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**SUPPLEMENTARY INFORMATION
ON
CHAPTER 28
FINANCIAL CONTROL**

In its Common Position CONF-BG 21/01 the European Union invites Bulgaria to provide further clarification on a number of questions in the financial control field. With regard to this request Bulgaria would like to provide the following information:

I. PUBLIC INTERNAL FINANCIAL CONTROL

On Secondary Legislation:

The secondary legislation, implementing the Public Internal Financial Control Act was fully completed. Regulation on the Structure of the PIFC Agency was adopted by the Council of Ministers on 13th February 2001 and is in force as of 20th February 2001. Regulation on the Implementation of the Public Internal Financial Control Act was adopted by the Council of Ministers on 5th April 2001 and entered into force on 11th May 2001.

On the Administrative Capacity:

The Public Internal Financial Control Agency has the structures and qualified personnel necessary for the implementation of the EU legislation in the field of public internal financial control.

The existent structure is set up under the provisions of the PIFC Act and the Regulation on the Structure of the Public Internal Financial Control Agency. The Agency is an administration under the Minister of Finance and is a legal entity funded by the national budget. It disposes of a Head Office, situated in Sofia and 28 Regional Directorates within the respective administrative regions of the country. It has 1421 staff, 114 of which are part of the management staff, 1134 are operating auditors and 173 are part of the general administration staff.

In parallel with the introduction of the new public internal financial control model, training of the auditors regarding new forms and methods of performing the public internal audit has been undertaken. Various training seminars with the participation of experts from the financial control institutions of the EU Member States have been held. Training on the implementation of the EU best practices in the field of public internal financial control is presently being carried out. Training seminars of the auditors of the Regional Directorates are also carried out.

The qualification of the personnel of the PIFC Agency has been improved under a SIGMA Bridging Project, completed in march 2001, which covered activities, designed in such a way so as to ensure smooth transition from Phare 1997 Project “Enhancing the financial control mechanism” to Phare 2000 Twinning Project “Strengthening of the public internal financial control”. Bridging activities were focused on the implementation of three main tasks:

- 1) Technical assistance to the development of secondary legislation;
- 2) Analysis of the training needs of the Agency’s staff;
- 3) Extraction of final conclusions and recommendations, which should be used as a basis for the twinning activities under Phare 2000 Project.

The PIFC Agency will start implementing a twinning project under Phare 2000 “Strengthening of the public internal financial control” (BG 00.06.01) in cooperation with the French Ministry of Economy, Finance and Industry. The project duration is 2 years. It comprises four components: legal framework development; management capacity and administrative structures’ development; human resources development; and information technology. The main objectives are:

- 1) To introduce and develop a sound public internal financial control system in Bulgaria
- 2) To strengthen the public internal financial control system by enhancing the capacity of the Public Internal Financial Control Agency under the authority of the Minister of Finance and by developing the legal framework for this control.

These two objectives will be achieved through:

- a) Development and implementation of the tertiary legislation, audit methodologies, audit manuals and audit trails;
- b) Strengthening the structure of the PIFC Agency, its Regional Directorates and the internal auditors’ network in the spending centers;
- c) Enhancing the professional standards and general competence of the Agency’s staff and management;
- d) Developing a new wide area network (WAN) within the PIFC Agency, including the Regional Directorates of the Agency.

A Phare service contract with Deloitte&Touche for technical assistance to the Public Internal Financial Control Agency in carrying out certification of the SAPARD Agency during the first year after the accreditation was concluded. The specific objectives of the work are:

- 1) To assist the PIFC Agency in:
 - the development of the functional organization of the PIFC Agency with regard to the certification of the SAPARD Agency;
 - the preparation of the Audit Plan;
 - the development of the Audit Report;
 - the preparation of the certificate on the basis of the Audit Report.
- 2) To deliver training in the standards and methodologies applicable to the certification audit and ensuring ownership thereof within PIFC Agency.

The PIFC Agency signed professional service contracts with Deloitte&Touche for carrying out training and consulting with respect to the organization, functions and procedures of the National Fund regarding the SAPARD Agency.

A training programme of the PIFC Agency is in a process of development. This programme will include training of the internal auditors from the Central Office and the Regional Directorates of the PIFC Agency with respect to the new functions of the PIFC Agency.

On Guidelines on the Organisation of the Financial Management and Control Systems:

At the end of May 2001, the PIFC Agency drafted the guidelines on how the spending centres should organize their financial management and control systems. The draft Guidelines have been conformed to the requirements of the “Budget” Directorate in the Ministry of Finance. At the beginning of July the draft Guidelines were discussed and agreed upon with all first class spending centres. After all conformity procedures had been completed, the Director of the PIFC Agency endorsed the Guidelines.

The Guidelines on the Organisation of the Financial Management and Control Systems were submitted to all first class spending centres. They were also submitted to all Regional Governors who shall distribute them to all municipalities in the country. By the end of July, all first class spending centres shall have established financial management and control systems.

Upon request the detailed guidelines shall be submitted in written.

On the Delegated Internal Auditor:

The status and competences of the delegated internal auditor are defined in Art.22-26 of the PIFC Act and in Art.40-52 of the Regulation on the Implementation of the PIFC Act. The delegated internal auditor performs his functions within the administration of the spending centre, to which he is delegated. However, it is explicitly stated that he shall not act as a Head of the Internal Audit Service of the spending centre. The delegated internal auditor is an official of the PIFC Agency and carries out audit which is external for the spending centre, but is internal for the Executive power. The main functions of the delegated internal auditor are: to perform internal audit; to monitor the implementation of the PIFC Agency instructions; to counsel the chief accountant and the manager upon their request and/or on his/her own initiative; to impose the system of obligatory counselling and to propose the introduction of the preventive control system.

According to Art. 40 of the Regulation on the Implementation of the PIFC Act, the delegated internal auditor shall monitor and give assistance to the functioning of the financial management and control systems, in cooperation with the auditee’s administrative structures.

On the Elaboration of the Audit Manuals and Audit Trails Relating to Pre-accession Funds – timetable:

Art. 4(1) of the PIFC Act stipulates that, “The scope of the Public Internal Financial Control shall cover the financially related activities of all class units responsible for the National Budget and EU funds expenditure”. Thus, the audit, performed by the PIFC Agency on the EU funds and on the National budget funds is applied on a unified basis. The public internal financial control regulatory framework will be further developed and completed through the adoption of the following regulations, audit manuals and audit trails:

1. Regulation on Preventive Control Procedures (Art 27-28 of the PIFC Act) – end of September 2002. EU Member States' experts will work jointly with the PIFC Agency's staff to prepare the new regulation.
2. Regulation on Certification Procedures – end of May 2002. The PIFC Agency experts shall get acquainted with the certification procedures of the accounts of the functional structures, responsible for the control and distribution of EU funds. EU Member States experts will work jointly with the PIFC Agency's staff to prepare the new regulation.
3. Ordinance on the Risk Assessment Procedures – end of April 2002. The PIFC Agency experts shall be provided with a thorough understanding of the risk assessment methods. EU Member States experts will work jointly with the PIFC Agency staff to prepare the risk assessment mechanism.
4. Internal Control and Internal Audit Manuals / Development of an Audit Trail – end of December 2002. Methodology and procedures for the different types of audit, such as systems audit, performance audit, IT audits, compliance testing and financial audit shall be developed, in compliance with the EU best practices. The audit trail will follow the internal audit practice of the European Commission.
5. Procedures and Manuals on Control on the Public Procurement Act Implementation – end of December 2002.

On the Role of the PIFC Agency as regards the Audit of ISPA Projects:

The scope of the public internal financial control covers all spenders of EU funds. According to the ISPA Memorandum of Understanding, the competent national financial control institution shall carry out appropriate financial control in accordance with the provisions of the relevant Financing Memorandum. Each year an audit plan and a summary of the findings of the audits carried shall be sent to the European Commission. Audit reports will be at the disposal of the European Commission. According to Art.22 of the PIFC Act, the Director of the PIFC Agency shall have the right to delegate an internal auditor to the ISPA Agency.

On the Measures to Assist the EU Bodies in Charge of On-the-spot Checks:

According to the Financing Memorandums and the Multi Annual Financing Agreement, the European Commission and the European Court of Auditors may through their own staff or duly authorised representatives carry out on-the-spot technical and financial audits, including checks and financial audits. Measures to assist the EU bodies in charge of on-the-spot checks are explicitly provided for in the PIFC Act. Art. 8, para. (1), item 18 provides for co-operation with the EU financial control bodies.

On the Combining of the Functions of Internal Auditing and (Criminal) Investigations:

The Public Internal Financial Control Agency does not carry out functions connected with criminal investigations. According to the Bulgarian legislation, the authorities of the Investigation Service, the Public Prosecution and the Judiciary, are in charge of indictment for committed crimes. National authorities within the executive power, including the authorities of the Public Internal Financial Control Agency, may seek only administrative responsibility. Such type of responsibility shall be brought, under certain provisions of the Bulgarian legislation, against persons, who have committed irregularities for which an administrative sanction (a fine, as defined by the law) is imposed. When, during an audit, data indicating the commitment of a crime is found, the Agency submits the data to the authorities of the Public Prosecution.

On the Effective Protection of the EU Financial Interests

Art. 29 of the PIFC Act provides for a mechanism for protection of the EU financial interests.

According to the Regulation on the Structure of the PIFC Agency, a Directorate, responsible for control on the budget and the EU funds' spending centres is set up. The "European Integration and International Relations" Directorate of the PIFC Agency shall: "Study EU legislation in the field of internal financial control by following the amendments to it and make proposals for amendments to the Bulgarian legislation, by preparing together with Directorate "Legal Support for the Control Activities and Normative Acts" comparative studies on the degree of conformity of the acts."

On the Identification of a Single Contact Point for Co-operation with OLAF:

Bulgaria is in a process of identifying the most adequate institution for performing the task of a Single Contact Point in co-operation with OLAF. This institution will be designated by the end of the year 2002 at the latest.

II. EXTERNAL FINANCIAL CONTROL

Harmonization of the legislation:

A new National Audit Office Act has been drafted in compliance with international auditing principles and good European practices and according to the commitments made in the Accession Partnership and the National Programme for the Adoption of the Acquis.

The draft Act has been harmonized with the EC Regulations concerning financial control, as well as with the main fraud prevention Regulations. The secondary legislation shall be developed in accordance with the Acquis Communautaire.

On the Improvement of the Follow-up Procedures by Parliament of the NAO's Audit Reports

The procedures for reporting audit results to the National Assembly have been improved in the new draft NAO Act. It stipulates that the Bulgarian National Audit Office (BNAO) shall monitor the implementation of its recommendations for the improvement of the management of budgetary and/or other public funds.

The budgetary committee with the National Assembly shall examine BNAO audit and activity reports. This will enable the budgetary committee to initiate legislative measures for improvement of public funds management as a result of BNAO recommendations and proposals.

The BNAO will propose that procedures for deliberation on BNAO audit reports be included in the Rules of Order of the National Assembly, in order to exercise parliamentary control on (also taking respective measures and seeking liabilities from) organizations disposing of public funds that have committed substantial deviations in the management and use of public funds. The proposal shall be based on the study of the European practices in the relationship between the audit institution and the respective National Parliament.

The new NAO Act will regulate the time limits for the presentation and adoption of the BNAO annual activity reports, for the adoption of the BNAO reports on the national budget implementation, as well as on other budgets, adopted by the Parliament.

Rules for the relationship between the BNAO and the National Assembly are being drafted in accordance with the internationally accepted standards and practices.

On the adoption of the new NAO Act and the secondary legislation

The draft of the new NAO Act has been withdrawn from the National Assembly for additional improvements. The purpose is to set up a new entity within the structure of the BNAO responsible for the administration of the entire process of preparing financial and economic expert conclusions (selection, methodological guidance and control over persons involved in expert conclusions). This relatively independent activity, without being inconsistent with the main BNAO activity, will provide the legislative authorities with the possibility to select highly qualified experts, who meet the new requirements in different legal spheres.

The amended draft of the new NAO Act shall be considered and approved by the Government and then submitted to the National Assembly till the end of October 2001. The draft shall be examined by the Parliamentary Committee for Budget, Finance and Financial Control in November 2001, upon which a procedure for its adoption by the National Assembly will be initiated. The NAO Act is expected to pass by the end of 2001.

Upon the entry into force of the new NAO Act, secondary legislation concerning BNAO shall be developed.

Timetables for the adoption of the following acts have already been prepared:

- Regulations on BNAO's activities;
- Regulations on implementing specific chapters of the new NAO Act, concerning audit activities, transparency and publicity of audit results;
- Rules on the relationship between the BNAO, the PIFC Agency and the Office of the Chief Prosecutor;
- Rules on appeals against audit results;
- Regulations on the BNAO activities related to its role in combating fraud and corruption.

On the Elaboration of National External Audit Standards

The following national standards have been adopted and are being tested in practice: planning of audit work; planning of audit task; reporting; performance audit; audit evidence and audit approach; materiality and audit risk; assessment of internal control and control tests (checks); working documentation; audit sampling; quality assurance; analytical procedures. They were published in April 30, 2001.

The following general standards for the public sector have been developed and adopted: standards on the independence of the BNAO auditors and standards on due care and competency of the auditor. A Code of Ethics has been adopted.

A standard for the audit of EU funds is being developed.

In order to apply modern methodology in carrying out audit activities, an Audit Manual is being developed by the BNAO. It provides for financial audit, performance audit, audit of municipality budgets and audit of EU funds.

The national audit standards and the different parts of the Manual have been developed in cooperation with SIGMA experts and comply with all international auditing standards.

They shall be improved after having been pilot tested within the implementation of the twinning covenant "Strengthening the Independent Public External Audit Institution", with the National Audit Office of the United Kingdom as a twinning partner, and in cooperation with the Netherlands' Court of Auditors.

On the Extension of NAO's Authority to Audit EU Funds:

The new NAO Act provides that the BNAO shall audit EU funds and programmes, including their management by the respective bodies and end beneficiaries, as well as funds from other international organizations.

The BNAO auditors are undergoing training for the implementation of these tasks through participation in seminars, joint and parallel audits with the European Court of Auditors and pilot projects in cooperation with SIGMA and within the Twinning covenant with the United Kingdom's NAO.

A methodology shall be developed for the audit of EU funds in compliance with the European practice. Efforts will be focused on the audit of substantial funds disbursed through the SAPARD and ISPA pre-accession instruments.