COMMISSION DECISION

of 2004

on the strengthening of the anti-fraud traffic control systems at the EU external border in Poland to be financed by the Transition Facility

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,
Having regard to the Act of Accession 2003, in particular Article 34 thereof,

Whereas:

(1) Article 34 of the Act of Accession provides the possibility of granting a temporary financial assistance, the Transition Facility to the new Member States to address the continued need for strengthening institutional capacity in certain areas through actions which cannot be financed by the Structural Funds.

(2) The actions funded by this Decision in the areas of the protection of the Communities’ financial interests and the fight against fraud are eligible for funding according to Article 34(2) of the Act of Accession.

(3) Pursuant to Article 34(4) of the Act of Accession, the Transition Facility is implemented in accordance with Article 53(1) (b) of Council Regulation (EC) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.

(4) An Implementing Agency should be designated complying with the criteria set out in Article 164 of the Financial Regulation and having adequate staff resources. The Commission has satisfied itself that the level of compliance by the Central Financing and Contracting Unit (CFCU) with the criteria listed in Article 164 of the Financial Regulation is sufficient for the CFCU to be designated as the Implementing Agency for the Transition Facility in Poland in accordance with the Decentralised Implementation System (DIS) for Phare, by which project selection, tendering and contracting continue to be subject to ex-ante approval by the Commission.

(5) The Commission will examine, in the context of preparation for conferral of management of aid provided under Phare, as well as through a number of other checks, whether the CFCU can be granted full accreditation for the implementation of Phare according to the Extended Decentralised Implementation System (EDIS). Until such time as the Commission decides to grant full accreditation of the CFCU for the implementation of Phare according to the Extended Decentralised Implementation System (EDIS), ex ante control by the Commission should be maintained in accordance with the Decentralised Implementation System (DIS) for Phare.
HAS ADOPTED THIS DECISION:

Article 1

The Commission approves a financial contribution of €1,811,250 as Transition Facility to Poland to finance the projects set out in point 4 of the Annex to this Decision.

Article 2

1. This Decision shall be implemented on a decentralised basis, in accordance with the Memorandum of Understanding on the Implementation of the Transition Facility, signed with Poland on 05/11/2004.

2. The Central Finance and Contracting Unit shall be Implementing Agency for the Programme in accordance with the Decentralised Implementation System (DIS). For the period when the CFCU is the Implementing Agency in accordance with the Decentralised Implementation System (DIS), it shall comply with the conditions set out by the Commission for the continued implementation of pre-accession assistance. The Commission shall examine at a later date whether the CFCU meets the conditions for accreditation for the Phare Extended Decentralised Implementation System (EDIS).

   In the event that the Commission decides to accredit the CFCU, the CFCU shall implement the Programme in accordance with the Phare Extended Decentralised Implementation System (EDIS).

3. In the event that the eligibility of contracts under pre-accession assistance is suspended pursuant to Article 33(1) of the 2003 Act of Accession, eligibility of contracts under the Transition Facility shall also be suspended.

Article 3

1. Contracts covered by the financial contribution shall be signed no later than 15 December 2006.

2. The deadline for execution of contracts shall be 15 December 2007.
Article 4

This Decision is addressed to the Republic of Poland.  
Done at Brussels, […]

For the Commission

[…]

Member of the Commission
FINANCING PROPOSAL ON THE IMPLEMENTATION OF THE TRANSITION FACILITY IN POLAND FOR 2004

1. IDENTIFICATION

Beneficiary: Poland
Programme: Strengthening of the anti-fraud traffic control systems at the EU external border
CRIS-Number: 2004/016-946
Year: 2004
Cost: € 1,811,250
Implementing Authority: Central Finance and Contracting Unit (CFCU)
Expiry Date
Contracting: Expiry Date 15 December, 2006
Execution of contracts date 15 December, 2007
Sector Code: DAC Code 15020
Budget Line: 22 03 01
Commission Task Manager: Mr Mika Makela (OLAF)
Mr Hendrik Van Maele (DG ELARG)

2. SUMMARY

According to Article 280 of the EC Treaty, the Community and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Community through measures which shall act as a deterrent and be such as to afford effective protection in the Member States. Moreover, Member States shall take the same measures to counter fraud affecting the financial interests of the Community as they take to counter fraud affecting their own financial interests. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities. The provisions of Article 280 of the EC Treaty will become directly applicable in the new Member States as from the day of accession.

Article 34 of the Act of Accession establishes the Transition Facility with the purpose of continuing to provide assistance to the new Member States in areas where their administrative and institutional capacity still shows some weaknesses in comparison with present Member States. It shall fund “assistance to address the continued need for strengthening institutional capacity in certain areas through actions which cannot be financed by the Structural Funds.”

The Guide for the Programming and Implementation of the Transition Facility¹ elaborates that

¹ C(2003) 4884
one of the key areas where further assistance is required in particular is the “Protection of the Communities' financial interests and the fight against fraud” and external border controls.

The objective of this Programme is to strengthen the anti-fraud control systems in order to protect the financial interests of the Community at the EU external border in Poland to conform to EU standards.

3. STRATEGY

The Community budget has gradually increased since the foundation of the European Community and currently amounts to €109 billion. It is financed from different sources: agricultural levies (charged on imports covered by the common market), VAT and the GNP-based contribution by the Member States and customs duties (on import from third countries). The present programme is focused on monitoring the passage of goods across the new external borders of the Union in order to ensure that customs duties are levied correctly and thus channelled to the Community budget.

The protection of the Community’s budget must therefore apply to a large number of different financial regimes, and the Community services involved have to cope with very distinct administrative structures in the Member States on the own resources side as well as with regard to expenditure. Whilst it is up to the Member States and the Commission, working closely together, to detect cases of fraud and other irregularities detrimental to the Community's financial interests, the principal obligation falls on the Member States, since they collect traditional own resources on behalf of the Communities and administer around 80% of Community budget expenditure.

In its Action Plan (2001 – 2003) for the Protection of the Communities' Financial Interests and the Fight against Fraud\(^2\), the Commission adopted an overall strategic approach which identifies the major challenges which have to be successfully tackled by the end of 2005. One of the objectives is to involve the new Members States and candidate countries more effectively in fraud prevention in the medium term.

The importance of ensuring the protection of the financial interests of the European Communities in the new Member States has repeatedly been underlined by the European Parliament and the Council.\(^3\)

Similarly, in its 2002 Strategy Paper, the Commission underlined once more the need to ensure the proper management of pre-accession funds and future structural funds and to strengthen their administrative structures to protect the Community’s financial interests, stipulating that the necessary conditions should be achieved by the second half of 2003. The Commission’s 2003 Comprehensive Monitoring Reports\(^4\) revealed, however, that in several acceding states, further progress was still to be made in this respect.

In order to assist the new Member States and candidate countries’ in their efforts to meet their obligations ensuing from the Treaty and from other legislative acts on the protection of the Communities’ financial interests, and to reinforce their administrative capacity in this respect,

\(^3\) COM (2003) 154 – (2002/2237 (INI))
a multi-country “Anti-fraud programme for the protection of the financial interests of the Community”\textsuperscript{5}, funded by Phare 2000, is presently under implementation. The programme foresees as one of its key activities support to the establishment of anti-fraud structures necessary to extend the effective protection of the Communities’ financial interests to the new Member States. One of the programme’s priority targets is to increase the know-how and effectiveness of the controls and enquiries conducted by the national authorities in particular at the future external border of the Union.

In its new configuration after enlargement, the Community will face a challenge of ensuring the efficient management of its external borders, stretching to approximately 6,000 km land and more than 85,000 km of maritime borders. Bearing this in mind, it can be anticipated that the protection of the new external borders presents certain weaknesses, which should be addressed inter alia by improving the controls and supervisory efficiency\textsuperscript{6}.

At its meeting on 28 May 2001 the Council set an objective to identify best practices particular as regards border controls, so that they can serve as examples for those States acceding to the Union and also for those applying the Schengen acquis. The outcome was a detailed list of recommendations and practices (or Catalogue)\textsuperscript{7} and a general border strategy which builds on an overall integrated border security model. The core feature of the general border strategy is a functioning border management consisting of border checks and border surveillance. In this respect all appropriate measures, which include policy, infrastructure and staff training, should be taken in order to reinforce the protection of external borders.

Although the Catalogue focuses on measures aiming at preventing illegal immigration and cross-border crime, the objectives of anti-fraud preventive measures, when it comes to the border control, are very similar: creation of an efficient border control capable in monitoring and detecting any suspicious transport and the movements of goods at the external borders. This Programme puts an emphasis to fraud prevention by aiming at improving the enforcement and control at the new EU external borders.

4. OBJECTIVES AND DESCRIPTION

4.1 Objectives

The overall objective of the Programme is to assist the new Member States to meet the obligations pursuant to Article 280 of the EC Treaty and other legislative acts on the protection of the Community’s financial interests by putting into place effective monitoring mechanisms.

The specific objective is to strengthen the anti-fraud control systems at the EU external border by providing specialised technical equipment capable of monitoring suspicious traffic entering and departing the EU in Poland.

4.2 Types of activity

Co-financing assistance by providing and installing specialised equipment such as automated license plate recognition (ALPR) and container code recognition (CCR) systems at selected

\textsuperscript{5} PH/2002/1412, adopted by the Commission on 16 May 2002.
\textsuperscript{6} COM (2004) 133 final
\textsuperscript{7} COM: EU Schengen Catalogue, February 2002
EU external borders in Poland and by facilitating the integration of this equipment into the national border information systems.

The Programme is divided into three components:

The **Basic Component** includes hardware (sensors, illumination sources, cameras, image capture systems, optical fibre network cabling, network connectors, image recognition computer, system server and workstations) and software (optical character recognition software and system software), which is needed to deploy and monitor the commercial traffic lanes with an integrated ALPR and CCR system.

The **Supplementary Component** includes hardware (sensors, illumination sources, image capture systems, optical fibre network cabling, image recognition computer, system server and workstations) and software (optical character recognition software and system software) needed to deploy and monitor the supplementary traffic lanes with an ALPR system.

The **Communication Component** includes the equipment which is necessary for the black box acting as a secure data exchange communications server with existing national alarm databases (such as license plate database, customs warning database system, etc.)

The procurement of this equipment will contribute to the efforts of the authorities of Poland in their fight against fraud. Due to the high number and diversity in dimension or scale of the new EU land border crossings it is unlikely that this program will be able to equip all border stations. Therefore, the Commission has selected the border crossings stations, which will be targeted with this assistance, based on the type and volume of the border traffic.

### 4.3 Results

- improved efficiency of controlling the EU external borders
- increased risk of getting caught for criminal organisations involved in transports of illegal products and fraudulent goods
- improved multi-agency co-operation at the EU external borders

### 5. BUDGET

<table>
<thead>
<tr>
<th>Objective</th>
<th>Investment</th>
<th>Institution building</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procurement of technical equipment</td>
<td>1,811,250</td>
<td>0,0</td>
<td>1,811,250</td>
</tr>
<tr>
<td>Total</td>
<td>1,811,250</td>
<td>0,0</td>
<td>1,811,250</td>
</tr>
</tbody>
</table>

#### 5.1 Principle of Co-Financing

In accordance with the Transition Facility Guidelines, all investment projects supported by Transition Facility must receive co-financing from national public funds.

The Community contribution may amount to up to 75% of the total eligible expenditure. Rule 7 of Commission Regulation 1685/2000 applies.
6. SPECIAL CONDITIONS

In the event that agreed commitments are not met for reasons which are within the control of the Government of Poland, the Commission may review the Programme with a view, at the Commission's discretion, to cancelling all or part of it and/or to reallocate unused funds (does not include co-financing by the applicant countries) for other purposes consistent with the objectives of the Transition Facility.