FINANCING MEMORANDUM

The European Commission, hereinafter referred to as "THE COMMISSION", acting for and on behalf of the European Community, hereinafter referred to as "THE COMMUNITY"
on the one part, and

The Government of Poland, hereinafter referred to as "THE RECIPIENT"
on the other part,

HAVE AGREED AS FOLLOWS:

The measure referred to in Article 1 below shall be executed and financed out of the budget resources of THE COMMUNITY in accordance with the provisions set out in this Memorandum. The technical, legal, and administrative framework within which the measure referred to in Article 1 below shall be implemented is set out in the General Conditions annexed to the Framework Agreement of 31 May 1990 between THE COMMISSION and THE RECIPIENT, and supplemented by the terms of this Memorandum and the Special Provisions annexed hereto.

ARTICLE 1 - NATURE AND SUBJECT

As part of its aid programme, THE COMMUNITY shall contribute, by way of grant, towards the financing of the following MEASURE:

Programme number PL9911
Title Cross Border Co-operation Programme 1999 Poland-Czech
Duration Until 31 December 2001

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 3.0 MEUR hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 31 December 2001 subject to the provisions of this Memorandum. All contracts must be signed by this date. Any balance of funds of the EC GRANT which have not been contracted by this date shall be cancelled. The deadline for disbursement of THE EC GRANT is 31 December 2002. All disbursements must be completed by the deadline for disbursement. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the disbursement period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall expire at the expiry of the disbursement period of the EC GRANT. All the funds which have not been disbursed shall be returned to the Commission.
ARTICLE 4 - ADDRESSES

Correspondence relating to the execution of THE MEASURE, stating THE MEASURE'S number and title, shall be addressed to the following:

for the COMMUNITY:

Delegation of the European Commission in Poland
Al. Ujazdowskie 14
PL-00478 Warsaw
Poland
Fax: (+ 48-22) 625 04 30

for THE RECIPIENT:

Ministry of Internal Affairs and Administration
ul.Stefana Batorego 5
PL-02-591
Warsaw
Fax: (+48-22) 661.89.66

ARTICLE 5 - NUMBER OF ORIGINALS

This Memorandum is drawn up in duplicate in the English language

ARTICLE 6 - ENTRY INTO FORCE

This Memorandum shall enter into force on the date on which it has been signed by both parties. No expenditure incurred before this date is eligible for the EC GRANT.

The Annexes shall be deemed an integral part of this Memorandum.

Done at Warsaw, Date: 31 December, 1999

for THE RECIPIENT

PODSEKRETARZ STANU
w Ministerstwie Spraw Wewnętrznych i Administracji

Piotr STACHAŃCZYK

Done at Warsaw, Date: 31 December, 1999

for THE COMMUNITY
Mr. Bruno Dethomas
Head of the Delegation of the European Commission in Poland

Annex 1 Framework Agreement (Annexes A & B)
Annex 2 Special Provisions (Annex C)
Annex C
Special Provisions

1. Summary

The cross border co-operation (Phare CBC) programme will co-finance activities that have a cross border impact in specified areas within the border regions of North-East Bohemia and North Moravia in the Czech Republic and in specified areas within the border regions of the Voivod of Lower Silesia, Opole, Silesia in Poland. The aim of the programme is to contribute to the integration process within the overall pre-accession strategy through the support of cross border co-operation between Poland and the Czech Republic.

The 1999 programme respects the priorities and measures defined in the Commission Regulation (EC) N° 2760/98 of 18 December 1998. The memorandum concentrates on the development of the infrastructure in the border regions and on the support of intensive co-operation between local and regional authorities on both sides of the border, thereby supporting the regional development policies of the Czech Republic and Poland.

The authority responsible for programme implementation in the Czech Republic will be the Ministry for Regional Development in conjunction with the Centre for Regional Development where the Implementing Agency (IA) will be established. In Poland the authority responsible for programme implementation lies within the Ministry of Internal Affairs and Administration which has established the Implementing Authority for the Phare Cross Border Co-operation Programme under the responsibility of a Director.

The European Union contribution to the programme of cross border co-operation between the Czech Republic and Poland will be 6,0 M€ out of a total investment of 11.254 M€. This 1999 CBC programme will expire on December 31, 2001.

2. Strategy

In recognition of the need to reinforce co-operation and stimulate integration of the countries of Central and Eastern Europe with the European Union, the 1994 Community budget included a new budget line (B7-612) allocating 150 M€ for the promotion of cross border co-operation between regions of Central and Eastern European Countries (CEEC) and adjacent regions of EU Member States. Commission Regulation (EC) No. 1628/94 of July 4, 1994, specified the implementation of a programme for such cross border co-operation in the framework of the Phare programme. Continuation of the Phare CBC programme beyond 1995 through 1999 to coincide with the INTERREG II programme has been supported by the CEEC and by the European Commission, which considers cross border co-operation to be an important aspect of pre-accession strategies for the CEEC. This has been reconfirmed by the new Commission Regulation (EC) N° 2760/98 of December 18, 1998, which extends the cross-border cooperation to border regions between the CEEC and draws some lessons from previous experience with the CBC programmes.

The current programme is the first programme for the Czech-Polish border region prepared under Commission Regulation (EC) N° 2760/98. The Joint-Co-operation Committee (JCC) was formally established on 9 April 1999. However, the Joint Programming Document (JPD) as referred to under Art.7.2 of Commission Regulation (EC) N° 2760/98 has not been prepared for 1999. The JPD will be prepared by the JCC in time to allow the elaboration of common development strategies and priorities for the Czech-Polish border region in its entirety, seen as one single socio-economic and geographical entity, and provisions concerning joint implementation as from the year 2000. This document, in a multi-annual perspective, will guide the programming and implementation of the actions to be undertaken in the framework of the CBC programme and initiatives for cross-border co-operation. It will also take into account the preliminary Regional Development Plan, as prepared within the framework of the SPP programme, which is part of the 1998 national Phare programme for the Czech Republic and Poland.

For the 2000 Czech-Polish CBC programme, the JCC will define a common set of projects, and the Commission will formulate a programme proposal for the Czech-Polish border, taking into account the JPD and further JCC recommendations for projects, which will be put forward to the Phare Management Committee for Opinion in the course of 2000.

As a result of the new Regulation, the 1999 Phare budget provides an allocation of 6 M€ for the support of cross-border cooperation between the Czech Republic and Poland. Out of this total amount of 6 M€, 3 M€ are earmarked for the Czech part and 3 M€ for the Polish part – being
jointly the subject of a Financing Proposal for which this is the Financing Memorandum for the Polish part. This extension of cross-border cooperation to the Polish-Czech border region builds to some extent upon the former CREDO Programme provided under the Phare Multi-Country facility since 1996 and covers:

- Small-scale activities to create, amongst other benefits, the conditions for future large-scale activities;
- Projects which address cross-border issues in fields as diverse as economic development, socio-cultural cooperation, urban issues, human resources, public services, environment and local democracy;

Czech government policy towards border regions is part of the national government’s regional policy. In addition, the promotion of friendly relations with neighbouring countries is an important tenet of Czech foreign policy. The development of closer cross border co-operation is regarded as an important mechanism in the creation of favourable conditions for European integration.

Equally, the region bordering the Czech Republic is regarded by the Polish Government as a development priority area in the view of its strategic location in the process of integration within the European Union. A joint study on regional development in the Czech-Polish border region has been carried out in 1997 in close cooperation between the state and relevant regional authorities of both countries.

Within the framework of regional economic policy, the Czech government focuses on the financial support of regionally differentiated small- and medium-sized enterprises and on the building of infrastructure in problem regions -often border regions. The Czech government declaration N° 159 of 4th March 1998 recorded agreement that the Ministry for Regional Development is the co-ordinator in the sphere of Economic and Social Cohesion and for the Structural Funds. The Cabinet also agreed on the Principles of Regional Policy, which it considers are fully in accordance with the principles of the EU: to contribute to harmonious and balanced development both according to the requirements of individual regions, while also ensuring economic and social cohesion between regions. Thus, the new regional policy concept is based on principles and approaches common in the European Union - adapted to the conditions in the Czech Republic - and will lay the foundation for the future participation of the Czech Republic in the Structural Funds.

The cross border co-operation programme on both the Polish and Czech sides is compatible with other programmes implemented under the Phare framework. The mutual interface and complementary nature of the CBC programme with the national Phare programme will be enhanced under the 1999 programmes through focusing on institution-building on regional and local levels as well as through supporting regional development policies of the Government in the border regions. The EC’s Opinion emphasised the need to establish an administrative framework and capacity to ensure effective regional development and the economic and social cohesion of society, highlighting this within the Accession Partnership as a process requiring short- and medium-term action. The decentralised approach for the 1999 CBC programmes together with institution-building measures is seen as an important element in support of this process.

For the Polish government the region bordering the Czech Republic is regarded as a development priority area in the view of its strategic location in the integration process with the European Union. In view of its status as a future Interreg internal border, the Polish government has decided to already provide for co-financing up to and beyond the level of 25% currently required by the structural funds. The top priority developmental needs of the region are identified as the establishment of a modern efficient transport communications, both rail and road, and the preservation of the environment by halting the increase in environmental damage and if possible reversing the trend which is arising from the closer contacts between the countries.

The preparation of the 1999 programme is in compliance with the priorities of the Accession Partnerships and of the National Programmes for the Adoption of the Acquis (NPAA) of both countries. The 1999 CBC Programme is based on the following principles:

- articulation of needs and priorities coming from the beneficiary regions;
- consistency with national programmes of sectoral development;
- consistency and complementarity with other internationally aided programmes, in particular, the EU Phare Programme;
- assistance to the Czech and Polish border regions to move toward participation and co-operation on joint programmes with the neighbouring partner countries;
- implementation procedures, which are efficient, effective and stable.
3. Programme Objectives and Description

3.1 Programme Objectives

3.1.1 General Objectives
The general objective of the Phare cross border co-operation programme (Article 3, Commission Regulation No. 2760/98) is to promote co-operation of border regions in Central and East European Countries with adjacent regions in a neighbouring country. The programme seeks to help these regions to overcome specific development problems resulting, inter alia, from their relative isolation in the framework of national economics, in the interest of the local population and in a manner compatible with the protection of the environment. It also supports the establishment and development of co-operative networks on either side of the border and the creation of linkages between these networks and wider Community networks.

3.1.2 Specific Objectives
More specifically, the objectives of the 1999 Phare Cross Border Co-operation Programme for the Czech Republic and Poland are:

- To support the Czech Republic’s and Polish Republic’s transformation process and to facilitate the process of European integration;
- To support the further development of the economic potential of border regions by strengthening existing structures, increasing the competitiveness of enterprises, and reviving the overall economy on both sides of the border;
- To overcome problems burdening the border areas, including pollution of the environment and inadequate infrastructure that has an impact on both sides of the border;
- To reduce the peripheral character of these areas, thereby improving the quality of life and creating a co-operative network on both sides of the border.

3.2 Programme Description
In accordance with economic and social evaluations of the border area, the 1999 programme for Polish-Czech cross-border cooperation identifies three priority areas for measures on both sides of the common border. The following priorities have been selected:

- Transport
- Environment
- Small-scale actions (people-to-people and institution building)

The preparation process for the 1999 programme, involving an overall review of the economic and social situation in the border regions and a programming workshop with the regional stakeholders, supported these priorities. The programme includes allocations for two large infrastructure projects in the above priority areas (transport on the Czech side and environment on the Polish side) and for a Joint Small Projects Fund. All projects to be supported under the programme will be co-financed from Czech and Polish sources, primarily from resources of the communities in the Czech - Polish border region and of the respective Czech and Polish Governments. The Joint Co-operation Committee (JCC), established on 9 April, 1999, agreed on the programme composition at its meeting in Brussels on 23 April, 1999. The criteria for project selection include the cross border impact of projects, methods of project co-financing, and project impact on the environment.

An initial screening has been carried out to assess the programme’s effect on Small and Medium Enterprises. As a result, a fuller assessment is not required. The implementation of the investment projects and of the small projects fund will contribute indirectly to the creation and growth of small and medium businesses. An environmental impact assessment will be carried out for all investment projects.

The JCC approved the following projects (the projects are summarised in fiche format in annex to this document and a summary table identifying all projects put forward for support during 1998 is also provided).

3.2.1 Trinec – Reconstruction of the Underpass ’’Mouse Hole’’ on the Road II/468
The road II/468 is an essential part of the route towards the Polish border crossing at Horni Listne. Near the centre of the town of Trinec the road passes beneath the Main Railway Line via an underpass known locally as ”Mysi Dira” or ”Mouse Hole”. In its current state the underpass has a clearance of only 3.2m and a width of passage between the abutment walls of 7.4m. This situation leads to regular congestion which often extends into the town centre. In addition, the underpass is presently regularly flooded during heavy rains, preventing traffic flow for more than 10 hours.
The project consists of the total reconstruction of the existing underpass together with the reconstruction and relocation of a number of existing services, reconstruction and widening of a 200 metres long section of the road II/468 under and in the vicinity of the underpass, reconstruction of the adjacent road junction on the road II/468 and reconstruction of a 1.1 km length of the road II/476 in the direction of the border crossing at Horni Listne. The Project represents the first stage of the proposed reconstruction and realignment of road No 478 that connects Trinec town centre with the Polish Border at Horni Listna.

The project is highly beneficial not only for the environment and traffic on the highway system, but it will also have benefits for the Main Railway Line, as the existing bridge is in very poor condition and presents a threat to safety.

### 3.2.2 Protection of the Nysa Klodzka River

The presence of septic tanks, cesspools and direct discharges of waste water in the Klodzka valley is a health hazard for the local Polish and Czech populations in the border region as a result of airborne pollution and endangered groundwater. These phenomena arise since the wastewater management within the Klodzka Valley is currently not carried out in compliance with environmental protection standards and regulations. In order to combat the polluting influences it was essential therefore to prepare a wastewater management project for the region for the benefit of the local neighbouring populations. This project will facilitate construction of a new wastewater management infrastructure that will serve the population of the towns and villages of the Klodzka Valley and also the tourists, institutions, factories and recreational centres. The execution of the project will secure proper treatment of all wastewater within the region covered by the project and the protection of the Nysa Klodzka river in the area of the Upper Nysa Trough by upgrading of the wastewater management in the region of the Klodzka Valley. The Phare funding is directed at providing equipment and infrastructure for the project. There is no other donor or IFI involvement.

### 3.2.3 Joint Small Projects Fund (JSPF)

The general aim of the JSPF is the support of ‘people to people’ projects and non-investment projects with a genuinely cross-border impact. The purpose of the support of these projects is to encourage local involvement and to facilitate the implementation of small-scale actions which may constitute the basis for larger cross-border cooperation projects. Priority will be given to projects that are planned, selected and realised jointly by Czech and Polish partners and supported from both JSPFs on the Czech and on the Polish side. The JSPF aims also at the building and developing of specialist resources for local and regional institutions involved in regional development, groundwork and implementation of cross-border projects in line with EU practice.

The specific JSPF objectives in Poland and the Czech Republic are in accordance with regional priorities: the development of cultural and youth co-operation between neighbouring regions on both sides of the border; support for actions aimed at local and regional socio-economic development, in particular measures in support of tourism development; the support of educational activities for institutions and individuals involved in local/regional development, in local government and in organisations of public interest.

The minimum co-financing contribution of the beneficiary to the project is 10%. All secretarial administrative costs, (none financed by Phare), are paid by the beneficiary which may amount to at least 5% of the project’s value. The minimum Phare contribution per project is 1.000 EUR, the maximum contribution is 50.000 EUR. Within these limits, the regional Steering Committee may establish differing limits (in particular lowering the maximum contribution of Phare, keeping in view the overall amount available, and increase of the beneficiary’s own contribution).

The JSPF will be implemented following the General Guidelines of the Commission for Small Projects Funds and draw on the Czech Guideline for the SPF, endorsed by the Commission and in similar measure on the Polish Small Project facilities functioning within the context of the PL/D Euroregions since 1995. A Regional Steering Committee will be established for the whole Czech-Polish border region and will be the principle responsible institution for the operation of the JSPF, under the auspices of the relevant Implementing Agencies identified in Section 6.

### 4. Budget

The total financial commitment under the Phare CBC Programme 1999 Czech Republic - Poland in support of the Projects described in section 3 above amounts to 6,0 M€, as follows:

<table>
<thead>
<tr>
<th>No.</th>
<th>Projects</th>
<th>Total Cost</th>
<th>Phare</th>
<th>Phare</th>
<th>Indicative Split</th>
</tr>
</thead>
</table>

1 see annexed to this a description of the Phare input
Co-financing by the Czech Republic will amount to a total of 1,020 M€. Co-financing by Poland will amount to a total of 4,234 M€. As indicated above for the small projects 0.4 m€ are allocated to Poland and 0.4 m€ are allocated to the Czech Republic – each side being separately administered by each country.
5. Implementation Arrangements

Czech Republic
This is described in the equivalent Financing Memorandum for the Czech Republic.

Poland

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) Procedures. The National Aid Coordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes.

The National Fund (NF) in the Ministry of Finance, headed by the National Authorising Officer (NAO), will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. Appropriate financial control shall be carried out by the competent national financial control authority with respect to the implementation of the programme.

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and Poland on 24 December 1998. Funds will be transferred following requests from the NAO. A payment of up to 20% of the funds to be managed locally will be transferred to the NF following signature of the Financing Memorandum and the Financing Agreements (FAs) between the NF and the Implementing Agency (IA). The Implementing Authority for the Phare Cross Border Co-operation Programme will be under the responsibility of a Director; within the Ministry of Internal Affairs and Administration. The Implementing Agency is the Implementing Authority.

The provisions foreseen in articles 2 and 13 of the MoU on the NF must also be met. Furthermore, the NAO must submit to the Commission the designation of the PAO and a description of the system put in place, highlighting the flow of information between the NF and the IA and the manner in which the payment function will be carried out.

Four replenishments will be made of up to 20% of the funds to be managed locally or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 10% of the budget has been disbursed by the IA. The second replenishment may be requested when 30% of the total budget in force has been disbursed. The trigger point for the third replenishment is 50%, and for the final fourth instalment when 70% is disbursed. Save for express prior authorisation from the Commission HQ, no replenishment request may be made if the aggregate of the funds deposited in the NF and the IAs exceeds 10% of the total budget in force of the commitment. Exceptionally the NAO may request an advance payment of more than 20% in accordance with the procedures laid down in the aforesaid Memorandum of Understanding.

The National Fund will transfer funds to Implementing Agencies (IA) in accordance with Financing Agreements (FAs) signed between the NFs and the IA where applicable. Each individual FA will be endorsed in advance by the European Commission. The IA is to be headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation with the NAC. The PAO will be responsible for all the operations carried out by the IA.

A separate bank account, denominated in EUR will be opened and managed by the NF in a separate accounting system in the Central Bank. In principle, all bank accounts will be interest bearing. Interest will be reported to the European Commission. If the Commission so
decides, on the basis of a proposal from the NAO, interest may be reinvested in the Programme. The same procedures will apply to any funds transferred to an IA.

The NAO and the PAOs will ensure that all contracts are prepared in accordance with the procedures set out in the DIS Manual, except for the Joint Small Project Fund for which separate measures have been defined by the Commission.

All funds must be contracted by 31st December 2001. All disbursements must be made by 31st December 2002. All projects must be greater than 2 million EUR unless otherwise agreed by the Commission.

Any funds not used by the expiry date of the programme will be recovered by the Commission.

For those contracts with funds retained for a warranty period extending beyond the end of the disbursement period of the programme, the overall total of funds related to those contracts, as calculated by the PAO and established by the Commission, will be paid to the Implementing Agency before the official closure of the programme. The Implementing Agency assumes full responsibility of depositing the funds until final payment is due and for ensuring that said funds will only be used to make payments related to the retention clauses. The Implementing Agency further assumes full responsibility towards the contractors for fulfilling the obligations related to the retention clauses. Interest accrued on the funds deposited will be paid to the Commission after final payment to the contractors. Funds not paid out to the contractors after final payments have been settled shall be reimbursed to the Commission. An overview of the use of funds deposited on warranty accounts - and notably of the payments made out of them - and of interests accrued will annually be provided by the NAO to the Commission.

6. Monitoring and Assessment

A Joint Monitoring Committee (JMC) will be established. It will include the NAO, the NAC and the Commission. The JMC will meet at least once a year to review all Phare funded programmes in order to assess their progress towards meeting the objectives set out in Financing Memoranda and the Accession Partnership. The JMC may recommend a change of priorities and/or the re-allocation of Phare funds.

The JMC will be assisted by Monitoring Sub-Committees (MSC) which will include the NAC, the PAO of the CBC Programmes and the Commission Services. The MSC will review in detail the progress of each programme, including its components and contracts, on the basis of regular Monitoring and Assessment reports produced with the assistance of external consultants (in accordance with the provisions of the DIS Manual), and will put forward recommendations on aspects of management and design, ensuring these are effected. The MSC will report to the JMC, to which it will submit overall detailed reports on all Phare financed programmes.

7. Audit, Monitoring and Evaluation

The accounts and operations of the NF, and, where applicable, the CFCU and all relevant IAs may be checked at the Commission’s discretion by an outside auditor contracted by the EC without prejudice to the responsibilities of the Commission and the European Union's Court of Auditors as referred to in the General Conditions relating to the Financing Memorandum attached to the Framework Agreement.

The Commission Services shall ensure that an ex-post evaluation is carried out after completion of the Programme.
8. **Visibility/Publicity**

The appropriate PAO will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all activities financed from the Programme. This will be done in close liaison with the Commission Delegation. Further details are at the Annex III "Visibility/Publicity".

9. **Special Conditions**

In the event that agreed commitments are not met for reasons which are within the control respectively of the Government of the Czech Republic or the Polish government, the Commission may review the Programme with a view, at the Commission’s discretion, to cancelling all or part of it and/or reallocate unused funds for other purposes consistent with the objectives of the Phare programme.
Point 3.2.2 – additional information:

**Nysa Klodzka River Project**

The Phare Funds would cover the costs of construction works, the supply and assembling of the following equipment for both WWTPs (Waste Water Treatment Plant):

- compacted screens and sand trap, mixing and aeration devices, filter-press, rotating drum sieves, submerge pumps, inner recirculation pumps, excessive and recirculated sludge pumps, supernatant pumps, PIX dosing pumps, stabilised sludge pumps, sludge and lime mixers, heat pumps, submerged mixers, aeration grid with membrane diffusers, surface and bottom scrapers, sludge traps, floatable parts pipes, electromagnetic flow-meters, blowers in soundproof compartments, polyelectrolyte preparation devices, separators, overflows and bolts for distribution chambers, fan room equipment, decanter, diesel-fuelled generator units and transformers.

Construction works will cover structures of the WWTP, pumping station and part of the wastewater mains.

Special care is taken of clarifying, digesting and decanting with respect to absorption of flocculent.

*Visual impression of completed works (from a similar WWTP site)*