

**STRATEGY FOR DEVELOPMENT OF PROJECT CERNAVODA NPP UNITS 3 AND 4**

**Table of contents:**

**Chapter I – Introduction**

**Chapter II – General information regarding Project Cernavoda NPP Units 3 and 4**

**Chapter III – The necessity and opportunity of the Project Cernavoda NPP Units 3 and 4**

**Chapter IV – Support mechanisms**

**Chapter V – Project structure. Share capital contributions**

**Chapter VI – Rights and obligations**

**Chapter VII – Principles used in Strategy implementation**

**Chapter VIII – Presentation of the development of the Project. PI selection procedures. The establishment of the Interministerial Commission for the development of the Project and the Negotiation Commission**

**Chapter IX – Project phases**

**Chapter X – Technical specifications for investor selection process. Minimum requirements for qualification and selection criteria of the PI.**

## **Chapter I – Introduction**

- 1.1** This document represents the Strategy for development of Project Cernavoda NPP Units 3 and 4 (“The Project”)
- 1.2** The current Strategy aims to create a joint venture (“JV”) with the meaning from article 50 of Law no 137/2002, between Societatea Națională Nuclearelectrica S.A. (“SNN”) and a private selected investor, respectively a joint venture, where the amount invested by SNN in Societatea EnergoNuclear S.A. (“EN”) will be transferred. JV represents the company preceding the IPP type company ( Independent Power Producer – IPP), set up for a duration of two years, which can be modified with the parties’ consent, with the purpose of assessing, in the current conditions, the project’s feasibility, the assets’ valuation, deciding upon contracting engineering, procurement and construction works (EPC), obtaining the necessary authorisations and approvals for starting the works and also regarding the support measures that will be granted to the project, given current national and European Community legislation and taking a final investing decision for advancing towards the implementation stage of the Project and later on to the IPP stage.
- 1.3** The General Meeting of Shareholders (“GMA”) of Societatea Națională Nuclearelectrica S.A (“SNN”) mandates the Department of Energy (“DE”) to take the necessary steps to approve the current Strategy for selection of a majority Private Investor (“PI”) and to implement the strategy for selecting a majority Private Investor (“PI”). The necessity to attract a Private Investor for the Project mainly derives from the need to provide high-value financial funds which can not be provided by SNN and the Romanian state.
- 1.4** For the avoidance of doubt, the Private Investor is a company/group of companies, together or separately, which demonstrate capabilities and experience with nuclear technologies, with proven expertise, directly or through affiliates in the operation/ construction and commissioning of nuclear power plants, and the capacity to secure project financing through both equity and external sources (loans, etc.).

Given the commitment assumed by the owner of CANDU nuclear technology and the Romanian State before the European Commission, during the assessment of the project under Art. 41 of the Euratom Treaty, an important requirement for the investor is related to its ability to ensure that the project construction will use CANDU 6 technology, and to guarantee the level of nuclear safety committed to by the owner of CANDU 6 technology and the Romanian state in the process of obtaining European Commission’s opinion.
- 1.5** This Strategy sets out the mandate of DE as representative of the majority shareholder of SNN, and the Interministerial Commission and the Negotiation Commission in the selection process of a PI for the Project, in its capacity as representative of the central public administration in charge with coordinating the entire investment project after the selection of the PI. On the basis of the mandate set out in this strategy, SNN, respectively the Negotiation Commission and, where appropriate, EN, will be mandated, maintaining the compliance with the best corporate practices.
- 1.6** DE, through its representatives, will work with other central public administration authorities and local authorities involved in the selection of a PI, in the adoption of measures meant to

increase the attractiveness of the project to potential investors – such authorities will promptly respond to requests of DE.

## **Chapter II – General information on the Project Cernavoda NPP Units 3 and 4**

Nuclear energy is a sustainable alternative for the energy sector development, given the limited resources of energy raw materials and the need to produce electricity with no greenhouse gases emissions.

- 2.1. In the context of new European energy and environmental policies for 2030, the role of nuclear power becomes more obvious in reaching the ambitious targets of reducing greenhouse gas emissions, whilst ensuring energy security and an affordable price to final consumers as well as increasing the country's energy independence.
- 2.2. In this context, the completion of the Project is a priority objective for the development of the energy sector, included in the Romanian Energy Strategy 2007-2020, approved by Government Decision no. 1069/2007.
- 2.3. The technology that will be used in this Project is the CANDU 6 technology, using as reference Unit 2 of Cernavoda NPP, including the improvements assumed by the owner of CANDU 6 technology and the Romanian state during the process of obtaining the European Commission's opinion in accordance with Art. 41 of the Euratom Treaty, as well as the improvements resulted from the post-Fukushima analysis.
- 2.4. Completing the Project requires funds estimated at about 5 billion euros, in addition to existing assets owned by SNN, EN and the Romanian state. To ensure these funds, the implementation of the Project is expected to be done by attracting private capital transparently from a PI with creditworthiness, financial strength, and technological capability, which is willing to take potential risks during the execution period in order to benefit from the advantage of securing competitive and safe energy on the long term (at least 50 years) during the operating phase.
- 2.5. The Romanian State and SNN agree upon the fact that the PI will become the controlling shareholder of the Project Company, with all the rights and obligations of that position. The Romanian side (Romanian State and SNN) will try to effectively capitalize on their contributions during the negotiations, simultaneously taking into account the responsibility for the long-term management of radioactive waste in accordance with Directive 2011/70 / EURATOM, the creation of an appropriate investment climate for large energy infrastructure projects and the protection of minority shareholder rights through clauses related to decision making in the future Project Company.

## **Chapter III – The necessity and opportunity of the Project Cernavoda NPP Units 3 and 4**

- 3.1. The objective of the energy sector in Romania, to ensure the security of electricity supply and heat supply to all customers at appropriate quality level needs to be achieved at the lowest cost to the consumers, with environmental compliance and consistency with the objectives of the *Regulatory framework for environmental and energy policies for 2020 – 2030, developed by the European Commission* and the *European Energy Security Strategy*, such that security of supply, competitiveness of the industry and jobs protection are maintained. In this context, in order to meet electricity demand in the medium and

long term, at affordable prices for consumers whilst maintaining quality, safety of supply and in conformity with the principles of sustainable development, Romania must commission new energy capacities, which are competitive and are based on clean technologies, that will cover the capacity shortages estimated to occur after 2015, and expected deepen after 2020-2025.

- 3.2. Increasing the energy capacity of the Cernavoda nuclear power plant with two new units developed on the CANDU technology, was considered the optimum solution for covering the deficit that will occur after 2020, both from a technical and economic perspective and timeline for completion, but also in terms of internal resources and existing national infrastructure developed on the basis of the CANDU technology. Moreover, completion of the Project Units 3 and 4 of the Cernavoda NPP envisages exploitation of existing assets - heavy water and uranium octoxide, which are publicly owned and have a considerable value, the assets of Nuclearelectrica ("SNN") - land, buildings, equipment, etc. - and the intangible assets of SC EnergoNuclear S. A. ("EN"), etc, under the provisions of the law.
- 3.3. Cernavoda nuclear project belongs to the category of investments in low carbon technologies, which are necessary for Romania, in the context of ambitious de-carbonisation objectives at the European level, which aim at 40% reduction in greenhouse gas emissions by 2030. At the same time, it is necessary to keep in mind that such large projects are characterized by major capital infusions during the construction phase, which generate secure and stable revenue during the operation phase (nuclear capabilities operate on the baseload curve on a period of 50 years, with a major contribution to the security of the National Power System).
- 3.4. The experience in operating Units 1 and 2 at CNE Cernavoda shows the ability to produce electricity at competitive prices with excellent availability indicators and minimal impact on the environment.
- 3.5. Thus, the Project completion is a priority for Romania's energy security, in compliance with European energy and environmental policies.

#### **Chapter IV - Support mechanisms**

4.1 Under the current economic and electricity market context, which fails to provide supportive conditions to develop large electricity infrastructure projects, necessary for the electricity sector, with important impact on the economic revival of Romania, combined with the specificity of low carbon emission technologies, often described as capital intensive and with long completion periods, it is necessary to raise the problem of need of support mechanisms to facilitate the development of large electricity infrastructure projects, set-up based on the free energy market and in line with the European regulations on transparency, competition and state aid. The securing process may be solved through fiscal mechanisms, as well as by using certain commercial instruments adjusted to the energy sector which will allow, mainly, the predictability of investment recoverability for the investors in energy generation capacities using low carbon emission technologies.

In this context, a range of measures are under different analysis stages by the Romanian authorities, meant to foster investment interest for the energy projects based on low carbon emission technologies:

- Promotion of an adequate legislative environment for securing energy sales and increasing the predictability of return of investments in large energy generation capacities with low carbon emissions, in accordance with European legislation regulations. Measures like the following are under analysis: (i) possibility of contracting, by the project company, of the energy before the producer license being obtained, on the OPCOM platform as well as outside the OPCOM platform and (ii) development of a mechanism similar to “contracts for differences”, model used in the energy market reform of UK, which is focused on supporting investments in energy sector for generation capacities with low carbon emissions;
- Possibility of using the state guarantee as an instrument used to secure financing of large energy infrastructure projects, which add value from economic and social point of view, subject to conformity with internal and European legislation on state aid and being framed within the guarantee ceiling agreed with international financial institutions and with observance of the clauses included in the GEO no.88/2013 on development of fiscal measures for enforcing the arrangements agreed with the international institutions, as well as for changing and updating certain legislative documents, approved with changes and updates by Law 25/2014, Government Decision no 225/2014 on approval of the Methodology on prioritization of public investment projects and GEO no 64/2007 on public debt, approved with changes and updates by Law 109/2008 and subsequent changes.

The support measures identified will be implemented, should the case be, subject to the opportunity decision, in conformity with the legal framework and EU on this matter, and in conformity with the authorization decision from European Commission.

## **Chapter V –Project structure. Share capital contributions**

**5.1** Through this Strategy one proposes to create a joint venture in the meaning of art. 50 of Law no. 137/2002 between SNN and a Private Investor, respectively a Project Company ("Joint Venture" or "JV"), which will take over the value of SNN’s investment in the subsidiary SC EnergoNuclear S.A. ("EN"). The JV will be the precursory company of the IPP (Independent Power Producer - IPP) established with a duration of 2 years, that can be modified by agreement of the parties, in order to reverify project feasibility under current conditions, the valuation of assets and the final investment decision in order to move to the implementation phase of the Project respectively the IPP stage.

**5.2** The contribution to the share capital of the JV will be carried out as follows:

- the JV will be established initially from exclusive cash contribution of SNN and the selected PI, corresponding to quotas of 49% and respectively 51%; SNN will initially contribute to the share capital of the JV with cash, as necessary, but not more than EUR 2,000,000, representing 49% of the initial share capital of the JV;
- Subsequent to the initial phase of setting up the JV one will consider the recovery, under the provisions of the law, of the investment made by SNN in EN, aiming mainly that SNN still holds a participation in the JV, other than the initial contributions and, as the case may be, to protect SN’s investment in EN.
- In the process one will take into account the contribution of heavy water provided by the Romanian state, but the timing and the method through which the contribution will be made will be determined following the establishment of the new JV as part of the

procedure, based on the Government decision, issued under the law, and, where appropriate, notifying the European Commission, this decision being necessary to be made not later than the final investment decision by the JV shareholders.

- the PI will always hold at least 51% of the JV, being entitled to additional contributions when this condition would not be met because of contributions made by the other shareholders.

**5.3** After fulfilling certain conditions, that will be agreed upon with the Private Investor in the Memorandum of Understanding, the parties to the JV shall have the following rights:

- SNN has the right to contribute in cash in order to keep the share of 49% in the JV based on approval of GSA of SNN;
- The Romanian state has the right to enter the ownership structure with in kind contribution, at any time after the JV establishment, under the condition of the minimum percentage of 51% ownership by the PI;
- The selected Investor has the right to contribute to the share capital of the JV with a cash contribution, representing at least 51% of the share capital and any other cash contributions above the 51% that will be required after the in kind contribution of SNN and the Romanian state to the capital of the JV, plus other reserved contributions;
- SNN has the right to in kind contribution to the IPP, consisting of assets available as contributions to the project and whose list will be finalized following the elaboration of the revised feasibility study and valuation report, on the date when this contribution will be identified as necessary for the continuation of the Project;
- After setting up the IPP, the PI has the right to cash contributions and to hold a quota, as necessary, for the project to be completed.
- The participation of SNN and, where appropriate, of the Romanian state must not fall below 30% of the share capital.

**5.4** The valuation of SNN's assets available for the in kind contribution to the project, in view of determining its share in the share capital of the IPP joint venture, will be performed in accordance with international valuation standards by an independent appraiser agreed by both parties and appointed in accordance with the legal provisions regarding in kind contributions to the share capital of a company. Terms of reference and the valuation methods used in the valuation report will be agreed by the parties, within the legal framework applicable to this transaction.

## **Chapter VI – Rights and obligations**

### **SNN rights and obligations**

**6.1** SNN will be entitled to make an in kind contribution to the capital of the IPP, representing assets intended to be used for the Project, according to the list of assets pertaining to the Project, contribution that will be valued under the provisions of Romanian legislation. Among the existing assets there is a reserve of heavy water of about 75 tons purchased by SNN and financed from own sources and intended to constitute an in kind contribution to the capital of the Project in accordance with GEO no. 80/2006 on the provision of heavy water production

for the commissioning and for completion of the technological needs for the life cycle of Units 3 and 4 of the Cernavoda nuclear power plant.

- 6.2 SNN shall have the right and not the obligation to engage in an Operation and Maintenance Contract ("O & M") with the IPP Company, for the operation of Units 3 and 4 during the commercial exploitation phase, based on a Service Level Agreement ("SLA") and a cost plus margin comparable to the market conditions, and whose detailed terms and conditions will be negotiated after the JV establishment; such a contract may be subject to independent assesment by a financial auditor, in order to verify the transactions with related parties.
- 6.3 SNN shall have the right but not the obligation to enter into a Contract for the supply of nuclear fuel needed for the Project based on the principles of cost plus margin, comparable to the market conditions, whose detailed terms and conditions will be negotiated after IPP establishment, such a contract can be subject to independent assesment by a financial auditor in order to verify the transactions with related parties.
- 6.4 SNN has the right to make share capital contributions in accordance with the provisions of section 5.2.
- 6.5 Measures will be considered in order to protect SNN's investment in EN.
- 6.6 SNN will be entitled to nominate administrators/directors according to its share capital participation; the Romanian State will have a similar right in the case and from the date on which it will become a shareholder in the JV.

#### **Rights and obligations of the Romanian State**

- 6.7 The Romanian State shall have the right and obligation to contribute in kind to the IPP share capital with the heavy water and uranium octoxide needed for the commissioning of Units 3 and 4, contribution that will be appraised according to Romanian legislation. This matter is provisioned by the Government Emergency Ordinance no. 118/2011 regulating the measures for ensuring the necessary quantities of heavy water and uranium octoxide for the units 1-4 of NPP Cernavoda, and Government Emergency Ordinance no. 56/2013 on the regulation of the legal regime of heavy water used by Societatea Nationala "Nuclearelectrica" - SA through state budget allocations in 2006-2011.
- 6.8 The Romanian state will have the right to provide, according to the legal framework in force, heavy water amounts accumulated in the state reserve, that are necessary to ensure technologic consumption during the units operation.

#### **Rights and obligations of the private investor**

- 6.9 The private investor shall have the right and obligation to finance the project with the Minimum Contribution to the Share Capital for an amount to be negotiated and determined after its selection.
- 6.10 **The Minimum Contribution to the Share Capital** is the contribution that the PI must bring to the share capital of the IPP, a contribution which will not be less than 51% of the share capital of IPP, so as to ensure completion of the Project. The minimum contribution to

the share capital of the IPP will be determined as the difference between the **Minimum Share Capital of the Project** and the sum of in kind contributions from SNN and the Romanian State, plus the initial cash contributions and any subsequent if the case, that SNN and / or Romanian State may decide to bring into the Project. **The Minimum Share Capital of the Project** represents the minimum share capital of the IPP to be achieved during the implementation of the Project for it to be financed from financial sources other than own funds (attracted sources). **The Minimum Share capital of the Project** will be in, any case, sized to allow full in kind contribution of SNN and the Romanian State in the project, plus any initial and subsequent cash contributions plus cash contribution of the IP, which will represent no less than 51% of the share capital of the IPP.

**6.11** PI will have the obligation to facilitate Project financing from attracted sources within the timing assumed in the technical offer and at the financing costs as presented in the technical and financial offer.

**6.12** PI will have the obligation to implement the Project, namely the obligation to ensure concluding by the JV of an EPC contract for the Project, using Canadian technology CANDU 6 reactor, including improvements assumed by the owner of CANDU 6 technology and the Romanian State during the process of obtaining the opinion of the Commission, in accordance with Art. 41 of the EURATOM Treaty, as well as the results from post-Fukushima analyses.

**6.13** PI shall have the right to propose and negotiate clauses of exit from JV for cases when, for reasons beyond his control, the permits / licenses / approvals required or other similar documents needed for the construction will not be obtained.

**6.14** PI shall have the right to nominate directors/administrators in accordance with its contribution to share capital, thus the right to nominate the majority of administrators.

**6.15** PI will have the obligation to support the Romanian State to obtain the agreements, approvals and permits required, possibly even from the European Commission (DG Energy, DG COMP, EURATOM, etc) regarding the effects on the electricity market, possible state aid elements, investment in strategic infrastructure elements for the Project, etc.

**6.16** PI will have specific rights and obligations as owner of nuclear assets / operator of nuclear reactors, in accordance with European and international regulations to which Romania is a party.

**6.17** To the extent that PI, directly or through affiliates, will conclude contracts with JV as a supplier of goods / works / services, the contracts will be concluded based on the principles of cost plus margin, comparable to the market conditions; such contracts may be concluded under the applicable legal framework and would be subject to approval by the shareholders of the JV and thereafter will be subject to verification by the auditor of the IPP for related party transactions;

## **Chapter VII – Principles used in Strategy implementation**

**7.1** The main objective of SNN and the Romanian State is the construction and commissioning of Units 3 and 4 of the Cernavoda NPP.

**7.2** Through this Strategy the set-up of a joint venture is proposed, for the purposes of art. 50 of Law no. 137/2002 between SNN and a selected private investor, ie a JV. JV is the preceding company for the IPP (Independent Power Producer - IPP) established with a duration of 2 years in order to reverify under current conditions, the project feasibility, valuation of assets and investment final decision to move into the Project implementation phase and in a later stage into the IPP phase.



- 7.3** Promoting an initial structure of the ownership in the JV to be established for the completion of Units 3 and 4 of the Cernavoda NPP so that SNN holds a participation of 49% of the share capital and the selected PI a share of 51%. In the process, the set-up of IPP will take into account the contribution of the Romanian State with heavy water, but the timing and method used for the the actual contribution will be determined within the procedure, based on a Government decision issued under the law.
- 7.4** Contracting engineering works, procurement and construction of the objective, as well the financing for the completion of Cernavoda NPP Units 3 and 4 is determined by the JV.
- 7.5** PI must demonstrate a real financial potential for completing the investment, including reliance on the Romanian component and technical capability to carry out the Project using the technology and the security standards undertaken by the owner of the nuclear technology and the Romanian state in connection towards the European Commission during the review of the Project according to art. 41 of the Euratom Treaty.
- 7.6** The inventory of heavy water and the first load of nuclear fuel will be supplied from Romania by the Romanian state and SNN.
- 7.7** For the completion of the Project, the existing assets destined for the project and under the ownership of SNN will be used.
- 7.8** Finding a solution to protect SNN investments in EN will be sought. The transfer of EN staff in compliance with the applicable legislation is envisaged.
- 7.9** The carrying out and the commissioning of the Project must meet all applicable requirements and regulations specific for nuclear projects, keeping in mind that the technology used is the CANDU 6 technology, the Unit 2 of Cernavoda NPP being a reference, including improvements assumed by the owner of CANDU 6 technology and the Romanian State during the process of obtaining the opinion of the European Commission in accordance with Art. 41 of the Euratom Treaty, as well as results from post-Fukushima analyses.
- 7.10** In establishing the JV, the following strategic directions for Romanian economy will be taken into consideration:
- a. The operation of Units 3 and 4 will be made by a qualified Romanian operator, i. e. SNN, based on a service contract of operation and maintenance, under conditions specified in section. 6.2.
  - b. Transaction documents relating to PI becoming a shareholder must include principles regarding protection of minority shareholders rights.
  - c. Documentation of the procedure will contain specific clauses to promote Romanian industry (indicative volume of 30%, but no less than 20% of the works, procurement of equipment, materials and engineering). Additionally, the initial inventory of heavy water and the first load of nuclear fuel will be supplied from Romania.
  - d. The Memorandum of Understanding, Articles of Association and Shareholders Agreement will contain provisions that will regulate the capital increases and provisions rearding the decision making process for JV / IPP to avoid the possibility of PI unilateral decisions or even clauses that allow for minority shareholders to block certain decisions (eg dissolution decided by 100% of the votes, etc.).

## **Chapter VIII – Presentation of the way to continue the Project. PI selection procedure. The establishment of the Interministerial Commission for the continuation of the Project and of the Negotiation Commission**

**8.1** This Strategy proposes the model for the continuation of the Project, respectively by organizing a procedure for carrying out "Green / Brown Field" projects by creating an IPP company, with in kind and / or cash contribution from SNN and cash contribution from a potential investor.

**8.2** The applicable legal framework for this type of procedure is as follows:

- (i) Government Emergency Ordinance no. 88/1997 regarding the privatization of commercial companies, as further amended and supplemented;
- (ii) Law no. 137/2002 on the acceleration of privatization, as amended and supplemented ("Law no. 137/2002");
- (iii) Norms of the Methodological Norms for the application of Government Emergency Ordinance no. 88/1997 regarding the privatization of commercial companies, as amended and supplemented, and of the Law. 137/2002 on the acceleration of privatization, approved by Government Decision no. 577/2002, as further amended and supplemented;
- (iv) Law no. 31/1990 on commercial companies, republished, with subsequent amendments.

**8.3** Law no. 137/2002 art. 50 provides for the possibility that companies where the state is the majority shareholder to participate share capital contribution in entities as JVs that are registered in Romania, the set-up of such entities due to be conducted in association with individual or legal persons with majority private capital. However, the Norms for implementing Law no. 137/2002 stipulate that companies where the state is the majority shareholder may participate in the establishment of joint ventures with the approval of the general assembly of shareholders.

**8.4** It is also taken in consideration the procedure on development of "Green / Brown Field" projects through set-up IPP companies, based on in kind contribution from companies / national companies and autonomous administrations from the portfolio of the Ministry of Economy - Department for Energy and cash contribution from a potential investor (IPP procedure), procedure used by the Department for Energy for investment projects in the energy sector.

**8.5** The model for the continuation of the Project will be based on the following sequence of actions / activities:

- Selection of a private investor which will become the majority shareholder of the Project Company;
- Setting up the new IPP Project Company for the Project development, which will initially receive initially cash contributions from SNN, and followed by the valorization of the EN assets, under the law conditions and, in a later stage of the in-kind contributions from the Romanian State and SNN, such IPP Company will develop the Project;
- If necessary, consultation from Competition Council in relation to the possible elements that may constitute State aid;
- Attracting financing for the implementation of the Project, closure of the financial scheme through cash contribution to the share capital for the Project Company from the private investor and cash contribution (limited amount) to JV and in kind

contribution for the IPP from SNN and, in a future phase, in kind contribution from the Romanian State and if decided accordingly, cash contribution, but also through attracted sources arranged by PI;

- Development and implementation by the Romanian authorities of measures to reduce project risk and increase its attractiveness, alongside with the process of the Project development;
- The selection of the general contractor for the construction of the project, capable of implementing the CANDU 6 technology, having Unit 2 of Cernavoda NPP as reference plant, including improvements assumed by the owner of CANDU 6 technology and by the Romanian State during the process of obtaining an opinion of the European Commission in accordance with the Art. 41 of the EURATOM Treaty, and the results from post-Fukushima analysis.

**8.6** Conduct of all necessary activities for the authorization of financing, construction and operation of the project including potential notifications to the European institutions will take place in parallel / simultaneously with the development and investment process, this including communication to the public. Through the Memorandum approved by the Government on 2<sup>nd</sup> of July 2014 the Department for Energy received the mandate, together with SNN and EN, to draft the Strategy for the continuation of the Project by organizing a competitive selection procedure targeting attracting investors.

**8.7** Thus, based on SNN GSM decision, SNN will organize a procedure for setting up an IPP joint venture company for the the implementation of the "Green / Brown Field" project aimed at the implementation of the Project.

**8.8** DE will use voting rights in SNN GSM, and approve the Strategy, the participation in the set-up of IPP joint venture, initiation and execution of the procedure for creating a new entity, the mandating of the Board of SNN to initiate and conduct the procedure in accordance with the Strategy approved by the Government and the GSM of SNN, the appointment of the Negotiation Commission and establishment of the rights and responsibilities of the Commission under the IPP procedure. The PI selection process will be coordinated and conducted by two commissions, namely:

- (i) The Interministerial Commission for the continuation of the Project ("IC") having as main responsibilities the coordination of the implementation procedure, approval of the proposals of the Negotiation Commission regarding various stages of the procedure and supervision of Project implementation, as well the coordination of the implementation of the support measures for the Project, approved by the Government;
- (ii) The Negotiation Commission ("NC"), which essentially will implement the Strategy approved by the Government and SNN, developing proposals for decisions to be taken with regards to the implementation of this Strategy and the progress and completion of the procedure.

**8.9** The coordination of the PI selection process is performed by IC, set-up in accordance with Annex 2 to the Memorandum, whose functions are described below in this Strategy.

**8.10** To ensure the SNN shareholders' right to be informed and in order for them to make an informed decision, SNN will be entitled to disclose the provisions of this Strategy, as well as other information related to items on the agenda of the GSM from 22.08.2014 which will be requested by DE. DE will provide SNN with the necessary information which will be made available to shareholders and investors for the purpose of GSM of SNN from 22.08.2014.

**8.11** The main responsibilities of IC are:

- a. Supervise and be responsible for the implementation and compliance with the Strategy for development of the Project Cernavoda NPP Units 3 and 4;
  - b. Supervise the implementation of the procedure for the selection of investors, according to the Strategy;
  - c. Coordinate the activity of the Negotiation Commission during negotiations with potential investors in the Project Cernavoda NPP Units 3 and 4;
  - d. Periodically inform the Romanian Government on the selection process for new investors to continue the realisation of the Project Cernavoda NPP Units 3 and 4;
  - e. Decide on the issues raised by the Negotiation Commission;
  - f. Approve the Tender Dossier, the result of the selection process of investors, the investor proposed to be selected by the Negotiation Commission, the versions negotiated by the Negotiation Commission with the selected investor for the Letter of Intent, the Memorandum of Understanding, Articles of Incorporation of the new Project Company and Shareholders Agreement;
  - g. Approve matters relating to the involvement of the Romanian State, as an investor, owner of some assets, and as the regulator of legislative issues;
  - h. Approve the outcome of negotiations with the selected investor.
- 8.12** The Negotiation Commission for negotiation with potential investors in the Project Cernavoda NPP Units 3 and 4 (NC) will be appointed by the Delegate Minister for Energy in accordance with the IPP procedure. NC will conduct the selection process for investors and will negotiate the conditions for setting up the company for the Project, based on the main evaluation criteria for the binding offers, outlined in the present Strategy.
- 8.13** The main responsibilities of the NC are:
- (i) Coordinate and lead directly the carrying out of the PI selection procedure in accordance with the Strategy approved by the Government and GSM of SNN;
  - (ii) Periodically inform the IC on the development of the selection process for new investors to develop the Project;
  - (iii) Clarify the issues and respond to requests raised by potential investors in the Project;
  - (iv) Endorses the Tender Documentation, the public announcement of intent to develop the Project, the draft Letter of intention on the project realisation, the proposed MoU, the proposed Shareholders Agreement and the proposed Articles of Incorporation of the new Project Company and any other relevant documents, these documents will be submitted for approval to the Board of Administration of SNN;
  - (v) Submit for approval to the Board of SNN and IC the PI proposed to be selected and the Letter of Intent on the realisation of the Project;
  - (vi) Negotiate with the selected PI the MoU, submit for the endorsement of the Board of Directors of SNN and IC and submit for the SNN shareholders approval of the Memorandum of Understanding negotiated with the PI;
  - (vii) Negotiate with the selected PI the draft Shareholders Agreement and Articles of Incorporation of the new Project Company;
  - (viii) Submit the documentation for endorsement to the Board of SNN, IC and submit for the approval of SNN shareholders the Shareholders Agreement and the Article of Incorporation of the new Project Company negotiated with the PI.
- 8.14** The negotiation mandate of IC and NC is based of the current Strategy. DE will submit for approval to the Romanian Government the MoU, draft the Articles of Incorporation of the

JV, and draft of the Shareholders Agreement and the provisions of the Investment Agreement to be concluded with PI.

## **Chapter IX –Project phases**

**9.1** The phases of the "Green / Brown Field" procedure held to set-up an IPP company for the Project Cernavoda NPP Units 3 and 4 are listed below:

- 1.** Approval of the Strategy for the continuation of the Project by the Romanian Government;
- 2.** Request by DE for additions to GSM of SNN agenda from 22.08.2014 of the following points, at least:
  - (i) Approval of the Strategy for the continuation of the Project
  - (ii) Approval of SNN participation in a "Green / Brown Field" Project by setting up an IPP Company, where SNN may contribute with movable and immovable property whose value is to be assessed by an independent valuer in accordance with the applicable law and / or contribute in cash as needed, but not more than 2,000,000 Euro and selected PI will contribute in cash to the share capital;
  - (iii) Approval of the initiation, implementation and completion by SNN of the procedure for the competitive selection of an PI for the set-up of joint venture IPP for the implementation of the "Green / Brown Field" Project with the purpose of the Project execution;
  - (iv) Mandating the Board of Administration to initiate and conduct the selection process together with the Negotiation Commission in accordance with the Strategy approved by GSM of SNN;
  - (v) Approval of set-up, through Minister of Energy order, of the Negotiation Commission for negotiation with potential investors, that will coordinate and lead directly the selection procedure of the private investor in accordance with the approved Strategy and IPP procedure and mandating the SNN Board of Administration to take the necessary steps for the appointment of SNN members;
  - (vi) Approval for the expenses generated by running the Project to be borne by SNN, in accordance with the approved Strategy and IPP procedure.
- 3.** Issue of an ordinance by the delegated Minister of Energy for setting up the Negotiation Commission to negotiate with potential investors, in accordance with the IPP procedure;
- 4.** Issue of a decision by the Prime Minister on the set-up of the Interministerial Commission, the structure and composition of the Commission, and any other responsibilities in addition to those set out in this Strategy;
- 5.** Addition on the GSM SNN agenda from 22.08.2014 by decision of SNN Board of Directors with the points required by the majority shareholder, DE;
- 6.** Approval by GSM of SNN of the points included in the agenda and requested by DE;
- 7.** The preparation by SNN, with support from financial and legal advisors employed by SNN, of the tender dossier and approval by CTES SNN, Negotiation Commission and approved by the Interministerial Commission;

8. Discussion and approval by the Board of Directors of SNN, of the following:
  - i. the launch of the announcement on the Project implementation;
  - ii. Tender Dossier;
9. Publication of the announcement for the sale of the Tender Dossier and / or Project Presentation File in a newspaper with wide national exposure and in a publication with wide international exposure;
10. Set-up, by the Negotiation Commission, of meetings with potential investors who purchased the Tender Dossier, on request, for clarifications on the provisions of the ongoing procedure;
11. Completion of the due diligence on the Project, preparation and submission of qualification documents and tenders by investors;
12. Selection of the PI by the Negotiation Commission;
13. Approval, by the Interministerial Commission and SNN Board of Directors, of the investor proposed to be selected by the Negotiation Commission and of the Draft Letter of Intent for the implementation of the Project;
14. Communicating the result of the selection to all potential investors that participated in the selection procedure;
15. Signing the Letter of Intent for the implementation of the Project with the PI selected;
16. Negotiation by the Negotiation Commission of the Memorandum of Understanding with the PI and the Constitutive Act for establishing the JV and approval of these by the Interministerial Commission, respectively approval by the Board of Directors of SNN;
17. Call for GSM of SNN to approve the Memorandum of Understanding and Articles of Association and mandate for the General Director of SNN to sign them;
18. Approval by the GSM of SNN of the MOU and the Constitutive Act and mandating the General Director of SNN to sign them;
19. Signing by SNN of the MOU with the PI and the Constitutive Act of the JV;
20. Set-up the JV;
21. Development a procedure to ensure optimal valorisation, under the applicable law, of the SNN investment in EN;
22. Implementing specific JV activities;
23. Negotiation with the PI by the Negotiation Commission of the Shareholders Agreement and approval by the Interministerial Commission;
24. Approval by the Board of Directors of SNN of the Shareholders Agreement;
25. Call for GSM of SNN for the approval of the Shareholders Agreement and mandate the General Director of SNN to sign it;
26. Negotiating financing agreements and other necessary documents and approval of the result of these negotiations by the competent authorities in order to sign them;
27. Approval, by GSM of SNN of the Shareholders Agreement and mandating the General Director of SNN to sign it.
28. Approval of the Final Investment Decision and signing of the Shareholders Agreement until the end of the life of the JV for the transition into the IPP stage.

9.2 The steps listed above in 9.1. may change depending on further development of this process.

## **Chapter X – Tender documentation for the investor selection process. Minimum requirements for qualification and selection criteria of the PI.**

**10.1** The main requirement for an PI is to be a company / group of companies that together or separately demonstrate the capabilities of the experience in nuclear technologies utilisation, with proven capabilities in nuclear expertise, directly or through affiliates controlled by it, in the operation / construction and commissioning of nuclear power plants, as well as the ability to secure the financing necessary to complete the project, both through equity contributions and the attracted sources (loans etc). Given the commitment undertaken by the owner of CANDU type nuclear technology and the Romanian State in front of the European Commission, during project analysis under Art. 41 of the EURATOM Treaty, an important requirement for the investor concerns its ability to secure the Project construction using the CANDU 6 technology and to guarantee the nuclear safety level committed to by the owner of the CANDU 6 technology and the Romanian state in the process of obtaining the opinion of the European Commission, as well the conditions resulted from post-Fukushima analyses.

**10.2** The Tender Dossier will implement the provisions of the Strategy and will include, but will not be limited to, the following:

A. **Minimum requirements** to be fulfilled by bidders (stand alone or in consortium). The following shall be included among indicative minimum requirements which will be detailed in the Technical Specification:

- *PI profile indicated at 10.1.;*
- *The average turnover in the last three years (billion EUR);*
- *Total assets according to the latest audited balance sheet (billion EUR);*
- *The average annual electricity produced and sold in the past three years (TWh/year);*
- *Number of reactors in operation of the PI or affiliates;*
- *Gross average capacity factor over the last five years for nuclear units in operation;*
- *Number of reactors developed / built / received by the PI or affiliates commissioned within the planned construction period (without significant overshoot) in the last 10 years;*
- *The maximum expected duration for the construction of the reactors assuming that building permits and authorizations would be obtained as planned;*
- *Intention to use Romanian suppliers of heavy water, fuel, works, services, etc.*

B. **Evaluation criteria**

The following should be included among indicative evaluation criteria that will be detailed in the Technical Specifications:

- Minimum expected Return on equity that PI will invest in the Project within the limits for Minimum Contribution to the Share Capital (the indication of the percentage

representing the yield will be required). In any case, the weighted average cost of capital to be used in the project, determined based on the ratio between the capital raised and equity, respectively capital or equity cost and average cost of capital raised will not exceed a maximum rate specified in the Technical Specification (will be indicated by the financial advisor by comparing to similar projects with similar risk profile). If after facilitating the attraction of capital raised (loans etc.), the cost is too high so that the weighted average cost of capital exceeds the maximum level specified in the Tender Documents, the selected PI will adjust downward its expectations for the return on own equity invested in the Project;

- A minimum level of availability as set by the construction Solution and the technological equipment considered, which is to be compared with the actual performance of units 1 and 2;
- A minimum price per MWh that IPP would be willing to pay SNN for operation and maintenance;

The metrics related to the above elements will be set in the Tender Documents, based on the recommendations of SNN consultants.