

DIGITAL SENDER

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Programme of Assistance to  
the Palestinian People  
United Nations Development Programme  
P.O. Box 51359  
Jerusalem  
Israel

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date: 2004-06-15

**L Ilc/3 - Financial Cooperation with the Palestinian Territories  
Poverty-Oriented Employment Generation Programme III – West Bank  
EUR 16 million – 2002 65 371  
Financing Agreement and Separate Agreement**

Dear Sir,

Enclosed please find the original signed version of the Separate Agreement to the Financing Agreement for the a.m. project as well as its confidential copy. Also attached is the copy confidential of the Financing Agreement for your files.

Thanking you for your kind cooperation we remain,

Yours sincerely

KfW

  
(Abel)

  
(Welp)

Encl.

Original set of Separate Agreement  
Given to Registry on  
6/7 MSK

Copy  
Confidential

Programme of Assistance to the  
Palestinian People  
United Nations Development Programme  
P.O. Box 51359  
Jerusalem  
Palestinian Territories

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Date: 2004-06-15

**L II/c3      German Financial Cooperation with the Palestinian Territories  
Poverty-oriented Employment Generation Programme III – West  
Bank  
EUR 16 million  
No.: 2002 65 371  
Separate Agreement to the Financing and Programme Agreement  
dated June 7, 2004**

Ladies and Gentlemen,

In accordance with the Financing and Programme Agreement entered into between the Palestinian Authority ("Recipient"), Programme of Assistance to the Palestinian People (PAPP) of the United Nations Development Programme (UNDP) ("Programme-Executing Agency) and KfW ("KfW") dated 7 June 2004 the following shall be determined by separate agreement:

**Pursuant to Article 1.2:**

the details of the Project as well as the goods and services to be financed from the Financial Contribution;

**Pursuant to Article 3.1:**

the disbursement procedure, in particular the evidence proving that the disbursed financial contribution amounts are used for the stipulated purpose;

**Pursuant to Article 7.2**

the details pertaining to Article 7.1 (Project Implementation).

We propose that the following be agreed upon:

I. **Project Design**

1. **Details of the Project**

The project comprises labour-intensive individual projects for the expansion of social and economic infrastructure in the West Bank in the context of an open programme approach. It is designed as a continuation of the ongoing projects “Employment Programme I and II” (poverty-oriented infrastructure), “Rehabilitation of the Old City of Hebron” (BMZ project IDs: 2001 65 456, 2002 65 140 and 2001 65 936) and “Poverty-oriented Infrastructure IV - Gaza Strip” (2003 65 189).

The provision of the basic equipment required for a proper operation of the infrastructure to be established is part of the project unless such equipment exists already or if the implementing institutions or future operators are not in the position to finance such infrastructure themselves.

The project objectives are that the socio-economic infrastructure improved in terms of quality and quantity is in use and that supported self-help initiatives are active. This is to contribute to reduce the poverty of the population in the West Bank. The criteria for reaching these objectives, the Project results and the required Project activities as well as the assumptions underlying the Project purpose and the Project results are contained in Annex 1.

The design of the Project is based on the following documents:

- Report (initiated by the Sector Working Group on Employment Generation) to analyze labour-intensive programmes in the Palestinian Territories; September 2002 and related PNA Strategy on the Job Creation, January 2003;
- ILO Geneva, The Situation of Workers of the Occupied Arab Territories, May 2003;
- OXFAM International, Forgotten Villages, Struggling to Survive Under Closure in the West Bank, July 2002;

- UNESCO: The Impact of Closure and other Mobility Restrictions in Palestinian Productive Activities, October 2002:
- World Bank: 27 Months – Intifada, Closures and Palestinian Economic Crisis, May 2003.

The following Programme activities shall be financed from the Financial Contribution: Labour-intensive individual projects for the construction, rehabilitation and extension of social and economic infrastructure in the West Bank. Furthermore, the Programme includes advisory services for the operation and maintenance of the infrastructure and of management capacities of self-help initiatives as well as administrative expenses of the Project Executing Agency. A sub-programme implemented by Jerusalem Water Undertaking will be included into the Programme (Jerusalem Water Undertaking component) consisting of the rehabilitation of water and waste water systems in refugee camps and poor districts of Al Bireh and Ramallah.

## **2. Time Schedule**

The underlying time schedule for the preparation, implementation and operation of the Project is 24 months.

## **3. Total Cost and Financing**

The estimated total Project cost ("Total Cost") underlying the Project appraisal is approximately EUR 18.4 million. The Financial Contribution amount is EUR 16 million. The composition of Total Costs and the financing plan are contained in Annex 2.

## **4. Changes in the Project Design**

Any major changes in the Project design shall require KfW's prior consent. The Programme-Executing Agency shall inform KfW thereof immediately, stating the reasons, the planned measures and the consequences of the change (including on Total Cost). Execution of such measures may commence only on the basis of revised planning and upon KfW's consent.

## **II. Project Implementation**

### **1. Responsibilities and Time, Cost and Financing Schedule**

- 1.1 The Programme of Assistance to the Palestinian People (PAPP) of the United Nations Development Programme (UNDP) shall be responsible for the overall coordination and implementation of the Programme. Advisory services to increase the maintenance and management capacities shall also be coordinated and administrated by UNDP/PAPP. The project selection shall be coordinated in close cooperation between UNDP/PAPP, the Ministry of Local Government and the respective individual Sector Ministries.
- 1.2 The detailed time, cost, and financing schedule, regularly updated for the proper technical and financial implementation of the Project, shall be prepared as soon as possible by the Programme-Executing Agency and submitted to KfW. Such schedule is to show, by deadlines and amounts, the intended chronological interrelation of the Project activities and the resulting financial requirements. If any deviation from such schedule becomes necessary during the implementation of the Project, KfW shall be furnished with a revised schedule.

### **2. Award of Contracts for Goods and other Services**

- 2.1 After approval of the Programme Executing Agency, the contracts for goods and all other services will be awarded to qualified Palestinian enterprises in the region of the individual projects after competitive public bidding – obligatory for lots with an estimated value of more than EUR 150,000.00 – or after obtaining at least three different offers. The invitations to tender will stipulate a minimum amount of 25% of each contract value for labour. The contractors have to show in their offers, that this amount will be obtained. Lots up to EUR 150,000 may also be executed by the respective implementing institution itself if it is sufficiently qualified and possesses sufficient capacity. To this end, the implementing institution would hire unemployed workers ("direct hire modality") who would be grouped under the supervision of skilled foremen in the planned works. Individual projects in Refugee Camps will be implemented directly by the Local Camp Committees in cooperation with UNDP/PAPP and in coordination with UNWRA.

- 2.2 The procurement of basic equipment for the infrastructure can be financed out of the Programme funds in case the equipment cannot be financed out of other sources. The financing of equipment is limited up to a value of 20% of the individual projects' cost.
- 2.3 The bidding period shall be fixed in a way that allows the bidders sufficient time to prepare their bids.
- 2.4 The remaining details concerning the awarding procedure and contractual provisions are explained in the "Guidelines for Procurement in Financial Cooperation with Developing Countries" (Annex 3), which form an integral part of this agreement.
- 2.5 In the pre-qualification notice or - if no pre-qualification is conducted - in the tender documents, the Programme-Executing Agency shall obligate the bidders to submit together with the pre-qualification documents or together with the bid a declaration of undertaking with the following content:
- The parties to the awarding procedure emphasize the importance of a free, fair and competitive awarding procedure that precludes abuse. In this respect this company thus far has not offered or granted any inadmissible advantages either directly or indirectly to public servants or other persons in connection with its bid, nor shall it offer or grant any such incentives or rewards in the present awarding procedure or, in the case of an award, during the subsequent execution of the Agreement. The company shall inform its employees of their respective duties and their commitment to observe this self-imposed obligation and to abide by the laws of the Palestinian Territories.
- 2.6 When concluding contracts for goods and services to be financed from the Financial Contribution, the Programme-Executing Agency shall also observe the following principles:
- a) As no import duties may be financed from the Financial Contribution pursuant to Article 1.3 of the Financing and Project Agreement, such import duties, if part of the contract value, shall be stated separately in the contracts for the goods and services and in the invoices.

- b) If payments due under the contracts for goods and services are to be made from the Financial Contribution, said contracts shall include a provision stipulating that any reimbursements, guarantee or similar claimable payments and any insurance payments shall be made for account of the Project Executing Agency to account no. 56 000 000 00 at Kreditanstalt für Wiederaufbau, Frankfurt am Main (S.W.I.F.T.: KFWIDEFF; BLZ 500 204 00), with KfW crediting such payments to the account of the Recipient. If such payments are made in local currency they shall be remitted to a special account of the Project Executing Agency in the country of the Project Executing Agency, which may be drawn on only with the consent of KfW. Such funds may be re-utilized for the execution of the Project with KfW's consent.

### **3. Special Implementation Agreements**

#### **3.1 Selection of individual Projects under the Programme**

3.1.1 The Selection of individual Projects under the Programme will be carried out in a two-step procedure. UNDP/PAPP will use its expertise in assessing different forms/phenomena of poverty, for example through differentiating between income-poverty and poverty in terms of inadequate access to basic services.

- In the first step UNDP/PAPP will use available studies and reports on poverty in the Palestinian Territories (quantitative and qualitative data)<sup>1</sup> to identify very poor sub-areas and villages in the West Bank as well as to identify those groups who live under very hard conditions in the West Bank. UNDP/PAPP will visit the identified villages, sub-areas as well as groups and encourage them to participate in the Employment Generation Programme. If the communities are interested, they shall undertake – with the support of UNDP/PAPP - a needs assessment and prioritise their needs. If the communities wish, UNDP/PAPP will assist them in formulating a project proposal.
- In the second step the selection of individual projects will be performed by UNDP/PAPP based on the following process:

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1) For example: 'Palestine Human Development Report 2002, Birzeit University - Development Studies Programme, June 2002;  
 'The Poor speak out', MOPIC in cooperation with UNDP, Ramallah, July 2002;  
 'Palestinian Public Perceptions on their Living Conditions', Graduate Institute of Development Studies (IUED), Geneva, December 2002;

A public call for proposals will be launched requesting all eligible governmental and non-governmental institutions to submit to UNDP/PAPP their priority project proposals that meet the set selection criteria. They can submit their proposals either directly or in co-ordination with the relevant line ministries to UNDP/PAPP.

All submitting institutions will be requested to acquire, if necessary, a no-objection for their proposal from the relevant national ministry or institution.

UNDP/PAPP will screen and evaluate all submitted proposal against the selection criteria and establish a prioritised list of individual projects. A close co-ordination with the Ministry of Local Government will be established in this regard.

UNDP/PAPP will submit the project list to KfW for its "no objection".

Subsequently, UNDP/PAPP will inform Ministry of Planning on the selected projects and will make the list public. Furthermore, UNWRA will be informed on the projects to be implemented in the refugee camps.

3.1.2. The selection criteria agreed upon between KfW and UNDP/PAPP, are the following:

- The Programme will in general focus on rural areas of the Northern and Central West Bank (focal areas of Palestinian-German Development Co-operation). Measures in Refugee Camps will be included. Justified exceptions are possible.
- Projects shall have a direct labour content of at least 25%.
- Unemployment and poverty rates (based on quantitative as well as qualitative poverty indicators (human poverty as well as money-based poverty, gender-sensitive and youth-oriented criteria) shall be considered in the selection of target areas or target groups.
- The target community shall be interested in the project and ready to participate in project preparation (see above: two-step procedure), implementation (especially through employment during the construction period) and operation (Operation and preliminary Maintenance Plan shall be concluded with the community in the framework of Memorandum of Understanding).



- The benefit of the infrastructure will be mainly directed towards the target group.
- No significant environmentally negative effects will be expected to occur during implementation and operation.
- The Projects shall be sustainable, especially through a technical design leading to low maintenance and low operating costs.
- Individual project costs shall generally not exceed EUR 300,000 (exception: sub-programme implemented by Jerusalem Water Undertaking, approx. EUR 2.0 Mio); all other cases will need a specific justification as well as prior approval of KfW. If a project or investments related to a project are to be financed by different donors/sources, KfW is to be informed about the entire investment cost.
- A sub-programme implemented by Jerusalem Water Undertaking will be included into the Programme up to an accumulated amount of EUR 2.0 Mio. Selection criteria for this sub-programme will be agreed upon later on.

3.1.3 The financing of primary and secondary school construction measures is excluded from the Programme since Germany is already financing the rehabilitation and extension of schools in the West Bank with Employment Generation Programmes. The financing of labour-intensive construction, rehabilitation or extension of Vocational Training Centres or Technical Colleges is not excluded.

## **3.2 Implementation of the projects**

3.2.1 UNDP/PAPP will inform KfW of the Programme Management Team from amongst its staff who will be responsible for all aspects of the Programme implementation. The team should comprise at least a qualified Programme Co-ordinator and two Programme Management Officers to be responsible for the regular supervision of the individual projects. One of the three shall have strong sociological or socio-economic expertise. Nomination or recruitment of further personnel will depend on the geographical distribution, amount and type of assistance to be provided for the individual projects. In order to assure proper project implementation at the different sites, UNDP/PAPP might hire

site staff, among others site engineers, for the planning and supervision of construction activities.

- 3.2.2 For each individual project the implementing institutions will be identified. These will be particularly municipalities and local councils, refugee camps committees and non-governmental organisations including community based organisations.
- 3.2.3 Special Memorandum of Understandings (MoU) will be signed between the UNDP/PAPP and the selected implementing institutions whether governmental or non-governmental. The MoU's will outline the responsibility of each of the parties, will ensure the projects are implemented in the most effective, transparent as well as accountable way and will comprise a Operation and preliminary Maintenance Plan. The MOU shall also include a statement of the contribution of the implementing agency, if this is feasible.
- 3.2.4 The MoU's will clearly stipulate that the project funds should not be utilised to cover any customs duties. If such duties have to be paid they will be covered by the implementing institutions, the project beneficiaries or from other sources. Evidence thereof will have to be furnished prior to the conclusion of contracts for supplies and services.
- 3.2.5 The implementing institutions and UNDP/PAPP will agree on the optimal project implementation approach to be adopted. The so-called standard 'targeted contract' used for the contractors in the ongoing phases will be refined based on the recommendations of the PNA Strategy on Job Creation (in particular chapter 2.4). In general, the implementing institutions will be responsible for preparing and implementing the respective project. This would comprise preparing the necessary technical documents for the project and developing an implementation plan for project activities related to the physical works, tendering, contract negotiations and conclusion (or supporting the projects on a direct hire modality), supervision of the works as well as acceptance of the supplies and services provided. The tender documents and proposals for award of contract will be co-ordinated with UNDP/PAPP. The UNDP/PAPP will assist the implementing institutions in preparing and implementing the individual projects ("joint implementation"). If required, the UNDP/PAPP can implement the respective project on behalf of the responsible institution in case this institution asks the UNDP/PAPP to do so. Additionally, local service providers could be hired to assist the implementing institutions in preparing and implementing individual projects. In any case, the

UNDP/PAPP will explain the specific implementation regulations to the implementing institutions.

### **3.3 Remuneration of UNDP/PAPP**

UNDP/PAPP will receive a remuneration of 8 % on an amount of 14 Mio EUR and 4 % on an amount of 2 Mio EUR (Jerusalem Water Undertaking component). This results in a total remuneration of up to 1,200,000.00 EUR or 7.5% of the Financial Contribution amount - see Special Provisions in Annex 4 (Disbursement Procedure).

## **4. Provisions for the Proper Operation of the Project**

To secure the proper operation of the Programme, the Programme-Executing Agency shall draw up an operation and maintenance concept for each individual project in cooperation with the respective implementing institution at least one month before commissioning of the project.

At the same time the Programme-Executing Agency, in cooperation with the respective implementing institution, shall draw up budget forecasts for each individual project. This forecast is to show that the financing of operation is ensured.

The operation and maintenance concept as well as the budget forecasts shall be attached to the Final Report (cf. section IV).

## **III. List of Goods and Services and Disbursement Procedure**

### **1. List of Goods and Services**

- 1.1 The list of goods and services to be financed from the Financial Contribution shall be prepared on the basis of the agreed measures which are described and quantified in a list broken down into main cost groups (List of Goods and Services). This list shall also serve as a basis for preparing the simplified statement of application of funds (see item 4 of the Supplementary Conditions for Disbursements under the Disposition Fund Procedure).

- 1.2 The ceiling on reservation of funds shall be the amount specified under item 2.1, which KfW will notify to the Recipient together with the "List of Goods and Services". The amount actually reserved shall result from the List of Goods and Services approved by KfW.
- 1.3 Any contracts for goods and services or related lists containing at least the dates and values of such contracts, the designation of the goods and/or services, the contractor, reference number and amount, or any detailed lists of services for force-account work shall be stored on site (place of storage shall be notified to KfW upon first disbursement) for examination or requisition at any time by KfW or its representatives until at least 5 years after the end of the financed measures.

## **2. Disbursement Procedure**

- 2.1 The disbursement procedure shall be governed by the stipulations laid down in Annex 4 which forms an integral part of this Agreement.
- 2.2 The UNDP/PAPP will pay the funds directly to the providers of the projects' supplies and services in accordance with the respective documented progress of the supplies and services. Before the first payment with regard to each individual project, the implementing institutions will confirm in writing that the respective projects would solely be financed through Programme funds (and, as the case may be, additionally own funds). In case, UNDP/PAPP implementing institutions dispose of sound internal control systems with regard to securing the orderly use of the funds, UNDP/PAPP could also pay the funds to special Programme accounts of these institutions. In such cases, the implementing institutions will be required to open separate bank accounts for their individual project to receive the funds from UNDP/PAPP. They will have to submit reports on the works and the employment generated in accordance with a format set by the UNDP/PAPP. The implementing institutions will be required to prepare a financial plan on funds disbursement. The UNDP/PAPP will advance funds to the implementing institutions against the plan and a disbursement report. The UNDP/PAPP will verify all disbursements undertaken by the implementing institution and will ensure all backstopping documents are provided including original invoices. The implementing institution will submit to the UNDP/PAPP, upon completion of all

activities, an end of Programme report, including a complete certified financial report and certified supporting documents.

#### **IV. Reporting and Other Provisions**

##### **1. Reporting**

1.1 Until further notice, the Programme-Executing Agency shall report to KfW semi-annually on the progress of the Programme (progress reports) including the fulfilment of the implementation agreements stipulated in Section II.3. of this Agreement and on the development of all other important general conditions. The report shall include the points listed in Annex 5. In addition, the Programme-Executing Agency shall report on all circumstances that might jeopardize the achievement of the overall objective, the Programme purpose and the results. At the time of the physical completion and commissioning of the Programme, but before the expiry of the guarantee period at the latest, the Programme-Executing Agency shall submit a final report on the measures carried out. The first report on the state of affairs shall be submitted as of the third months after signing of this Agreement. The reports must have been received by KfW not later than 3 weeks after the end of the period under review.

1.2 After completion of the Programme, the Programme-Executing Agency shall report on its further development (see Annex 5 for details). KfW shall in due course inform the Programme-Executing Agency about the end of the reporting period.

##### **2. Other Provisions**

2.1 The Programme-Executing Agency shall send KfW all such documents as are necessary for KfW to give the comments and approvals mentioned above or in the enclosed guidelines early enough to allow reasonable time for examination.

2.2 The Programme-Executing Agency shall set up Programme sign boards that will contain at least the following message:

"A development project of the Palestinian Authority, co-financed by the Federal Republic of Germany through KfW."

A project seal provided by the German Representative Office shall be placed on the project sign board.

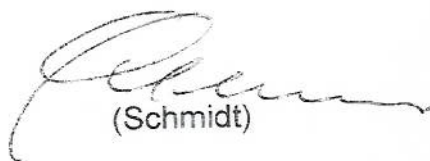
- 2.3 The above provisions may be amended or modified at any time by mutual consent if this should appear useful for the implementation of the Programme or the execution of the Financing and Programme Agreement. In all other respects, the provisions of Articles 6.2 and 8 of the Financing Agreement shall apply to this Agreement accordingly.

Please confirm your consent to the above Agreement by signing in a legally binding form and returning the enclosed copies.

Yours sincerely,

KfW

  
(Abel)

  
(Schmidt)