

Explanatory Note on the establishment of TRACECA Fund

Brief overview

The initiative to establish such a body was initially considered at the VI Annual Meeting of the IGC in 2007 and was approved by the participants of the Meeting. In particular, according to paragraph 16 of the Final Resolutions “The IGC supported the initiative of the SG to consider the creation of the TRACECA Investment Fund and recommended that the PS, jointly with the Parties, scrutinize this issue with the support of the EC and submit it to the IGC for consideration”.

In addition, the Astana Declaration of 2007, also adopted as a result of the aforementioned Meeting of the IGC, stated that the IGC, taking into account the experience of other international structures and organizations, will continue to study the issue of establishing a TRACECA Investment Fund. In this regard, the PS IGC TRACECA prepared the Rules of Operation of the TRACECA Fund in order to bring the idea of creating a mechanism for attracting funds for investment transport projects to its logical conclusion.

When preparing the draft Rules of Operation of the TRACECA Fund, a number of development funds and similar structural units operating under international organizations were considered and analysed, namely:

- Project Development Fund of the Organization of the Black Sea Economic Cooperation (BSEC Fund);
- International Development Fund of the Organization of Petroleum Exporting Countries (OPEC Fund);
- Technical Cooperation Fund of the International Atomic Energy Agency (IAEA Fund).

Independent financial organizations engaged in investment and development projects’ support (regional or sectoral development banks, etc.) were not considered.

When analysing the functioning of the bodies under consideration, a number of common or similar characteristics were identified, such as the goals and objectives of the funds, the procedure for their financing and distribution of funds. Differences were manifested only in the areas of activity of the funds or in the details of the procedure for selecting beneficiaries and the subjectivity of the beneficiaries themselves.

Thus, the general goals and objectives of the funds are usually declared as supporting the economic and social development of the beneficiary countries through direct financing (in different volumes) of various infrastructure and/or business projects, or projects aimed at developing human capital. Amounts issued by funds can have different legal status - loans, grants, investments, awards or scholarships. Thus, for example, the OPEC Fund operates all of the listed types of financial allocation.

The beneficiaries of funds can also differ in their legal status and characteristics - from governments of states to individuals.

Projects that apply for financing can be both national and international (only the BSEC Fund has a special reservation that only projects of a trans-boundary nature with the participation of at least three countries are funded). Moreover, the nature of the relationship between the fund and the country of the beneficiary may also be different. Thus, the OPEC Fund does not finance projects implemented in the OPEC member countries, while only organizations from the BSEC members that have made voluntary contributions can apply for financing from the BSEC Fund.

In all cases, the fund is financed by voluntary contributions from member states, while contributions from all interested entities are allowed. Although contributions are declared as voluntary, however, their minimum amounts are regulated by various internal documents of the organization adopted at the level of governing bodies. The declaration of contributions to the fund as voluntary is explained by the desire to avoid the legal registration of mandatory contributions, which will require complex domestic procedures.

With regard to the methods of establishment, both the BSEC Fund and the OPEC Fund were established by resolutions of the bodies of the parent organizations. Thus, the BSEC Fund was

established by a Resolution of the Council of Foreign Ministers of the BSEC member states, and the OPEC Fund - by a Resolution of the Council of Ministers of Finance of the OPEC member states. Accordingly, no amendments to the constituent documents of the parent organizations were required.

Structurally, in most cases, the Funds are subdivisions of the parent organization, but the OPEC Fund is, for example, actually an independent organization, with its head, which represents the Fund in external relations.

Goals of the establishment

The objectives listed in Art. 3 of the MLA are indicated as the general (statutory) goals of the Fund, through financing projects aimed at achieving these goals.

For this purpose, based on the study of international experience, it is proposed to establish the TRACECA Fund by the IGC resolution in accordance with Art. 8 of the MLA, where paragraph 6 establishes the powers of the IGC to develop decisions for adoption by the Parties (the list of issues on which such decisions can be developed, which are also contained in paragraph 6 of Article 8, subject to the use of the clause "including" - is not exhaustive). It will also be necessary to amend some documents, such as the Statute of the PS IGC TRACECA, as well as the Rules for formation and execution of the budget of the PS IGC TRACECA.

The need to create a fund is due to the insufficiency of the legal framework that currently regulates the activities of the PS IGC TRACECA and, in particular, its financial and budgetary organization. Thus, the Agreement on Joint Financing of the PS IGC TRACECA of 2005 clearly defines the structure of the expenditure part of the budget of the PS IGC TRACECA, which includes mainly the costs of paying staff salaries and maintaining the office and building of the PS IGC TRACECA. Moreover, the Financing Agreement stipulates that the remaining amount from the previous year's budget must be included in the income part of the current year's budget. Such restrictions, even in the presence of free funds, do not allow the PS IGC TRACECA to spend its budget funds for other purposes that are not specified in the Financing Agreement. Moreover, the current structure of the PS IGC TRACECA does not imply a body for managing the resources of the fund, the establishment of which will require the decision of the IGC

The IGC resolution also proposes to adopt the Rules of Operation of the TRACECA Fund, which will be the main constituent or governing document of the Fund. The advantage of this method to establish a fund is that there is no need to make changes to the MLA. The constituent documents of the Fund, in turn, will establish the right of the governing bodies to adopt internal documents necessary for their functioning. For example, by decision of the Steering Committee of the TRACECA Fund, an appropriate document can be approved, detailing the procedures for submitting applications for financing, consideration of an application, etc., which are not regulated by the Rules of Operation of the TRACECA Fund.

Financing mechanisms

Regarding the mechanism for attracting resources of the Fund, it is proposed not to provide for minimum sizes of contributions and to ensure that the Fund is replenished at the expense of voluntary contributions from the MLA member states, as well as voluntary contributions from other interested parties (international organizations, governments of third countries, international financial institutions, legal entities). The principle of voluntary contributions will make it possible not to create additional financial obligations for the states, which in turn will simplify the decision-making process regarding the establishment of the TRACECA Fund and will not require complex procedures for internal coordination.

The document also provides for the scope and stages of financing - these are projects or their components aimed at conducting research, developing business plans, technical concepts, feasibility studies, implementing pilot projects, etc., as well as implementing small-scale infrastructure projects, projects related to the acquisition, increase or modification of rolling stock in all modes of transport, as well as the development of human capital. At the same time, a mandatory condition for obtaining

funding will be the trans-boundary nature of projects, that is, facilitating the implementation of transportation for at least two TRACECA countries.

The beneficiaries of the Fund can be legal entities representing the TRACECA countries and pursuing the goals specified in the constituent documents of the Fund. Finances are allocated to beneficiaries in the form of grants. At the same time, it should be noted that international financial institutions and development funds do not directly provide financial resources, instead they carry out all procurement procedures for works and services to implement a project, and only after the work is completed, they transfer the final result to the beneficiaries as a grant (for example for the development of a feasibility study or research). In this case, more resources will be required for the maintenance of the TRACECA Fund office, which can be used to finance projects. Therefore, the allocation of funds through the provision of a direct grant is the most appropriate option.

Selection and financing is supposed to be provided as follows:

1. applications from legal entities will be prepared by permanent representatives (National Secretaries) to be sent to the PS IGC TRACECA;
2. all collected applications will be submitted to the PS IGC TRACECA for consideration by the Steering Committee of the TRACECA Fund;
3. The decision on financing will be made by the Steering Committee of the TRACECA Fund, followed by the conclusion of contracts on behalf of the Secretary General of the PS IGC TRACECA.

Proposed structure

With regard to the structural separation of the Fund, it will function within the current structure of the PS, without creating a legal entity with a separate legal capacity. In external relations the Fund will be represented by the Secretary General of the PS IGC TRACECA and on his behalf relevant agreements will be concluded, using the seal of the PS IGC TRACECA, if necessary.

Management of financial resources

A separate bank account will be opened for the accumulation of funds so that the Fund's resources be received and allocated only from a separate bank account, with the right to manage to be vested exclusively with the Secretary General of the PS IGC TRACECA. This will ensure separate accounting of resources received within the framework of the activities of the Fund and resources received in accordance with the provisions of the Agreement on Joint Financing of the PS IGC TRACECA,

The decision on the distribution of the Fund's resources will be made by the Steering Committee, consisting of representatives of no more than 10 donors who have contributed the largest amount. The limited composition of the Steering Committee is explained by the desire to ensure its operational work and avoid excessive bureaucratization of the body. The Secretary General of the PS IGC TRACECA will also take part in the work of the Steering Committee, but only with the right of an advisory vote in order to avoid a possible conflict of interest. The decision on the distribution of the resources from the budget of the TRACECA Fund will be made exclusively by donors without the right to vote of the Secretary General of the PS IGC TRACECA.

To ensure the transparency of financing, a mechanism was proposed for conducting internal and external (independent) audits at the expense and with the participation of representatives of the Steering Committee of the TRACECA Fund.

It is important to note that the establishment of the TRACECA Fund practically does not require additional resources from either the TRACECA member countries or the PS IGC TRACECA. As already noted, the contributions to the Fund are voluntary, the duties of representation and administration of the Fund are assigned ex officio to the Secretary General of the PS IGC TRACECA, the headquarters of the PS IGC TRACECA will also serve for these purposes, which does not involve office expenses and payroll expenses.

Members of the Steering Committee will also perform their functions on a pro bono basis. The only expenses that the creation of the TRACECA Fund involves are related to the meetings of

the Steering Committee, however, they are planned to be covered from the budget of the Fund itself, since the meeting requires the presence of donors, and therefore funds in the budget.

Other costs associated with the establishment of the TRACECA Fund are not foreseen.