silvia ERMINI, Pablo IBANEZ, Bela MATIAS, Beatrice MIEGE (all ECHO 4)

1. Notes for the FPA WG Presentation at the ECHO Partner Meeting

Prior to the start of the meeting, the group discussed the contents of the presentation the WG has been asked to make at the ECHO partner meeting on November 6th. Jean Saslawsky volunteered to deliver the presentation, drafting along the following lines:

- Mainly forward-looking, but with a brief overview of the consultation process:
 - Underline the positives, but name areas of concern, perhaps through questions (how will this effect that...?)
- Focus on the period since the last partner meeting – transition period?
- Statistics about the revision process: Since the last ECHO Partner Meeting in October 2003,
 - the Task Force and Watch Group have spent some 37 hours in meetings, producing over 40 pages of minutes. Some 9 official meetings were held with ECHO.
- On top of that, separate informal meetings with ECHO officials and among the Task Force to revise, compile and work on comments and suggested guidelines for the FPA documents have lasted countless further hours.
- ECHO has passed us at least 8 different versions of some 12 different FPA documents.
- Consulting within the group has demanded well over 250 e-mails back and forth, with some 44 people on the Watch Group/Task Force e-mail list.
- Consultation process as such has been a good thing – they didn't have to ask our opinions.
 - Many resources were invested on both sides,
- In the end, the new FPA was able to take into consideration some of our concerns. Others, unfortunately, nobody could have made to fit into the EC's new financial regulation;
- we greatly appreciate the great efforts made by ECHO's NGO unit to try anyway.

- ECHO's new philosophy – not just technical changes to the old FPA.
 - New attitude about financial aspects, new flexibility, focus on outputs.
- We will also have to adapt to this new philosophy and treat the new rules with creativity in order to exploit the flexibility to the maximum (according to our operational requirements).
- The stricter new selection process for partners, and the more detailed information on each partner that ECHO now has on file will, we hope, manifest itself in increased mutual trust.
- This is the beginning, not the end. Despite our concerns about the new FPA, how well the new FPA will work remains to be seen in the implementation phase.
- Ask for a follow-up of the good communication we've maintained over the past years through the consultation process.
 - There should be a WG to monitor the implementation phase
- It could be interesting to write up a “case law” (jurisprudence) of the implementation, so that the hard work of interpretation is not lost on individual organisations, but can benefit all partners and both sides of the partnership.
- Timely training – both basic and elaborated – will be essential
- Partnership: The NGO unit is overstretched – what does this mean about partnership, how much the EC and ECHO dedicate to their relations with partners...

2. Confirmation of the final documents

Pablo Ibanez expressed his personal gratitude for the hard work that the Watch Group has contributed to the revision process. He also expressed relief that the revision is over, and some sadness about the way things went at the very end (rejection of certain ECHO derogations in the European Commission's approval process).

Preamble and Provisions:

The EC agreed that Mrs. Adinolfi could have the power to adopt the FPA. She will sign an internal note adopting the documents and send them to the partners. The final versions sent by Mrs. Adinolfi will differ from the drafts in that they will not bear date references (version numbers). The final documents are the same as the ones dating from August.

Annexes I-IV:

The final versions of all of the annexes (I. Single form; II. Budget; III. Grant Agreement; IV. General Conditions) have date references in case there are changes. The version in the package to be signed will be “031031”. Mrs. Adinolfi will have the authority (in consultation with the EC) to change these documents if necessary.

Annex V:

The final version will be dated “031031” as for the other four annexes. In order to be modified, this document will have to go through the formal approval procedure in the Commission. ECHO distributed a hard copy of Annex V and a Communication from Cr. Nielson to the Commission concerning the approval of the FPA procurement rules, etc.

Further comments:

- The documents will be available on the internet as soon as Mrs. Adinolfi signs them (most likely 01 November 2003).
- The documents will enter into force on 1 January 2004, and will be valid for all contracts signed from that date on.

- ECHO officials have received instructions to limit the signature of contracts as much as possible during the next two months.
- Pablo is studying the possibility of ruling the closure of older contracts (those which were signed in 2003 but will run for a substantial amount of time in 2004 as well) by the new provisions. This would be advantageous to avoid the “maximum costs” in force during the 2003 transition period. He cannot confirm this possibility yet.
- In order to reduce extra workload at the entry into force of the new FPA, partners are requested to **start using the new formats for the submission of proposals for projects to be implemented in 2004, starting on 1 November.**

3. Annex V – The Procurement Document

Annex V is much more complicated than the old Document 14 was, but since it codifies all the possibilities, not using a “derogation system” as in the past, ECHO hope it is a better document. It also includes the procurement centre procedure, which should contribute to developing procurement centre capacity in a better environment.

There will be a table on how to use and interpret Annex V: this will be an **internal ECHO note only**. Some consultation from the Task Force will be desirable for making this table.

The other EC services created major problems concerning this document. Considering their protests, the final document is the best we could get. The most serious disappointment is with the Rules of Origin (see below).

HOs are advised to read and learn Annex V and the Communication from Commissioner Nielson very carefully in order for the process to work well.

Publishing procurement/contracting results

Annex V requires that the HO publish the results of their procurement procedures on its website. ECHO’s emphasis with Annex V is on the ex-post publication. This will probably only apply to amounts exceeding 5000 Euros (this has not yet been established officially, but Mrs. Adinolfi will have the authority to decide on this sort of implementing measure).

Humanitarian organisations should have their own procurement rules (standard operating rules); those which do not are advised to learn from those which do.

Substantial changes in Annex V since the last version seen by the WG:

- New elements such as **security** (from WG comments)
- Element on **technical specifications** (exception from the rule of origin, nationality rule, see below)
- Principles that ECHO wants to impose in the event of **co-financing**
 - Annex V should be “read upside-down”, asking oneself when these rules apply. Most of the rules do not apply all the time, according to the *lex specialis derogat generalis* principle. Example: in the case of co-financing, only the section on co-financing (art. 5.6) applies.
- Article 4.1.4 presents a **key derogation: the “single quote”** in emergencies, etc. There are three procurement systems but the expectation is that the HO will focus on the 2nd and 3rd:
 1. HO’s own procurement system for a given operation (most situations covered by 4.1.4 “single quote”)
- Restricted tendering or framework system

- Procurement centre (can also be a framework contract) (also includes asking the procurement centre to do the procurement with 7% administrative charge).
- **Rule of nationality** (Art. 2.1): must be European economic space (including e.g. Norway, Switzerland) or in a beneficiary country. ECHO tried also to include ACP countries but was not successful. As an example of the implications of this rule: for a project in North Korea, the HO cannot buy from a Chinese company.
- **Rule of origin** (Art. 2.2): the current rule (where you can buy from the country of operation or a neighboring country) was rejected by the other EC services.
- **Exceptions** for 2.1 and 2.2 are found in:
 - 2.3, which still allows a solution to be found on a case-by-case basis, and
- for “technical specification” reasons if a case can be made for eligibility on this basis.
- ECHO did not want to keep this derogation system but had no choice for these articles: the key is not to improvise. Nielson’s Communication is useful as it contains arguments for getting derogations.

Updates of Partner Information

ECHO will require updates of Partner documents which have changed (e.g. internal procurement procedures) once per year.

According to the Joint Management for International Organisations, ECHO has to comply with the standards for IOs concerning procedures, accounts and procurement.

ECHO will try not to treat NGOs and IFRC differently:

- There are four Key Elements or minimum standards for IOs:
 1. Accounting System
 - Internal Control
 - External Audit
 - Procurement Rules
 - Once per year, ECHO will validate/update/audit the information on its partners. **Audited accounts and the annual report** should be sent to ECHO annually.
 - Once every two years, ECHO will require an **external audit**.

4. Annual Partner Meeting 2003 (Nov. 6-7)

131 NGOs have been validated for signature of the new FPA. There are still others missing certain items such as the APPEL questionnaire, etc.

ECHO will have a “**problem office**” to answer questions about these relatively minor problems, and “old” partners will have the next two months to catch up with the NGOs which sign the partnership agreement this November.

As of 1 January 2004, APPEL will be open to the outside, with a two step process:

1. Self-assessment qualification (a list of questions that need to be answered in the positive). The successful completion of this part will trigger a message to ECHO informing of a new applicant.
2. ECHO will issue a password giving access to the second part.

At the meeting, there will be **two different rooms where the FPAs will be prepared and ready**

for signature. Signatories will have to be the person indicated on the special form sent out by ECHO, or one of the persons indicated in the APPEL.

There will be a room with stands displaying **ECHO-funded projects.**

The NGO Unit (Pablo Ibanez) will present the FPA: This presentation is not intended as a training! The main messages will be “our system is the best because we know with whom we are working” and “partnership is the basis for our credibility.” The **key messages**, on which ECHO hopes the debate will be focused, are:

1. FPA as a certification procedure (partnership)
2. concentration on procedures (quality)
3. movement towards real costs (in field, in HQ, etc.)

The **external audit** could also be mentioned in this context.

There will be a panel discussion concentrating on challenges for the future and the MCDA guidelines.

5. Training and the future of the FPAWG

ECHO has two strategies for training:

1. “**Emergency Training**” as soon as possible for an effective transition, just to allow the HOs to start using the new FPA:
 - a. Presenting the FPA as it is (from now until end 2003)
2. ECHO experts and ECHO staff have already been using the new formats since summer because the agreement with the international organisations is already in force.
3. Italy, Caritas, and Oxfam GB are undertaking training projects, funded by ECHO, which are open to all other partners:
 - i. SOLINT is doing 5 training sessions open to all Italian NGOs. The project also includes an interactive CD-ROM and 3 trainings in the field (Angola, Kenya, and a third location TBC).
 - ii. Oxfam GB will make available its full training schedule. The first session will take place at the end of November in London.
 - iii. The Caritas training will have a “new FPA” component.
2. “**Structural Package**” – will rely on the grant facility
 - a. **Service contracts** can only be used to benefit the Commission directly (not its partner organisations) except for drafting a user’s manual.
3. There are **two types of grants**: activity grants and grants for functioning (subvention de fonctionnement).
4. A “**help desk**” facility outside of ECHO could be done through a subvention de fonctionnement. This could last over several years but in decreasing amounts. In theory there would be an open call for the grant in early 2004: it would use 2004 money and begin functioning after summer 2004.
5. There will also be a **call for proposals for activity grants** in 2004. Preference will be given to limited-time projects that leave their products behind – e.g. manuals, training tools, best practices...
6. ECHO would also like to invest in **improving NGO accounting** through training/packages.

In addition, **ECHO plans to publish a FAQ** (Frequently-Asked Questions page) on its website. This would include questions already answered as well as questions not yet answered: NGOs can submit questions with suggested answers/interpretations. HOs are encouraged to send in the questions (and answers) that arise in their training sessions.

The **FPAWG should meet with ECHO once more before the end of 2003** to discuss:

- Guidelines to Annex V
- Structural Training Strategy
- Activity Training