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PROGRESS REPORT

ON

**INTERNATIONAL CENTRE FOR HYDROGEN ENERGY
TECHNOLOGIES
(ICHET)**

prepared for

UNIDO

by

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Redstop off: Mr. Bromby

February 1997

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I. Introduction

The work assignment was to provide consultancy inputs for the final version of the Institutional Agreement between the Government of Turkey and UNIDO concerning the institutional arrangements and establishment of the seat for the International Centre for Hydrogen Energy Technologies (ICHET) in Istanbul, Turkey.

As the Industrial Development Board of UNIDO at its sixteenth session 20-22 November 1996 took note of the Arrangements for the establishment of ICHET, the Mission of Turkey underlined that they would like to pursue the negotiations on the Agreement as quickly as possible and provided us with their draft of the Institutional Agreement.

The most significant changes to the Turkish version suggested by UNIDO were the following:

(i) in the version proposed by Turkey (Institutional Agreement, Preamble, Paragraph 3), the Government of Turkey has declared its readiness to allocate the required land, funds to rent and/or build the premises and support the operation of ICHET.

The comments from the Legal Services were that the Government of Turkey should provide UNIDO with the required premises, funds, logistical and other support for the operation of ICHET. The viewpoint of the Legal Adviser is that although the title to the land and building for ICHET belongs to the Government of Turkey, the construction of the permanent premises for ICHET should not be financed from the project funds.

(ii) in the version proposed by Turkey (Institutional Agreement, Article V, Financial Arrangements), the Government of Turkey suggested that "ICHET and/or UNIDO will approach other Governments, national and international agencies, and other public and private bodies for funding of ICHET projects, operational activities, capital equipment and scientists".

The Legal Services proposed to change this wording to "Other Governments, national and international agencies as well as public and private organizations may participate in the funding of ICHET".

(iii) in the version proposed by Turkey (Institutional Agreement, Article X, Entry into Force, Duration and Modifications) the Government of Turkey suggested to introduce the clause 4 "In the event that UNIDO is not able to provide the legal framework for ICHET as defined in Article 1, UNIDO and the Government will review this Agreement with the aim of ensuring the continuity of ICHET".

The Legal Services proposed to delete the clause.

From informal consultations held during the last two months with Turkey in regard to the Agreement for ICHET, I have been informed that these three points are regarded by the Government of Turkey as key elements of the Agreements for ICHET, they insist upon them and can not be very flexible in negotiating it.

The proposal by Turkey for the main features of the Institutional Agreement for ICHET are the following:

(i) In the version proposed by Turkey (Institutional Agreement, Preamble, Paragraph 3), the Government of Turkey has "declared its readiness to allocate the required land, funds to rent and/or build the premises and support the operation of ICHET". Their viewpoint is that the title to the land and building for ICHET shall belong to the Government of Turkey, the construction of the permanent premises for ICHET should be financed from the project funds.

The rationale behind this concern is that the Ministry of Energy has gone out of its way to ensure that the budget provisions for ICHET are sufficient i.e. US\$40 million to cover the construction of purpose-built premises to international standards for UNIDO. If the premises are to be provided by the Government of Turkey, the Ministry of Energy's fear is firstly that they lose control of this element of the project and that the Ministry of Public Works will simply delay the construction or provide sub-standard premises which are currently available. Secondly, for the premises to be designed and constructed within the Ministry would require additional manpower capacity which they do not have. Lastly, they cannot understand why UNIDO would not like to have additional money in the project from which UNIDO would receive substantial overhead income (approx. US\$800,000, from which it is clear that UNIDO could afford to employ 1 or 2 full-time experts to handle all issues related to construction for two years).

(ii) In the version proposed by Turkey (Institutional Agreement, Article V, Financial Arrangements) "ICHET and/or UNIDO will approach other Governments, national and international agencies, and other public and private bodies for funding of ICHET projects, operational activities, capital equipment and scientists". Their argument is that the ICHET must build-up its international credibility through seeking international financing.

It is clearly necessary for any international centre to attract funding from a wide range of donor institutions and countries and in our promotional work on all international technology centres, long-term fund raising is one of the major activities for which UNIDO staff, both at Headquarters and recruited under projects, are engaged upon.

(iii) In the version proposed by Turkey (Institutional Agreement, Article X, Entry into Force, Duration and Modifications) the Government of Turkey suggested to introduce the clause 4 "In the event that UNIDO is not able to provide the legal framework for ICHET as defined in Article 1, UNIDO and the Government will review this Agreement with the aim of ensuring the continuity of ICHET".

Taking into account the current discussions among delegations on the future of UNIDO, one can understand why the Government of Turkey in this situation of uncertainty wants to insert this clause as a precautionary measure.

In order to finalize the Institutional Agreement the meeting with the Legal Services of UNIDO was held 25 February 1997. During the meeting the above considerations were brought to the attention of the Legal Adviser and after the intensive discussion on the subject the following text of the Institutional Agreement (Annex 1) was accepted for further official submission to the Government of Turkey.

Following the work assignment the draft of the Trust Fund Agreement between the Government of Turkey and UNIDO was prepared.

Annex I

INSTITUTIONAL AGREEMENT

AGREEMENT BETWEEN THE GOVERNMENT OF TURKEY AND
THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION
CONCERNING THE INSTITUTIONAL ARRANGEMENTS FOR THE
INTERNATIONAL CENTRE FOR HYDROGEN ENERGY TECHNOLOGIES

WHEREAS Article 2 (j) of the Constitution of the United Nations Industrial Development Organization (hereinafter referred to as "UNIDO") provides that UNIDO shall promote, encourage and assist in the development, selection, adaptation, transfer and use of industrial technology, with due regard for the socio-economic conditions and the specific requirements of the industry concerned, with special reference to the transfer of technology from the industrialized to the developing countries, as well as among the developing countries themselves;

WHEREAS the Industrial Development Board (IDB) of UNIDO took note by IDB.16/Dec.2 that an international centre for hydrogen energy technologies will be established as described in document IDB.16/26 of the IDB;

WHEREAS the Government of Turkey (hereinafter referred to as "the Government") has welcomed the establishment of the International Centre for Hydrogen Energy Technologies (hereinafter referred to as "ICHET") and has declared its readiness to provide UNIDO with the required funds for land, premises, capital equipment and operational activities of ICHET.

WHEREAS the objectives of ICHET are to stimulate appropriate development and applications of hydrogen energy technologies and hydrogen related industrial development throughout the world in general and in developing countries in particular.

WHEREAS the paucity of research capacities in developing countries can be overcome by providing scientists and technologists from developing countries with training and access to state-of-the-art equipment and facilities relevant to the development of hydrogen energy related technologies.

WHEREAS the beneficiaries of the activities of ICHET will be scientists, technologists and industrialists from developing countries.

WHEREAS it is expected that contributions from further donors interested in the activities of ICHET will be received.

NOW THEREFORE the Government and UNIDO hereby agree as follows:

ARTICLE ILegal Status

1. The International Centre for Hydrogen Energy Technologies is established within the legal framework of UNIDO as a scientific institution with the operational autonomy as defined in the present Agreement.
2. The headquarters of ICHET, will be located in Istanbul, Turkey.

ARTICLE IIObjectives

The objectives of ICHET will be the following:

- a. to act as a bridge between industrial and developing countries, in closing the gap between research and development organizations, innovative enterprises and the market-place, so as to stimulate appropriate applications of hydrogen energy technologies in industrial development throughout the world in general and in developing countries in particular;
- b. to further, for the benefit of developing and developed countries, the application of hydrogen for peaceful aims, as well as the development and transfer of hydrogen related technologies, including the associated technology management processes;
- c. to further the advancement of applied research and development on hydrogen energy, with direct involvement of developing countries' scientists and technologists, and
- d. to support the strengthening of developing countries' research, development and transfer centres and programmes, including mechanisms for supporting existing enterprises and the creation of new industrial enterprises, all involved with the application of hydrogen technologies.

ARTICLE IIIFunctions

To fulfil the objectives mentioned in Article II, ICHET will carry out the following main functions: long-term and short-term training through conducting workshops, scientific meetings and learn-by-doing programmes for visiting scientists and technologists, research, development and technology transfer activities, advisory services, cooperation with industry, networking, cooperation with and affiliation of relevant national institutions, transfer and management of related technologies.

ARTICLE IV

Activities

ICHET will promote and facilitate the introduction of hydrogen energy technologies in participating countries through techno-economic studies, including technology monitoring and forecasting, research and development, technology transfer, training, fellowships and advisory services.

The emphasis of ICHET's research activities shall be on applied research and development, and not on basic research. These activities will be supported by a data-base through Internet and other means that will include pertinent information on research results from the laboratories and institutes all over the world, and on related technologies, products and services.

ICHET's areas of work will include the following:

- Hydrogen energy policy, economics of mass hydrogen production and implementation of hydrogen energy technologies, and environmental studies;
- Hydrogen production techniques coupled with other renewable energy systems;
- Hydrogen storage techniques;
- Hydrogen hydrides for hydrogen storage and for air conditioning;
- Hydrogen transport through pipelines;
- Liquid hydrogen technologies;
- Hydrogen powered vehicles (buses, trucks, cars, two and three wheeled vehicles);
- Fuel cell applications (decentralized power generation and vehicles);
- Hydrogen infrastructure development;
- Hydrogen application for chemistry, power production, gas industry , oil industry and metallurgy;
- Other areas of application, to be recommended by the International Scientific Advisory Committee to the Steering Committee, as defined in Article VI.

ARTICLE VFinancial Arrangements

1. To finance land, premises, capital equipment and operational activities of ICHET, the Government agrees to pay for the first five year period a sum of US\$40 million to UNIDO, under a Trust Fund. ICHET and UNIDO will approach other Governments, national and international agencies as well as public and private organizations for funding of ICHET projects, operational activities, capital equipment and scientists. The level of contribution of the Government shall be reviewed after five years taking into account the recommendations of the Steering Committee for further five-yearly periods .

2. UNIDO shall credit the contributions of the Government to a Trust Fund created for this purpose. Interest accruing thereon shall also be credited to this account. The amounts credited to the account shall be utilized by UNIDO in conformity with the work programme, budget and this Agreement.

3. The account shall be subject exclusively to the internal and external auditing procedures laid down in the financial regulations, rules and directives of UNIDO.

4. UNIDO shall provide the Government with the following statements and reports in the format normally followed by UNIDO for official accounting and financial reporting:

- a. an annual financial statement showing income, expenditures, assets and liabilities as of 31 December of each year with respect to the funds provided by the Government;
- b. a final financial statement within six months of termination of the present Agreement.

In accordance with UNIDO's Financial Regulations and Rules the above financial statements will be expressed in United States dollars using the appropriate United Nations operational rate of exchange.

5. In the event of termination of this Agreement any balance of the funds in the account shall continue to be held by UNIDO until all expenditures incurred by UNIDO have been satisfied from such funds.

6. ICHET shall be financed exclusively from voluntary contributions to be made to UNIDO for the purpose of ICHET. Administrative and support costs incurred by UNIDO for the activities of ICHET, referred to in Article III and IV of the present Agreement, shall be reimbursed to UNIDO and charged to the account at a rate of five per cent of all expenditures incurred on those activities. With the agreement of the Director of the Centre and after informing the Steering Committee, the account may also be charged with any unforeseen and identifiable administrative and support costs incurred by UNIDO and not provided for in the programme budget.

ARTICLE VIOrganization and Administration

The Organization and Administration of ICHET shall under the authority of the Director-General of UNIDO - henceforth the Director-General - comprise the following organs: the Director of the Centre and ICHET Secretariat, the Steering Committee, and the International Scientific Advisory Committee.

1. The Director of the Centre (who must be a well established and internationally known scientist in hydrogen energy) shall be appointed by the Director-General based on recommendations of the Steering Committee and the International Scientific Advisory Committee. The Director of the Centre, under the authority of the Director General, shall preside the International Scientific Advisory Committee, Steering Committee, supervise the scientific activity of ICHET, and implement its work programme.

2. The Steering Committee will be composed, during the first application of the present statute, of two representatives of the Government, a representative of UNIDO and a representative of developing countries selected on the proposal of the Director-General on a rotating basis. Subsequently, on the proposal of the Director-General, the Committee shall coopt other members representing major donors. The Steering Committee will be convened for the first meeting by the Director-General and will establish rules of procedure for its own functioning, to be submitted for the approval of the Director-General. Among other issues, the Steering Committee shall review and agree on the draft of the five year programme and budget taking into account the recommendations of the International Scientific Committee, the amount of resources offered by each donor and the priorities attached by them to the different activities of ICHET. The programme and budget shall be submitted to the Director-General for approval.

3. The composition of the International Scientific Advisory Committee shall reflect the relevant scientific, technological and technology management disciplines and include an adequate number of qualified scientists, technologists and technology managers from both developing and industrial countries, and from the host country. The composition of the Committee will be decided by the Director-General, taking into consideration the proposals of the Steering Committee and the Director of the Centre. The Director-General of UNIDO or his representative will be entitled to participate in the work of the Committee. The Committee will be convened at least once a year. The Committee will review the programme and budget of ICHET from the scientific point of view and will make comments and recommendations thereon.

4. The ICHET Secretariat will service the Steering Committee and the International Scientific Advisory Committee. The Director-General shall, in accordance with the applicable Staff Regulations and Rules of UNIDO, appoint the staff of the ICHET Secretariat.

ARTICLE VIIProgramme and Budget

The programme and budget of ICHET will be drawn up by the Director of the Centre and the ICHET Secretariat, after having considered the recommendations of the International Scientific Advisory Committee, and presented to the Steering Committee for review prior to submission to the Director-General, for his approval. The Director-General of UNIDO may require the Steering Committee to modify the programme and budget proposals, which shall be for a five-year period and will be extended for further five-year periods in order to ensure continuity.

ARTICLE VIIISettlement of Disputes

1. Any dispute, controversy or claim arising out of or in connection with this Agreement or any breach thereof shall, unless it is settled by direct negotiations, be settled by arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) in force on the date when this Agreement takes effect. The parties hereto agree to be bound by any arbitration award rendered in accordance with this provision and to accept it as the final adjudication of any dispute.
2. Nothing in or relating to any provision in this Agreement shall be deemed a waiver of the privileges and immunities of UNIDO.

ARTICLE IXSupplemental Agreements

The Parties may enter into such supplemental agreements or arrangements as may be necessary and appropriate.

ARTICLE XEntry into Force, Duration and Modifications

1. This Agreement shall enter into force on the date of exchange between the Parties of a written notification that all the necessary internal measures to this effect have been completed.

2. Consultations with regard to modifications of this Agreement, including any institutional aspects, shall be entered into at the request of UNIDO or the Government.

3. The present Agreement shall be concluded for an indefinite period on the understanding, however, that each Party shall have the right to terminate it upon giving twenty-four (24) months' notice in writing to the other Party.

4. This Agreement shall cease to be in force:

- a. by mutual consent of UNIDO and the Government, and
- b. if ICHET is transferred from the territory of Turkey.

Done (where) (date), in duplicate in English.

For the Government of Turkey:

For the United Nations
Industrial Development
Organization:

Annex II



UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION
ORGANISATION DES NATIONS UNIES POUR LE DEVELOPPEMENT INDUSTRIEL

UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

TRUST FUND AGREEMENT

TRUST FUND AGREEMENT BETWEEN THE
UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION
AND THE GOVERNMENT OF TURKEY
(The Ministry of Energy of Turkey)

WHEREAS the United Nations Industrial Development Organization (hereinafter "UNIDO") and the Government of Turkey (hereinafter "the Donor") have agreed to co-operate in the implementation of a Project in Istanbul, Turkey, entitled "International Centre for Hydrogen Energy Technologies" (hereinafter referred to as "the Project"), which Project is more fully described in the Project Document No., dated, which has been signed by the Government of Turkey and UNIDO, and which is attached as Annex A hereto and made an integral part hereof;

WHEREAS the Donor has informed UNIDO of its willingness to contribute funds to meet the costs of the Project;

WHEREAS it has been agreed between UNIDO and the Donor that UNIDO shall be responsible under the terms of this Agreement and the UNIDO financial regulations and rules for the management of the funds contributed by the Donor for the Project;

NOW THEREFORE, UNIDO and the Donor hereby agree as follow:

ARTICLE I

1. The Donor shall, in the manner referred to in paragraph 2 below, place at the disposal of UNIDO a sum estimated at US\$40,000,000, and UNIDO shall use such funds to meet the costs of the Project, including programme support costs.

2. The Donor shall, in accordance with the Schedule of Payments set out in Annex B of this Agreement, deposit the aforesaid funds, in convertible currencies of unrestricted use, to UNIDO Funds in Trust Account Number 570-337-410, Bank Austria AG, Vienna International Centre, A-1400 Vienna, quoting Project Number

3. UNIDO shall establish a trust fund under its financial regulations and rules for the receipt and administration of the aforesaid funds, including interest accruing.

4. The trust fund and the activities financed therefrom shall be administered by UNIDO in accordance with its applicable regulations, rules and administrative instructions or directives. Accordingly, personnel shall be engaged and administered; equipment, supplies and services purchased; and contracts entered into in accordance with the provisions of such regulations, rules and directives. As provided in the relevant provision of Annex A, procurement shall be from contractors or vendors in Turkey.

5. All financial accounts and statements shall be expressed in United States dollars and there shall be no accounting or reporting in other currencies. For the purpose of recording receipts and/or payments, all transactions shall be converted into United States dollars at the official United Nations accounting rate of exchange applicable on the date of receipt and/or payment.

ARTICLE II

The trust fund shall be utilized by UNIDO for the purpose of meeting the actual costs of the Project at Annex A and to finance the programme support services provided by UNIDO in the implementation of the project. Normally, the costs of programme support services shall be calculated as 13 (thirteen) per cent of all expenditures from the trust fund.

ARTICLE III

1. UNIDO shall commence and continue to conduct operations under this Agreement upon receipt of a copy of this Agreement, signed by both Parties, and upon receipt of sufficient funds in accordance with Article I.

2. The Donor undertakes to meet the actual costs of the services specified in the Project Document in Annex A, and UNIDO undertakes not to make any commitments for services not specified in

3. If UNIDO considers that changes between components and/or additional services, not foreseen in the Project Document, are required, UNIDO will submit a revised budget for approval by the Donor showing the required changes in inputs and/or adjusted financing that will be necessary.

ARTICLE IV

Ownership of equipment, materials, supplies and all other property financed from this trust fund shall vest in UNIDO. Unless otherwise provided in the Project Document, following operational completion of the Project, ownership of equipment, of materials and supplies, as well as other property necessary for operation of the Project, shall be transferred to the Government of Turkey or to an entity nominated by it.

ARTICLE V

Evaluation of the activities financed from this trust fund shall be undertaken in accordance with the provisions contained in Annex A.

ARTICLE VI

The trust fund shall be subject exclusively to the internal and external auditing procedures laid down in the financial regulations, rules and administrative instructions and directives of UNIDO.

ARTICLE VII

In addition to any reports specified in Annex A, UNIDO shall provide the Donor with the following statements and reports in the format normally followed by UNIDO for accounting and financial reporting:

- (a) An annual financial statement showing income, expenditures for the year, and assets and liabilities as of 31 December with respect to the funds provided by the Donor;
- (b) A final financial statement within six months of termination or expiration of the Agreement.

ARTICLE VIII

UNIDO shall notify the Donor when the activities for which the trust fund was established have been completed. The date of such notification shall be deemed to be the date of operational completion of the Project. This Agreement shall continue in force for the purposes stated in Article X.

ARTICLE IX

This Agreement may be terminated by either party on 30 days written notice to the other party, subject to the continuance in force of Article X for the purposes stated therein.

ARTICLE X

On operational completion of the Project as specified in Article VIII, or termination of this Agreement as specified in Article IX, the trust fund shall remain open until all expenditures incurred by UNIDO have been satisfied. Any balance due to UNIDO under Article III shall be charged by UNIDO to the trust fund and the Donor will reimburse UNIDO for any negative balance in the trust fund.

Upon submission of a final financial statement in accordance with Article VII (b), any surplus remaining in the trust fund shall be returned to the Donor or disposed of as requested by the Donor.

ARTICLE XI

The following addresses are specified for the purpose of this Agreement:

(a) For the Donor:

-----, -----,
name address

-----,
city, country

cables:, telex:, fax

(b) For UNIDO:

P.O. Box 300
Vienna International Centre
A-1400 Vienna, Austria

cables: UNIDO Vienna, telex: 135612 fax: 21131-6809

ARTICLE XII

This Agreement shall enter into force upon signature.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present Agreement in two copies in English, at Vienna on this day of 19...

For the United Nations Industrial
Development Organization:

(Name & Functional Title)

For the Donor:
.....

(Name & Functional Title)



UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

SCHEDULE OF PAYMENTS

**Annex B
to the Trust Fund Agreement
dated .././19..**

Project Number XX/CCC/YY/NNN

On signature of this agreement	US\$7,146,150
Within one year after the signing	US\$9,292,500
Within two years after the signing	US\$10,486,350
Within three years after the signing	US\$6,835,500
Within four years after the signing	US\$6,239,500
TOTAL	US\$40,000,000 *

*/Including, UNIDO Programme Support Costs.