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 the Republic 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: 2002/000-640
Title: CBC 2002 Poland - Slovak Republic
Duration: Until 30 November 2004

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 4,000,000€ 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 30 November 2004 subject to the provisions of his 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 30 November 2005. 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
Emili Plater 53
PL-00-113 Warsaw
Poland
Fax: (+48-22) 520 82 82

for THE RECIPIENT:

Office of the Committee for European Integration
Al. Ujazdowskie 9
PL-00918
Warsaw
Fax: (+48-22) 694 71 94

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 23.12.02

for THE RECIPIENT

Minister Danuta Hübner
Secretary of the Committee for European Integration

for THE COMMUNITY

Mr Bruno Dethomas
Head of the Delegation of the European Commission in Poland

Encl.
1. Framework Agreement (Annexes A & B)
2. Special Provisions (Annex C)
3. Visibility/Publicity (Annex D)
Annex C - Special Provisions

1. Strategy

The Commission Regulation (EC) No 2760/98 of December 18, 1998 extends the cross-border co-operation to border regions between the CEEC and draws some lessons from previous experience with the CBC programmes.

The current programme is the third one for the Slovak-Polish border region prepared under Commission Regulation (EC) No 2760/98. The Joint-Co-operation Committee (JCC) was formally established on 16 February 2000. The Joint Programming Document (JPD) as referred to under Art.7.2 of Commission Regulation (EC) No 2760/98 has been prepared for the period 2000/2, and was recently revised. The JPD was prepared under the auspices of the JCC to allow the elaboration of common development strategies and priorities for the Slovak-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, guides the programming and implementation of the actions to be undertaken in the framework of the CBC programme and initiatives for cross-border co-operation.

For the 2002 Slovak-Polish CBC programme, the JCC defines a common set of projects, and this financing proposal for the Slovak-Polish border, takes into account the revised JPD and further JCC recommendations for projects.

The 2002 Phare budget provides an allocation of 8 MEUR for the support of cross-border cooperation between the Slovak Republic and Poland. Out of this total amount of 8 MEUR, 4 MEUR are earmarked for the Slovak part and 4 MEUR for the Polish part – being jointly the subject of this Financing Proposal. This programme covers:

- medium scale projects which consolidate and build further the cross-border co-operation in the transport and environment fields

- Small-scale activities helping to create the conditions for future large-scale activities issues and activities in the fields of environment and transport, economic development, urban development, socio-cultural co-operation, human resources, public services and local democracy;

Slovak 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 Slovak 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.

Within the framework of regional economic policy, the Slovak 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 cross border co-operation programme on both the Polish and Slovak 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 2002 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.
For the Polish government the region bordering the Slovak 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 2002 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 2002 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 Slovak 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.

2. Programme Objectives and Description

2.1 Programme Objectives

2.1.1 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 economies, 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.

2.1.2 Specific Objectives

More specifically, the objectives of the 2002 Phare Cross Border Co-operation Programme for the Slovak Republic and Poland are:

- To support the Slovak 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.

2.2 Programme Description

In accordance with the revised Joint Programming Document, the 2002 programme for Polish-Slovak cross-border cooperation identifies two priority areas for measures on both sides of the common border. The following priorities have been selected:

• Accessibility - including transport

• Environment

The programme includes allocations for two medium scale infrastructure projects in the above priority areas (transport and environment for Slovakia and transport for Poland) and for a Joint Small Projects Fund. All projects to be supported under the programme will be co-financed from Slovak and Polish sources, primarily from resources of the communities in the Slovak - Polish border region and of the respective Slovak and Polish Governments. The Joint Co-operation Committee (JCC), established on 16 February 2000, agreed on the programme composition. The criteria for project selection include the cross border impact of projects, methods of project co-financing, and project impact on the environment.

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.

The JCC approved the following projects:

2.2.1 Modernisation of sections of roads 958 and 959 - Zakopane - Chocholow - State Border (2002/000-640.01)

The modernisation of sections of the the Voivodship roads 958 and 959 aims at bringing the roads up to EU standards, and at the same time increase the traffic safety and conditions. This project is part of the development plan of the Tatras and Nowy Targ areas and of the Tatra National Park, and aims specifically at increasing the tourism potential of this region. The aforementioned roads are also acces roads to the border crossing Chocholow-Sucha Hora. This project is complementary to the Slovak project 4.2.3, described below.

2.2.2 Modernisation of road 945 section Jelesnia - border crossing Korbielow (2002/000-640.02)

The Korbielow border crossing has noted, in the previous years, an increase of 60% of traffic. This project aims at the alignment of the road with EU standards, increasing in such way the traffic safety and conditions, and decreasing the travel time to and from Slovakia. The project is also part of the development plan of the region, in which the joint Polish-Slovakian Chamber of Commerce plays an important role.
2.2.3 Joint PL/SK Small Projects Fund (JSPF) (2002/000-640.03)

The general aim of the JSPF is the support of ‘people to people’ 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, in the following areas: local democracy, economic development, tourism, cultural exchanges, environment, health and information and communication. Priority will be given to projects that are planned, selected and realised jointly by Slovak and Polish partners and supported from both JSPFs on the Slovak 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 Slovak 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 Small Projects Facility will not include physical investments.

The minimum co-financing contribution of the beneficiary to the project is 10%. As concerns the administrative support for operating the JSPF, the Phare contribution may finance the JSPF's indirect (overhead) costs up to 7% of total amount eligible costs as defined in the DIS manual. This is conditional upon the provision of at least the same amount from the regions for covering the management costs of the operation. This financial support is provided to the administrative structures running the JSPF, normally situated in the Euroregions. 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).

Implementation of the JSPF will follow the principles described in the “Joint Guidelines for Applicants to Call for Proposals – budget 2001” which have been jointly developed by the Polish and Slovak Phare CBC IAs. They will require endorsement of the EC Delegations in Warsaw and Bratislava prior to the JSPF launching. They will be based on the Practical Guide to Phare, ISPA and SAPARD programmes (chapter 6 on the “Grants” specifically).

The two Implementing Agencies will elaborate a joint set of guidelines (to be endorsed by the respective Delegation of the European Commission). A Regional Steering Committee is established for the whole Slovak-Polish border region and will be the principle policy orientation institution for the operation of the JSPF, under the auspices of the relevant Implementing Agencies identified in Section 4.
3. Budget

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<th>No</th>
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</tbody>
</table>

4. Implementation Arrangements

a). Financial and Project Management by the Candidate Country

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures\(^1\).

The National Aid Co-ordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes. The National Authorising Officer (NAO) and the Project Authorising Officers (PAO) will ensure that the programmes are implemented in line with the procedures laid down in the DIS Manual and other instructions of the Commission, and that all contracts are being prepared in accordance with the Practical Guide for PHARE, ISPA and SAPARD.\(^2\)

The NAC and the NAO shall be jointly responsible for co-ordination between PHARE (including PHARE CBC), ISPA and SAPARD.

The National Fund (NF) in the Ministry of Finance, headed by the NAO, will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. The NAO shall have overall responsibility for financial management of the PHARE funds. He shall ensure that the PHARE rules, regulations and procedures pertaining to procurement, reporting and financial management as well as Community state aid rules are respected, and that a reporting and project information system is functioning. This includes the responsibility of reporting all suspected and

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\(^1\) taking into consideration the rules set down in the annex of Council Regulation 1266/1999

\(^2\) The Practical Guide has replaced section F ("Procurement") of the DIS Manual
actual cases of fraud and irregularity. The NAO shall have the full overall accountability for the PHARE funds of a programme until the closure of the programme.

b.) Project size

In principle, all projects have to be greater than 2 M€. Seen the budget of this programme (4M€ per beneficiary country) and the need to stay in line with the Joint Programming Document, all projects are smaller than 2M€.

c.) Contracting and disbursement deadline

All contracts must be concluded by 30 November 2004. All disbursements must be made by 30 November 2005.

d.) Recovery of Funds

Any proven irregularity or fraud discovered at any time during the implementation of the programme will lead to the recovery of funds by the Commission.

If the implementation of a measure appears not to justify either a part or the whole of the assistance allocated, the Commission is to conduct an appropriate examination of the case, in particular requesting the beneficiary country to submit its comments within a specified period of time and to correct any irregularity.

Following the examination referred to in the previous paragraph, the Commission may reduce, suspend or cancel assistance in respect of the measures concerned if the examination reveals irregularity, an improper combination of funds or a failure to comply with one of the conditions in the financing memorandum and in particular any significant change affecting the nature or conditions of implementation of the measure for which the Commission’s approval has not been sought. Any reduction or cancellation of the assistance is to give rise to recovery of the sums paid.

Where the Commission considers that an irregularity has not been corrected or that all or part of an operation does not justify either all or part of the assistance granted to it, the Commission is to conduct a suitable examination of the case and request the beneficiary country to submit its comments within a specified period. After the examination, if the beneficiary country has undertaken no corrective measures, the Commission may:

(a) reduce or cancel any advance;

(b) cancel all or part of the assistance granted to the measure.

The Commission is to determine the size of a correction taking into account the nature of the irregularity and the extent of any failures in the management and control systems.

Any funds not used by the expiry date of the programme will be recovered by the Commission. A final written declaration with supporting documentation shall be issued by the NAO just after the end of the disbursement period of the Financing Memorandum showing the total amount contracted and disbursed. A final bank reconciliation showing the existing balances in the NF/IA/CFCU shall also be enclosed.
Notwithstanding the recovery of unused and ineligible funds after expiry of the Financing Memorandum, a complementary recovery order may be issued after the final audit of the reliability and consistency of contracts and disbursements as well as their compliance with the provisions of the Financing Memorandum has been carried out, taking into account the independent opinion of the final audit.

The National Authorising Officer will ensure the reimbursement of any unused funds or any sum wrongly paid within sixty calendar days of the date of notification. If the NAO does not repay the amount due to the Community, the beneficiary country shall refund this amount to the Commission. Interest on account of late payments shall be charged on sums not repaid by applying the rules specified in the Financial Regulation governing the Community Budget.

e.) Financial Flows

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and resp. Poland and the Slovak Republic in December 1998. Funds will be transferred following requests from the NAO onto a separate bank account, denominated in €, which will be opened and managed by the NF in the Central Bank.

aa) Transfer of Funds to the National Fund

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 Agencies (IAs)/Central Finance and Contracts Unit (CFCU). 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 PAOs and a description of the system put in place, highlighting the flow of information between the NF and the IA/CFCU and the manner in which the payment function will be carried out.

Two replenishments will be made of up to 30% of the funds to be managed locally* and the final payment of up to 20% or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 5% of the budget* in force has been disbursed by the IAs and the CFCU. The second replenishment may be requested when 35% of the total budget* in force has been disbursed. The final third replenishment will be paid when 70% of the total budget* in force is disbursed. Exceptionally the NAO may request an advance payment of more than the percentages mentioned above in accordance with the procedures laid down in the aforesaid Memorandum of Understanding. Save for express prior authorisation from the Commission HQs, no replenishment may be made if the trigger points mentioned above have not been respected.

bb.) Transfer of Funds to the Implementing Agencies

The National Fund will transfer funds to IAs, including the Central Financing and Contracting Unit (CFCU), in accordance with Financing Agreements (FAs) signed between the NFs and the IAs/CFCU where applicable. Bank accounts for sub-

* excluding the amount foreseen for the Community programmes
programmes shall be opened in the name of the relevant Implementing Agency/CFCU in charge of the financial administration of the sub-programme in line with Art. 13 of the MoU on the establishment of the National Fund.

Each individual FA will be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the CFCU/IA there will be no transfer of funds from the NF to the CFCU/IA. The CFCU and the IAs must each 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 relevant CFCU/IA.

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. Interests 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.

cc.) Transfer of Funds to the National Fund for Participation in Community Programmes and Agencies

A single advance will be made to the National Fund to cover the full amount of the PHARE part of the financial contribution for participation in Community programmes and agencies. This advance will be made following signature of the Financing Memorandum and upon request from the National Fund.

This advance is separate from the advances made for the rest of the programme. However, it should be noted that the Phare contribution for each programme will only be transferred when the Association Council Decision or Memorandum of Understanding establishing the terms and conditions for participation in that programme is in force.

If there is a delay in the entry into force of some of the Memoranda of Understanding, the payment to the National Fund may be divided into two or more tranches, so that 100% of the funds necessary for the programmes in force can be transferred immediately.

The National Fund will be responsible for transferring the funds back to the Commission, following the call for funds of the Commission's Directorate General responsible for the programmes concerned and within the deadlines requested.

dd.) Interest
In principle, all bank accounts\(^3\) 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.

f.) **Implementing Agencies will be responsible for sub-programmes as follows:**

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.

g.) **Environmental Impact Assessment and Nature Conservation**

The procedures for environmental impact assessment as set down in the EIA-directive\(^4\) are fully applicable for all investment projects under PHARE. If the EIA-directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-mentioned directive. If a project would fall within the scope of annex I or annex II of the EIA Directive, the carrying out of the EIA-procedure must be documented\(^5\).

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive\(^6\) must be documented\(^7\).

All investment projects shall be carried out in compliance with the relevant Community environmental legislation. The Project Fiches will contain specific clauses on compliance with the relevant EU-legislation in the field of the environment according to the type of activity carried out under each investment project.

h.) **Special rules for certain components for the programme**

**Grant Schemes**

For grant schemes whose procedures and formats are not covered by the current DIS rules, the precise implementation arrangements will be specified in the relevant project fiches in line with the following principles:

- the procedures and formats to be used in the implementation of the schemes and award of the grants will follow the provisions of the Practical Guide. In particular, due care will be given to the selection process of the beneficiary projects, which has to be done at technical level through selection committees composed of experts appointed by the authorities which are co-financing the schemes as well as by the relevant administrations and interest groups involved in the schemes.

\(^3\) in particular, but not exclusively, accounts run by the NF, the CFCU and IAs


\(^5\) in Annex EIA to the corresponding investment project fiche

\(^6\) DIR 92/43/EEC; OJ 206/7; 22.7.1992

\(^7\) in Annex Nature Conservation to the corresponding investment project fiche
• The competent PAO for the programme under which the grant scheme is financed has to retain his/her contractual and financial responsibility for the implementation of the schemes. In particular, the PAO has to formally approve the call for proposals, application forms, evaluation criteria, as well as the selection process and results. The PAO has also to sign the grant contracts with the beneficiaries and to ensure adequate monitoring and financial control under his/her authority and responsibility. With this reservation, the management of the schemes can be decentralised from the PAO to the appropriate bodies at sectoral or regional level.

• The ex ante approval of the Commission (Delegations in Poland and in the Slovak Republic) will be required for the call for proposals, application forms, evaluation criteria, the selection procedures (including the composition of the committees) and results (list of projects to be funded). The grant contracts signed by the PAO will be subject to the ex-ante control of the EC Delegation.

The implementation of the selected projects through the provision of works, supplies and services sub-contracted by the final beneficiaries of the individual grants shall be subject to the procurement regulations in the Practical Guide, except for Poland where the Polish Procurement Law will be applied. The decentralised system established for CBC small projects is to be applied to all such contracts below 300 000 EUR (or any increased threshold to be fixed by EC Headquarters for small project funds under CBC programmes). Tenders and contracts above this threshold will be presented to the EC Delegation for ex ante approval. The financial commitments in Phare terms will be effected at the date of signature of the grant contracts by the competent PAO. Project implementation and all Phare disbursements are to be done before the expiry date of the present Financing Memorandum.

**CBC Small Projects Facility**

The Small Projects Facility will not include physical investments.

For the CBC Small Project Facility, up to 7% of the PHARE contribution may be used for expenditure relating to the preparation, selection, appraisal and monitoring of the assistance.

**5. Monitoring and Evaluation**

Project implementation of this programme will be monitored through the Joint Monitoring Committee (JMC). It includes the NAO, the NAC and the Commission services. 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. Furthermore the JMC will review the progress of all pre-accession EU-funded assistance programmes once a year (PHARE, ISPA and SAPARD).

For the PHARE programme, the JMC will be assisted by Sectoral Monitoring Sub-Committees (SMSC) which will include the NAC, the PAO of each Implementing Agency (and of the CFCU where applicable) and the Commission Services. The SMSC will review in detail the progress of each programme, including its components and contracts, assembled by the JMC into suitable monitoring sectors. Each sector will be
supervised by one SMSC on the basis of regular monitoring reports produced by the Implementing Agency, and interim evaluations undertaken by independent evaluators. The SMSC will put forward recommendations on aspects of management and design, ensuring these are effected. The SMSC will report to the JMC, to which it will submit overall detailed opinions on all Phare financed programmes in its sector.

The Commission services shall ensure that an ex-post evaluation is carried out after completion of the Programme.

6.) Audit and Anti-Fraud Measures

a.) By the Candidate Countries

Each year an audit plan and a summary of the findings of the audits carried out shall be sent to the Commission. Audit reports shall be at the disposal of the Commission.

Appropriate financial control shall be carried out by the competent national financial control authority with respect to the implementation of the programme.

Beneficiary countries shall ensure investigation and satisfactory treatment of suspected and actual cases of fraud and irregularity following national or Community controls.

Irregularity shall mean any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

Fraud shall mean any intentional act or omission relating to:

(i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,

(ii) non-disclosure of information in violation of a specific obligation, with the same effect,

(iii) the misapplication of such funds for purposes other than those for which they are originally granted.

The national authorities shall ensure the functioning of a control and reporting mechanism equivalent to the one foreseen in Commission Regulation 1681/94.15

In particular, all suspected and actual cases of fraud and irregularity as well as all measures related thereto taken by the national authority must be reported to the Commission services without delay. Should there be no suspected or actual cases of fraud and irregularity to report, the beneficiary country shall inform the Commission of this fact at the end of each quarter.

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15 OJ L 178; 12.7.94; p. 43-46
b.) By the Commission

All financing memoranda as well as the resulting contracts are subject to supervision and financial control by the Commission (including the European Anti-fraud Office) and audits by the Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Candidate Country concerned and on-the-spot checks.

In order to ensure efficient protection of the financial interests of the Community, the Commission may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (Euratom, EC) No. 2185/96\(^\text{14}\).

The accounts and operations of the National Fund, and, where applicable, the CFCU and all relevant Implementing Agencies may be checked at the Commission’s discretion by an outside auditor contracted by the Commission 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.

7. Visibility/Publicity

The appropriate Programme Authorising Officer 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 set down in the Annex “Visibility/Publicity”. (enclosed)

8. Special conditions

In the event that agreed commitments are not met for reasons which are within the control of the Government of Poland and of the Slovak Republic, 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 for other purposes consistent with the objectives of the Phare programme.

Annex 1 - Budget

<table>
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<th>Project No.</th>
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\(^{14}\) OJ L 292; 15.11.1996; p. 2-5
ANNEX ON

INFORMATION AND PUBLICITY FOR THE PHARE, ISPA AND SAPARD PROGRAMMES OF THE EUROPEAN COMMUNITIES

1. Objective and scope

Information and publicity measures concerning assistance from the European Community Phare Programme are intended to increase public awareness and transparency of EU action and to create a consistent image of the measures concerned in all applicant countries. Information and publicity shall concern measures receiving a contribution from the Phare Programme.

2. General principles

The appropriate Programme Authorising Officer in charge of the implementation of Financing Memoranda, and other forms of assistance shall be responsible for publicity on the spot. Publicity shall be carried out in co-operation with the EC Delegations, which shall be informed of measures taken for this purpose.

The competent national and regional authorities shall take all the appropriate administrative steps to ensure the effective application of these arrangements and to collaborate with the EC Delegations on the spot.

The information and publicity measures described below are based on the provisions of the regulations and decisions applicable to the Structural Funds. They are:


Specific provisions concerning ISPA are included in:


Information and publicity measures must comply with the provisions of the above mentioned regulation and decision. A manual on compliance is available to national, regional and local authorities from the EC Delegation in the country concerned.

3. Information and publicity concerning Phare programmes

Information and publicity shall be the subject of a coherent set of measures defined by the competent national, regional and local authorities in collaboration with the EC Delegations for the duration of the Financing Memorandum and shall concern both programmes and other forms of assistance.
The costs of information and publicity relating to individual projects shall be met from the budget for those projects.

When Phare programmes are implemented, the measures set out at (a) and (b) below shall apply:

(a) The competent authorities of the applicant countries shall publish the content of programmes and other forms of assistance in the most appropriate form. They shall ensure that such documents are appropriately disseminated and shall hold them available for interested parties. They shall ensure the consistent presentation throughout the territory of the applicant country of information and publicity material produced.

(b) Information and publicity measures on the spot shall include the following:

(i) In the case of infrastructure investments with a cost exceeding EUR 1 million:

- billboards erected on the sites, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.

- permanent commemorative plaques for infrastructures accessible to the general public, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.

(ii) In the case of productive investments, measures to develop local potential and all other measures receiving financial assistance from Phare, Ispa or Sapard:

- measures to make potential beneficiaries and the general public aware of Phare, Ispa or Sapard assistance, in accordance with the provisions cited at paragraph 3(b)(i) above.

- measures targeting applicants for public aids part-financed by Phare, ISPA or SARPAD in the form of an indication on the forms to be filled out by such applications, that part of the aid comes from the EU, and specifically, the Phare, ISPA or SARPAD Programmes in accordance with the provisions outlined above.

4. Visibility of EU assistance in business circles and among potential beneficiaries and the general public

4.1 Business circles

Business circles must be involved as closely as possible with the assistance, which concerns them most directly.

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to potential beneficiaries, particularly SMEs. These should include an indication of the administrative procedures to be followed.
4.2 Other potential beneficiaries

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to all persons who benefit or could benefit from measures concerning training, employment or the development of human resources. To this end, they shall secure the co-operation of vocational training bodies involved in employment, business and groups of business, training centres and non-governmental organisations.

Forms

Forms issued by national, regional or local authorities concerning the announcement of, application for and grant of assistance intended for final beneficiaries or any other person eligible for such assistance shall indicate that the EU, and specifically the Phare, Ispa or Sapard Programmes, is providing financial support. The notification of aid sent to beneficiaries shall mention the amount or percentage of the assistance financed by the Programme in question. If such documents bear the national or regional emblem, they shall also bear the EU logo of the same size.

4.3 The general public

The media

The competent authorities shall inform the media in the most appropriate manner about actions co-financed by the EU, and Phare, ISPA or SAPARD in particular. Such participation shall be fairly reflected in this information.

To this end, the launch of operations (once they have been adopted by the Commission) and important phases in their implementation shall be the subject of information measures, particularly in respect of regional media (press, radio and television). Appropriate collaboration must be ensured with the EC Delegation in the applicant country.

The principles laid down in the two preceding paragraphs shall apply to advertisements such as press releases or publicity communiqués.

Information events

The organisers of information events such as conferences, seminars, fairs and exhibitions in connection with the implementation of operations part-financed by the Phare, Ispa or Sapard Programmes shall undertake to make explicit the participation of the EU. The opportunity could be taken of displaying the European flags in meeting rooms and the EU logo upon documents depending on the circumstances. The EC Delegation in the applicant country shall assist, as necessary, in the preparation and implementation of such events.

Information material

Publications (such as brochures and pamphlets) about programmes or similar measures financed or co-financed by Phare, Ispa or Sapard should, on the title page, contain a clear indication of the EU participation as well as the EU logo where the national or regional emblem is used.
Where such publications include a preface, it should be signed by both the person responsible in the applicant country and, for the Commission, the Delegate of the Commission to ensure that EU participation is made clear.

Such publications shall refer to the national and regional bodies responsible for informing interested parties.

The above-mentioned principles shall also apply to audio-visual material.

5. Special arrangements concerning billboards, commemorative plaques and posters

In order to ensure the visibility of measures part-financed by the Phare, Ispa or Sapard Programmes, applicant countries shall ensure that the following information and publicity measures are complied with:

Billboards

Billboards providing information on EU participation in the financing of the investment should be erected on the sites of all projects in which EU participation amounts to EUR 1 million or more. Even where the competent national or regional authorities do not erect a billboard announcing their own involvement in financing the EU assistance must nevertheless be announced on a special billboard. Billboards must be of a size which is appreciable to the scale of operation (taking into account the amount of co-financing from the EU) and should be prepared according to the instructions contained in the technical manual obtainable from EC Delegations, referred to above.

Billboards shall be removed not earlier than six months after completion of the work and replaced, wherever possible, by a commemorative plaque in accordance with the specifications outlined in the technical manual referred to above.

Commemorative plaques

Permanent commemorative plaques should be placed at sites accessible to the general public (congress centres, airports, stations, etc.). In addition to the EU logo, such plaques must mention the EU part financing together with a mention of the relevant Programme (Phare, Ispa or Sapard).

Where a national, regional or local authority or another final beneficiary decides to erect a billboard, place a commemorative plaque, display a poster or take any other step to provide information about projects with a cost of less than EUR 1 million, the EU participation must also be indicated.

6. Final provisions

The national, regional or local authorities concerned may, in any event, carry out additional measures if they deem this appropriate. They shall consult the EC Delegation and inform it of the initiatives they take so that the Delegation may participate appropriately in their realisation.
In order to facilitate the implementation of these provisions, the Commission, through its Delegations on the spot, shall provide technical assistance in the form of guidance on design requirements, where necessary. A manual will be prepared in the relevant national language, which will contain detailed design guidelines in electronic form and this will be available upon request.
<table>
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<tr>
<th>CRIS Nr</th>
<th>Projects</th>
<th>Expected Cumulative Contracting (Quarters) M€</th>
<th>Budget M€</th>
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<td>2002/000-640.02</td>
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<td>2002/000-640.03</td>
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## ANNEX 2

### Cumulative Contracting and Disbursement schedules

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<th>CRIS Nr</th>
<th>Projects</th>
<th>Expected Cumulative Disbursement (Quarters) Me</th>
<th>Budget Me</th>
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<td>2002/000-640.01</td>
<td>PL - Modernisation Roads 958 and 959 - Zakopane - Chocholow</td>
<td>Q4 2002: 0.20, Q1 2003: 0.60, Q2 2003: 1.00, Q3 2003: 1.45, Q4 2003: 1.85</td>
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<tr>
<td>2002/000-640.02</td>
<td>PL - Modernisation Road 945 - Jelesnia - Korbielow</td>
<td>Q4 2003: 0.30, Q1 2004: 0.60, Q2 2004: 1.00, Q3 2004: 1.40, Q4 2004: 1.75</td>
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<td>2002/000-640.03</td>
<td>PL - Joint Small Projects Fund</td>
<td>Q1 2005: 0.25, Q2 2005: 0.30, Q3 2005: 0.35, Q4 2005: 0.40</td>
<td>0.40</td>
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**TOTAL** 4.00