Standard Summary Project Fiche

1. Basic Information
   1.1. Désirée No. CZ00-03-02
       Twinning number CZ2000/IB/OT/02
   1.2. Title Improvement of Legal and Institutional Environment for Business
   1.3. Sector Economic Criteria
   1.4. Location Ministry of Finance (MF), Ministry of Justice (MoJ), Ministry of Industry and Trade (MIT)

2. Objectives
   2.1. Wider Objectives
       Existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;
       Ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.
   2.2. Immediate Objective
       The Immediate Objective of this Project is:
       Better efficiency and enforcement of Czech legislation on business environment and contract conditions, more effective legal regulation of business sector being in line with EC requirements and Member States’ best-practice and lower administration burden for businesses.
   2.3. Accession Partnership / NPAA Priority
       The Accession Partnership (December 1999) highlights the following priorities:
       Short-term: improve bankruptcy legislation and its implementation; adopt legislation reinforcing the protection of minority shareholders; begin implementing a programme to reform the judiciary (judges and state prosecutors) by filling vacancies, simplifying procedures, stepping up training of judges with regard to EU law;
       Medium-term: promote competitiveness of the private sector, including SMEs; complete reform of the judiciary (judges and state prosecutor’s office).
       The NPAA (May 1999) sets out the following priority in this sector:
       Short-term: amendment of conditions of right of establishment and of carrying business according to the acquis communautaire; amendment of the business (trades) act due to particular directives;
       Medium-term: creating new legal provisions for the attainment of freedom of establishment and freedom of providing services according to the EU legislation and practice; creating equal conditions for getting business authorisations or licences in line with the EU legislation; preparation of the new common act on business and providing services, incl. provisions and application of mutual recognition of professional qualification.

3. Description
   3.1. Background / Justification
       With the wider goal of establishing an efficient, well functioning Czech institutional and regulatory environment for business activities, functioning in compliance with the internal market acquis and EU Member State best-practice, plus ensuring the maximal operation of the business market within a framework of protection for minority shareholders and employer and consumer rights, this Project will focus Phare support to rectify the:
       Weaknesses in the overall administrative structure and legal requirements of business regulation – leading to a reduction of present cumbersome business administration and reporting requirements, simplifying business registration;
       Specific weaknesses in the enforcement of bankruptcy legislation and of enterprise restructuring legislation, protection of creditors, collateral recovery – leading to improved quality and speed of
administrative management and personnel (courts, business administrators, executors etc.) trained to apply legislation, since the application of legislation is currently slow and cumbersome. Thus the focus of the project will be both on the enforcement of implementation of the current and new legislation as well as on identification and preparation of proposals for legislative, institutional and administrative simplifications/ reforms.

In order to remove major legislative obstacles and allow flexible implementation of legislation the MoJ has prepared a new Concept of Judiciary Reform and a series of new legislative acts has been or will be presented by the Government to the Parliament. According to the Government’s Legislative Plan for 2000 - 2002 the following legislative changes are expected:

Commercial Act aims to harmonisation of all 11 company law directives was submitted to Parliament in December 1999, it is supposed to come into force 3 Q 2000;

Civil Proceeding Law, wide amendment aimed mainly to improvement of enforcement of Law No. 30/2000 Coll. will come into force 1.1.2001;

Civil Law, amendment aimed to abolishment of anonymous accounts will come into force 1.10.2000;

Bankruptcy Law – amendment is in the legislative process, it will come into force 3Q 2000;

Law on Private Executors was prepared by the deputies of Parliament, it will come into force 1 Q 2001;

The reform of judiciary supposes also wide re-codification of basic law in this area:

Civil Proceeding Law: submitting to the Government in 1Q 2001; come into force in 4Q 2002;

Civil Law: submitting to the Government in 1Q 2001; come into force in 1Q 2002;


MIT is responsible for the Business (Trade) Act (No. 455/1991 Coll.) governing the conditions relevant for the majority of businesses (manufacturing, trading, services). The concept of this act does not yet comply with EC requirements or standards, although MIT is currently preparing the concept (the basic statement of legislative objectives and goals) for new legislation regarding the business sector. In compliance with the legislative plan of the Government, the first draft of the respective Bill is to be presented by the end of 2000.

In addition to legislative reform, harmonisation with the acquis also requires simplification of structures and requirements for business licensing, creating equal conditions for getting business authorisations or licences, as well as creating equal, transparent conditions of enterprise and independent activities.

MoJ is responsible for the Commercial Code (Act 513/1991) which regulates the duties of entrepreneurial entities, and subsequently for the functioning of the Commercial Register, furnished by the respective Commercial Register Courts. With respect to these courts, MoJ is responsible both for the legal framework and the technical support including IT equipment for the functioning of the Commercial Register. The 1996 amendment of Act 513/1991 Coll. introduced a new part to the Commercial Register, the Collection of Documents, and assigned operation of the Collection to Commercial Register Courts. However, the current practice of commercial registers does not make sufficient use of new technologies for simplifying communication of entrepreneurial entities with the commercial register, primarily with respect to the registration of new data or a change of present data. It was decided that it would be necessary to start with the introduction of electronic processing with the intention to finish this process in the first half 2002.

MIT is responsible for the central registration of entrepreneurs, covering the system of 103 Trade (Business) Registers, i.e. register of natural (physical) and legal persons having the authorisation for business activities, held by the local business registration and licensing offices.

The Trade Registers, however, have no links whatsoever to the Commercial Register. Such an arrangement is not operational and constitutes an additional burden for both the businesses and the state administration/court authorities. The establishment of the interconnection between both
registers would enable suitable sharing of information, leading to desirable simplification and higher transparency of business administration and operations, especially due to the fact that business authorisation for a Czech legal person and for foreign legal and natural persons shall arise on the date of entry of said person in the commercial register and shall expire on the ground of cancellation thereof.

In the years from 2000 to 2003, attention will be paid to the activities of the Trade Registers (development of a comprehensive, centrally organised provision of functions of central business records including the relevant on-line links to the source registers), and to the qualification, material and personnel requirements for mutual recognition of professional qualifications of subjects coming from the EU countries, and vice versa.

MIT is therefore involved in the development of both software and hardware backing the development of the existing system of Business (Trade) Registers under the umbrella of a nationwide central Business (Trade) Register, to be further developed in conjunction with and co-financed by MoJ. On-going discussions are held to ensure approximation of the individual registers and operational conditions. The estimated cost for these activities to be covered from the State Budget is 20 MCZK (approximately 0.6 MEUR), of which 1.8 MCZK is foreseen in year 2000, 7.1 MCZK in year 2001 and 11.1MCZK in year 2002.

3.2. Linked Activities

The Phare assistance concerning the improvement of business environment, including its legal and institutional aspects, has been provided under different projects designed for both the state administration and the professional bodies and institutions.

Under Phare project “Strengthening the Judiciary” (CZ9810-03-02) support to operational improvement of Czech judiciary is being provided. The project should analyse the current state of the Czech judiciary including commercial judiciary and recommend measures for its improvement. Under Phare 2000 another project has been proposed for “Life-long Training for the Judiciary”. This project should support the development of the system for long-life training within the judiciary, including the training system concerning business legal issues.

Under Phare programme 1997 there are projects focused on corporate Improvement of Corporate Governance in the Czech Republic (CZ9703-01-02-05-09-02) and two training projects on corporate governance (under CZ9705-04).

In the Finance Sector a number of other projects have been delivered within previous Phare programmes, in particular those on banking, taxation, accountancy and audit, capital market, insurance, subsidies and financial control. Furthermore, there is a twinning project on state aid and insurance currently running under Programme 1998 (CZ9808-02) and one twinning project on tax administration to be implemented under Programme 1999. Other linked activities are expected under Programme 2000, in particular those concerning Actions against the proceeds from criminal activities (Money Laundering) and Capital Market Legislation and Regulation.

Under Phare programme 1999 the assistance is foreseen for the work of the National Discussion Group on business environment. This group, chaired by the deputy minister of industry, composed of representative of ministries, business associations and businesses should analyze particular aspects of business environment in the country, identify and submit proposals for the improvement. The World Bank financed the project which resulted in submission of report on Bank and Enterprise Reform to Czech authorities in February 2000.

Under the grant of the Norwegian Government the study on the registers of economic subjects will be elaborated with the co-operation of the MoF. The project, starting in April 2000, will focus on analysing the current situation from legal and technical point of view (assessing the contents, structure and access rules to registers) and comparing the Czech system with the existing systems in European countries. The project should result in recommendations, both legal and technical, which would allow to create the “central co-ordination register”. The setting up of such a central register would allow the interconnection with the European Business Register (EBR).
3.3. **Results / Outputs**
The following Outputs will be delivered and Guaranteed Results be achieved via this Project:

- Comprehensive analysis and proposals for enforcement of legislative, institutional and administrative changes aimed to improve business environment, in particular as concerns bankruptcy, creditor protection, collateral recovery, the speeding up and enforcement of court decisions including new system of court executors;
- Analysis and proposals for strengthening the institutional structures and procedural operations for both the streamlining and the better enforcement of business regulations; supporting subsequent legislative and administrative strengthening;
- Removal of unnecessary administrative and financial burden on business entities related to registration in the Trade Registers and the Commercial Register (97/344/EC Commission Recommendation on improving and simplifying the business environment for start-ups);
- Detailed concept of the Central Trade Register of “economic subjects” (businesses) comprising in particular development of the database system, plus detailed procedures for communication between registers (data transfer, security etc.) such as Commercial Register, Register of Inhabitants, Penal / Criminal Record Register, Industrial Property Register, etc., ensuring the accuracy and reliability of data;
- Simplified and better access to the Commercial Register and Trade Registers in conformity with the development of new technologies;
- Improved system enabling controls based on the use of the registers by the different bodies of the state administration;
- Improved communication between and operations of the courts in enforcement of legislation;
- Recommendation for attaining the full compatibility (structure and software) between the Trade Registers and the Commercial Register, allowing the access to EBR (via “central co-ordination register”) (linked to project financed by the grant of Norwegian Government, see 3.2).

3.4. **Activities / Inputs**
The Project consists of the following key inputs:

**Twinning and Training Package, Investment in Institutional Building.**

**Twinning and Training Package – CZ 2000/IB/OT/02**

This package will comprise the following components:

**2 Pre Accession Advisers (PAAs), for 1 year** - working in close co-operation:

1. **PAA at the MIT** – the PAA is expected to co-ordinate activities related to the conditions for doing business and providing services. The PAA will provide extensive inputs to review the context and the operation of business regulation and registration in the Czech Republic, principally focused on strengthening the coherence of and institutional structures for the development and effective enforcement of business regulation, in keeping with EC requirements and Member States’ best-practice.

   He/she should have knowledge of EU Member States’ best-practice and long-term experiences in these areas. Knowledge of the Czech business environment and legislation would be an advantage. Working language will be English; knowledge of Czech will be an advantage.

2. **PAA at the MoJ** – the PAA is expected to co-ordinate the provision of intensive analysis and training relating to strengthening legislation enforcement, principally relating to the administration of legislation in the court system.

   In particular, this will entail reviewing the administration of bankruptcy legislation, the protection of creditors, collateral recovery, with a view to speeding up and improving the enforcement of court decisions including the operation of a new system of court executors.
He/she should have long-term experiences in the area of court administration of legislation, knowledge of EU Member States’ best-practice and requirements of the acquis communautaire in the area of business environment. Knowledge of the Czech business environment, including Czech legislation would be an advantage. Working language will be English; knowledge of Czech will be an advantage.

A series of Short-term Experts (approximately 25 person-months), to work under the co-ordination of the PAAs, specialists in the areas of legislative analysis, drafting and enforcement, in the area of the development of the Central Trade Register and the streamlining of registration requirements, plus trainers in particular relating to bankruptcy enforcement and the administration of business registers. Working language will be English.

In addition, the project will cover other services, such as seminars, and if necessary fellowships/study visits etc.

Key Activities to be undertaken include:

Analysis of the overall Czech business environment and actual state of enforcement (‘the conditions for doing business and providing services’), including analysis of legislation and division of institutional competence relevant to the development and execution of state regulation in the field of business operations/service provision

Covering the period from company registration, company supervision and reporting, optimisation and maintenance of the Trade Register and the Commercial Register, bankruptcy legislation, protection of creditors, collateral recovery);

Providing relative comparative analysis of EU Member States’ systems and best practice;

The outputs of relevant previous and current projects (e.g. of above mentioned linked projects) will be made available to the project team.

Key sectors for analytical review include:

Drafting “economic” analysis and evaluation of individual factors affecting businesses;

Drafting new concept of the Trade Register and assistance in the provision of a system facilitating interconnection between the Trade Registers and the Commercial Register; the elaboration of the design for the exchange of data between the business register and the commercial register to improve communication between the two registers;

Recommendations for the inter-connection of the future national (central) register with European network (EBR);

Analysis of the actual state of enforcement in the courts of legislation relevant to the business environment, in particular bankruptcy legislation – focused primarily on the issue of enforcement of bankruptcy legislation, the protection of creditors, collateral recovery, speeding up and enforcement of court decisions, including the new system of court executors;

On the basis of agreed conclusions from the above-mentioned review, the remaining Inputs under this project component will cover:

Assistance in drafting new business legislation/implementation regulation, including methodology for direct application of the articles of the Treaty on European Union;

Assistance in strengthening institutional structures, co-ordination mechanisms and reporting procedures, via the review and adaptation of administrative and information systems;

The provision of extensive training inputs (on-the-job, in-country and fellowships/study visits), focused on the administration of registers, court administration of bankruptcy legislation and operation of court executors.

Equipment
It is essential that Institution Building support be complemented with investment in the form of IT systems (hardware and software including encryption technology). Equipment will be procured following DIS procedures and rules.

This component covers:

MoJ: for improvement of inter-connection and communication between courts, will include project WAN and technical equipment for access to WAN incl. IT.

MIT: for improvement of system of commitment and exchange of data, a data base system and system of communications with other registers; corresponding WAN system including relevant software.

MoJ foresee that the financing from the State Budget concerning the improvement of operating the Commercial Register in years 2000-2002 will be 1.7 MEUR. MIT foresee that the financing from the State Budget for the improvement of the Trade Registers in years 2001 and 2002 will be 7.4 MCZK (0.2 MEUR) and 10 MCZK (0.3 MEUR) respectively.

4. Institutional Framework

Ministry of Justice (MoJ) as a central body of the state administration is responsible i.a. for business legislation concerning commercial law, civil law, bankruptcy law, civil proceeding law and law on executors. Being in charge of legislation, judiciary and the commercial law MoJ methodologically supervises the operation of the Commercial Register.

Ministry of Industry and Trade (MIT) is responsible i.a. for the legislation regulating the significant part of the activities of the private sector, including support to SME’s. MIT has been in charge of the new business legislation and methodologically supervises the application of the business legislation by the local Business Licensing Authorities, performs the function of the Central Business Licensing Authority of the Czech Republic and consequently is in charge and manages the operation of the individual source Trade Registers, keeps the central register of businesses and provides relevant information with this respect.

Ministry of Finance (MoF) is responsible i.a. for the legislation concerning taxation, accountancy and audit, capital market, insurance and financial control. It is in charge of a number of registers related to state budget revenue and expenditure sides, such as ARES, CEDR, SUSR and ISFRIM. The linkage to a more comprehensive state information system is foreseen.

The institutions mentioned above are the key players to be in contact and to co-ordinate with. Nevertheless due to the complexity of the issue the project team must bear in mind potential need of closer co-operation and exchange of views with other bodies (e.g. Chamber of Private Bailiffs, Supreme Court of the Czech Republic, Association of Judges, Czech National Bank and the banking sector as far as implementation of Act on Public auctions is concerned, Police as far as enforcing court decisions are concerned, mainly in the area of debts and collateral)

5. Budget (in M €)

<table>
<thead>
<tr>
<th>Project Components</th>
<th>Investment Support</th>
<th>Institution Building (= I + IB)</th>
<th>National Co-financing</th>
<th>IFI</th>
<th>TOTAL M€</th>
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<td>Supply of additional IT equipment</td>
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<td>Total</td>
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<td>2.2</td>
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6. Implementation Arrangements

6.1. Implementing Agency
The CFCU is the Implementing Agency responsible for tendering, contracting and accounting. Responsibility for technical aspects related to preparation, implementation and control will rest with the beneficiary institutions and will be co-ordinated by the Ministry of Finance.

The Contact Person for the Project is Ms Jana Stará, Senior Programme Officer for Phare projects of the MoF and Finance Non-Banking Sector, Ministry of Finance, Letenská 15, Prague, tel. +4202 57042612, fax +4202 57043009, e-mail Jana.Stara@mfcr.cz.

6.2. **Twinning – CZ 2000/IB/OT/02**
One PAA will be located at MIT and one PAA will be located at MoJ. Their profile and description of their activities is described under item 3.4. Length of each PAA’s assignment is 12 month. Short-term experts input (approximately 25 person-months) is foreseen (their tasks are described under item 3.4.).

6.3. **Non-standard Aspects**
DIS rules and procedures will be followed.

6.4. **Contracts**
2 contracts are foreseen:
- Twinning Package = 1.2 MEUR
- IT equipment = 1.0 MEUR

7. **Implementation Schedule**
Start of Twinning Selection: 4Q/00  Start of Investment Tender:  3Q/00  
Start of Twinning Activity:  2Q/01  Start of Supply Delivery:  3Q/00  
Project Completion:  3Q/02  Project Completion:  3Q/02

8. **Equal Opportunity**
Equal opportunity principles and practices in ensuring equitable gender participation in the Project will be guaranteed.

9. **Environment**
The investment components of this Project all relate to Institution Building activities. No adverse environmental impact is expected.

10. **Rates of Return**
The investment components all relate to Institutional Building.

11. **Investment Criteria**
The investment components of this Project all relate to Institution Building activities. All investment is to be tendered immediately. Specifications will be reviewed by independent experts within the framework of twinning where possible and appropriate.

12. **Conditionally and Sequencing**
The proposals for amendments to legislation, procedures and structures resulting from the project will be reflected in proposals put forward to the Czech Government by the Minister of Justice, Minister of Trade and Industry and Minister of Finance.

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**Annexes to Project Fiche**

- Logframe Matrix
- Detailed Implementation Chart
- Cumulative Contracting and Disbursement Schedule for the Project (in MEUR)
## Logframe Matrix

### Improvement of Legal and Institutional Environment for Business

#### Wider Objective
- Existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;
- Ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union

#### Immediate Objectives
- Better efficiency and enforcement of Czech legislation on business environment and contract conditions, more effective legal regulation of business sector and lower administration burden for businesses

<table>
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<tr>
<th>Indicators of Achievement</th>
<th>Information Sources</th>
<th>Assumptions and Risks</th>
</tr>
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<tr>
<td>Acknowledgement by the European Commission</td>
<td>EC Regular Report - Ministry of Industry and Trade - Ministry of Justice - Trade registers Economic partners statistics</td>
<td>Other Copenhagen criteria fulfilled</td>
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<tr>
<td>Better performance of economy and companies</td>
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<table>
<thead>
<tr>
<th>Indicators of Achievement</th>
<th>Sources of Information</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>A higher standard of the business environment</td>
<td>MIT - MoJ - Court statistics</td>
<td>Other key measures to strengthen the economy are also implemented</td>
</tr>
<tr>
<td>10% increase in number of bankruptcy cases opened per year and 30% reduction in average time needed to close the case, 30% reduction in average time needed to deal with demands of creditors</td>
<td>- survey of business perceptions EC Regular Report</td>
<td>World economic growth remains positive</td>
</tr>
<tr>
<td>Ratio of filed complaints to closed cases improves by 15%</td>
<td></td>
<td>Effective state support to businesses, especially SMEs</td>
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<tr>
<td>Average time period for complaint to decision in commercial cases reduced by 20%</td>
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<td>Phare 2000 bad loans project successfully implemented</td>
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<tr>
<td>Average time period for recovery of assets after favorable court decision reduced by 30%</td>
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</tr>
<tr>
<td>Average registration period for new businesses reduced by 20%</td>
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<tr>
<td>Equal conditions created for getting business authorisations and licences in line with the relevant articles of European Union Treaty</td>
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## Outputs

Comprehensive analysis and proposals for enforcement of legislative, institutional and administrative changes aimed to improve business environment, in particular as concerns bankruptcy, creditor protection, collateral recovery, the speeding up and enforcement of court decisions including new system of court executors; Analysis and proposals for strengthening the institutional structures and procedural operations for both the streamlining and the better enforcement of business regulations; - Removal of unnecessary administrative and financial burden on business entities related to registration in the Trade Registers and the Commercial Register (97/344/EC Commission Recommendation on improving and simplifying the business environment for start-ups); - Detailed concept of Central Trade Register of “economic subjects” (businesses) comprising in particular development of the database system, plus detailed procedures for communication with other registers (data transfer, security etc.) such as Commercial Register, Register of Inhabitants, Penal / Criminal Record Register, Industrial Property Register, etc., ensuring the accuracy and reliability of data; - Simplified and better access to the Commercial Register and Trade Registers in conformity with the development of new technologies; - Improved system enabling controls based on the use of the registers by the different bodies of the state administration; - Improved communication between and operations of the courts in enforcement of legislation; - Recommendation for attaining the full compatibility (structure and software) between the Trade Registers and the Commercial Register, allowing the access to EBR (via “central co-ordination register”)

## Indicators of Achievement

- Analyses delivered; Simplified registration system put in operation Establishment of carrying on business equal to regulations and conditions according to corresponding EC legislation and practise Easy access to registers for all public administration bodies Electronic communication possible between all courts & MoJ Central Register in operation Recommendations delivered

## Sources of Information

Project reports MoJ, Courts MIT, MoJ, registers

## Assumptions and Risks

Analyses conform with legal standards of the Czech Republic Recommendations adopted and implemented Financing from the budget for implementation of recommendations Local co-financing Commitment of all key ministries, registers and co-operation of other relevant bodies (see article 4 of project fiche) Commitment and ability of local institutions to implement quickly approved legislative changes Phare 2000 another project “Life-long Training for the Judiciary” successfully implemented

## Inputs
Training, seminars, workshops, study trips, consultations, documentation
2 PAA for MoJ, MIT, short time experts
Investment in institution building, modernisation of registers
cofinancing provided
Recommendations from Phare project “Strengthening the Judiciary” (CZ9810-03-02) implemented.
Phare programme 1997 projects on corporate governance successfully implemented
Lessons learned from previous Phare projects
National Discussion Group on business environment provides useful feedback & input.
The World Bank analysis taken into account
Lessons learned from Norwegian financed-study on the registers of economic subjects
## Detailed Implementation Chart for the Project

### Annex 2

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<th>Year</th>
<th>2000</th>
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<td>-Elaboration of twinning covenant</td>
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<td>-Submit Twinning covenant to Commission &amp; Steering Committee for approval</td>
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### Investment Component

Tender documents submitted to EC | X |
- Tender Launch | X |
- Contract(s) Signature | X |
### Cumulative Contracting and Disbursement Schedule for the Project (in M €)

#### Annex 3

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