STANDARD SUMMARY PROJECT FICHE
Project PL9905.04

Sub-programme 3: Internal Market

Project Title: State Aids Control

Location:
Poland, Office for Competition and Consumer Protection
Ministry of Economy, Ministry of Finance

Objectives:
Target objective of the present project within the PHARE programme component “Institution Building” is reinforcement of the anti-trust and state aid monitoring authority in view to ensure:
• efficient implementation and enforcement of competition provisions harmonised with legislation of the European Communities;
• establishing a transparent system of ex ante state aid control and ex post reporting.

The Accession Partnership with Poland attaches high priority (short-term priority) to the reinforcement of institutional and administrative capacity, in particular improvements in state aid controls, and, under internal market, the adoption of a law on state aids, and strengthening of the state aids monitoring authority and finalisation of inventory.

The above mentioned priorities and necessary actions are reflected in Poland's NPAA, notably under Chapter 13 and 14.

The immediate objectives of the project are as follows:

• further adjustment of the Polish antitrust legislation to achieve full compliance with the EC regulations;
• harmonisation of the Polish substantive rules applied to granting state aid to the EC provisions and setting up of procedural rules enabling a full, ex ante and compulsory state aid control;

Description:

The institution building part of this project will be the subject of twinning.

By virtue of Article 68 of the Europe Agreement Poland’s integration with the European Communities depends on the degree of harmonisation of the existing and future legal provisions with the EU legislation. However, in conformity with the obligations assumed by Poland when signing the Europe Agreement, harmonisation of the Polish legal provisions with the acquis communautaire is a necessary, but not in itself a sufficient precondition for integration with the European Union. The real objectives are implementation and enforcement of these regulations and efficient control of their observance. In view of the above, the authority responsible for enforcement must have an appropriate scope of competence and be ready, from the point of view of its organisational structure and skilled and sufficient staff, to act efficiently and fulfil its statutory tasks. In the case of the OCCP this means creating conditions to enable the existence and development of efficient competition on a level.
compatible with this in force within the European Communities and adjusted to the Internal Market requirements.

The Polish competition authority was created by virtue of the Act of 24 February 1990 under the name of Antimonopoly Office which was changed in 1996 to the Office for Competition and Consumer Protection in view of assuming new responsibilities.

Work on approximation of the Polish competition law to the Community legislation has been ongoing for several years already (continuously, since enactment of the first antimonopoly law, i.e. since 1988), to a large extent supported by expert assistance projects commissioned within PHARE programmes. Based on, *inter alia*, these studies, amendments to the Act of 24 February 1990 on counteracting monopolistic practices (hereinafter referred to as “the Act”) were elaborated, among which the most significant was related to merger control. Further amendment to the Act, elaborated by the OCCP, pertains its Article 11 related to merger control. This amendment was already voted by the Polish Parliament and came into force on 2 January 1999.

As the result of this work, harmonisation of the Polish competition law in the field of antitrust law with the Community regulations is well advanced. A draft new law will be adopted by the Polish Parliament in 1999 and this should allow full compatibility with Community legislation.

The works on monitoring state aid in financial sector were conducted in the Ministry of Finance. At present, study on identifying state aid measures generated in this sector and on assessment of their admissibility within the EU standards is completed and assumptions of information flow and data base for the monitoring system are prepared.

Draft Act “On admissibility and monitoring of state aid for entrepreneurs” was already presented to the Economic Committee of the Council of Ministers and adopted on 28 October 1998. The draft was reviewed by the Legislative Committee of the Council of Ministers and submitted to the Council of Ministers. The Council of Ministers adopted the draft law on 16 February 1999. This legal act is on the fast track and is expected to be adopted by the Parliament in 1999. The adoption of the draft by the Council of Ministers gave to the OCCP grounds to apply for the budgetary reserve to start recruiting necessary staff of the new State Aid Department to be created within its structure (about 30 employees).

The Act contains a general prohibition to grant state aid with exemption of measures in conformity with the provisions of the Rome Treaty and Community secondary legislation and it defines competence of the monitoring authority. The Act provides for *ex ante* and *ex post* control of all state aid measures to ensure their compatibility with the provisions thereof and with the international agreements signed by the Republic of Poland. In order to introduce *ex ante* control the Act imposes obligation to obtain an opinion of the monitoring authority on compatibility of proposed aid with binding regulations and international agreements. Subject to such opinion are draft legal acts by virtue of which State aid is to be granted: aid schemes, decisions and individual aid awards. Where relevant legal act related to aid scheme or decision were not consulted with the monitoring authority or if its opinion was not taken into account, within the frame of *ex post* control the monitoring authority is empowered to apply to the Prime Minister with a motion to present the case to the Constitution Tribunal for assessment of incompatibility of such act with provisions of the Act or with ratified international agreements or, in case of decision and individual aid award directly claim
appropriate body or court to assess their invalidity. Inadmissible aid is to be reimbursed, including interest. The monitoring authority may institute proceedings *ex officio* where draft aid scheme, decision or individual aid award were not subjected to its opinion.

To ensure transparency of granted aid measures and the scope of aid, all administrative bodies granting State aid to entrepreneurs are obliged to collect data and report to the monitoring authority each quarter of the year and at the end of calendar year. The monitoring authority is obliged to present the report on State aid awarded during the year to the Council of Ministers and to the Parliament.

By virtue of the new legal provisions state aid monitoring authority will be an independent organ where no public aid is generated and thus better equipped to control measures proposed by different economy sectors, the most important among which are Ministry of Economy and Ministry of Finance. State aid measures proposed by the Ministry of Economy will be assessed according to the same criteria as proposals of other sectors. Ministry of Finance will play a very important role in data collection as information provided by Tax Offices and Chambers is much wider than only state aid granted within this Ministry structure. Consequently it is very important to develop IT system of data collection at this level.

The second legal act of paramount importance for the control of state aid measures is the Act of 26 November 1998 on public finances. This Act was voted to ensure transparency of public expenditures and to provide for their spending openly and with respect of fair competition rules. Moreover, the Act introduces control tools to check if donations were used as intended. Enactment of the above described legal acts will entail amendments to several other acts pertaining to state aid issues.

To achieve the wider and immediate objectives, mentioned above, the following actions should be undertaken:

- The Pre Accession Adviser will help to set up and implement specific system that would ensure achievement of target objectives of the project;

- Expert support in:
  - elaboration of secondary legislation necessary to implement new antimonopoly legal provisions (in particular in the scope of block exemptions), transposing the *acquis communautaire* into the Polish law;
  - experts’ study on individual exemptions;
  - legal help in amending existing antitrust procedures;
  - ad hoc legal advice when the Office staff and management will be facing some difficult competition issues;

  - in addition to the secondary legislation necessary to implement and enforce the new Act “On admissibility and monitoring state aid for entrepreneurs” (to be elaborated in 1999), several amendments to numerous legal acts will be needed as to achieve their compliance with the new provisions in the field of state aid granting and monitoring. By virtue of provisions of draft Act, when 6 months *vacatio legis* period expires, the period of two
years it defined to perform this task. The number of such acts and the scope of necessary amendments were already identified. Under this project we expect updating of this list (continuous work within project duration) and successive drafting of amendments to the respective acts;

- provisions of the above mentioned Act oblige the Office for Competition and Consumer Protection to assess draft legal acts prepared by other administrative bodies and pertaining granting any kind of state aid for the entrepreneurs from the point of view of its admissibility. Legal advice to the Office will be needed given its hitherto lack of experience;

- to continue works started in the Ministry of Finance, it is necessary to elaborate and implement IT system of registering all state aid granted on the level of Tax Offices and Chambers, as well as creating procedures permitting granting such aid in conformity with the EU regulations. Executive regulations should be drafted and also expert support would be needed in elaborating for the sectors’ organisational units rules of calculating net equivalent of the granted aid (in co-operation with relevant agencies in other sectors), establishing rules for monitoring de minimis aid measures and creating the concept of monitoring system to be implemented in 355 tax offices and in 16 tax chambers;

- the system of the sureties and guarantees issued by State Treasury or State legal persons must be adjusted to the EU requirements. This requires amendments to the existing legal provisions and elaboration of procedures, data base and respective monitoring system;

- any kind of exports subsidies is prohibited in the EC, unless it is effected in conformity with the OECD Consensus (Arrangement on Guidelines for Officially Supported Export Credits), incorporated into the EU legislation.

- legal support to the Ministry of Economy where proposals on granting state aid are taken: Department of Industry Policy and Department of Industry Restructuring;

- legal support to the OCCP, Ministry of Economy and Ministry of Finance in drafting secondary legislation acts, implementing regulations resulting from the Act on admissibility and monitoring of state aid to entrepreneurs.

• continuous training of the staff of the OCCP as a competition and state aid monitoring authority and of the staff of other administrative bodies involved in granting state aid, on central and local levels (detailed list of training subjects and audience in Annex 2a). Training addressed to the staff of administrative bodies involved in granting state aid for entrepreneurs;

• support in improving IT infrastructure of the OCCP to facilitate communication between headquarters and branch offices as well as in providing computer and office equipment for additional staff which must be employed in view of assuming new responsibilities in the field of state aid monitoring;

• support to the Ministry of Finance in purchasing computer hardware and software necessary to implement state aid registering system in tax offices and chambers;

* awareness raising among public administration bodies, economic operators, in particular to the undertakings being the biggest beneficiaries of public aid, to local self-government
authorities granting state aid on the level of a county (powiat) – manual describing the most basic competition rules and rules of state aid admissibility, changes introduced by the new respective Acts, Communities approach to the competition policy issues. The edition should amount to about 3000 copies. Additionally - for the representatives of the aforementioned biggest “state aid consumers” a seminar on state admissibility rules ( one member of management and one accountant from 100 undertakings, i.e. 200 people).

**Necessary inputs:**

- Pre-Accession Adviser;
- Experts’ studies, legal assistance, experts on *ad hoc* basis;
- Organisation of training, study visits and short secondments in the EU Member State institutions;
- Computer hardware and software;
- Elaboration and edition of the manual for local authorities and economic operators and its updating within project duration;
- Translation of relevant Community acquis and Member State documents concerning antitrust law and state aid control, interpreting costs during seminars and conferences, including translation services for the PAA.
- purchase of books and periodical publications on competition policy issues for the OCCP’s library.

**Expected outputs:**

- acceleration of the adoption of the *acquis* (in particular, Articles 37, 85, 86 and 90 of the Treaty of Rome) resulting from further adjustment of Polish legal provisions in the field of competition policy;
- increased institutional capacity of the Office for Competition and Consumer Protection, more efficient performance of its tasks as competition and state aid monitoring authority;
- over 450 employees of central and local administration trained - better skilled employees will be more efficient in enforcement of legal provisions aligned with the EU legislation;
- new State Aid Department with staff of around 30 employees fully trained within the OCCP;
- secondary, executive legislation drafted and adopted with experts’ support;
- established systems registering and monitoring all measures of the granted state aid will ensure its transparency and facilitate control of its admissibility (thus implementing provisions of Articles 77, 90, 92-94 of the Treaty of Rome);
- increased awareness of competition law provisions among market operators - seminars for 200 representatives of undertakings-beneficiaries of state aid measures, lobbying meetings for 50 decision-makers, 3000 manuals for economic operators and local authorities;

**Institutional framework**

This project, under Institution Building component of the PHARE programme, will be implemented with the framework of *twining agreement*.

The Office for Competition and Consumer Protection, supported by the Pre-Accession Adviser, will co-ordinate implementation of the project which will be addressed also to the Ministries of Finance and Economy, as well as to other administration bodies on central and local levels.
Budget: (EUR)

<table>
<thead>
<tr>
<th>Investments (I)</th>
<th>Institution Building (IB)</th>
<th>Total PHARE (I + IB)</th>
<th>National co-financing</th>
<th>TOTAL EUR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal advice, long-term and ad hoc experts</td>
<td>1,290,000</td>
<td>1,290,000</td>
<td>1,290,000</td>
<td>1,290,000</td>
</tr>
<tr>
<td>Training, study visits, short secondments</td>
<td>530,000</td>
<td>530,000</td>
<td>15,000</td>
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<tr>
<td>Translations, interpreting</td>
<td>60,000</td>
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<td>60,000</td>
</tr>
<tr>
<td>Computer and office equipment</td>
<td>400,000</td>
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<td>80,000</td>
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</tr>
<tr>
<td>Publications</td>
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<td>55,000</td>
<td>15,000</td>
<td>70,000</td>
</tr>
<tr>
<td>Pre-Accession Adviser (PAA)</td>
<td>360,000</td>
<td>360,000</td>
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</tr>
<tr>
<td>Office facilities for the PAA</td>
<td></td>
<td></td>
<td>40,000</td>
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<tr>
<td>Library</td>
<td>5,000</td>
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<tr>
<td>Additional staff</td>
<td></td>
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<td>205,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>400,000</td>
<td>2,300,000</td>
<td>2,700,000</td>
<td>355,000</td>
</tr>
</tbody>
</table>

Implementing Arrangements:

The CFCU is responsible for handling tendering, contracting and payments of contracts on behalf of the OCCP which itself shall be responsible for preparing projects and managing their technical implementation.

Implementation Schedule:

Start of tendering: September 1999  
Start of project activity: January 2000  
Project completion: December 2001

Equal opportunity: The Office for Competition and Consumer Protection as principal beneficiary implementing the project will be responsible for granting equal chances of participation in this project independently of gender.

Conditionality and sequencing:

- Adoption of the state aids law by the Polish Parliament before end 1999
- Adoption of the state aids law before the start of the project
- Recruitment by the OCCP, financed by the Polish Government budget, of 30 officials as foreseen in the initial phase, before the start of the project
- Adoption in 2000 of implementing legislation thus achieving further compliance with Community legislation in the field of competition policy (antitrust and state aid);
- Set up of inventory on existing aid before July 2000.
**ANNEXE 1**

**LOGFRAME PLANNING MATRIX FOR PROGRAMME**

<table>
<thead>
<tr>
<th>Programme Number</th>
<th>Programme Title</th>
<th>State Aids Control</th>
<th>Date of Drafting</th>
<th>Planning Period</th>
</tr>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>March 1999</td>
<td>09/99-12/01</td>
</tr>
</tbody>
</table>

| Total Budget | 3.055m EUR |

<table>
<thead>
<tr>
<th>Wider Objectives</th>
<th>Indicators of Achievement</th>
<th>Sources of Information</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Creating preconditions for Poland’s accession to the European Union</td>
<td>Harmonisation of the Polish law in the field of competition policy</td>
<td>The acquis communautaire, in particular Articles 37, 77, 85, 86, 90, 92-94 of the Treaty of Rome and secondary legislation</td>
<td>Polish government dedication to prepare Poland to rapid accession</td>
</tr>
<tr>
<td>Reinforcement of the institutional capacity of the Polish competition and state aid monitoring authority.</td>
<td>Efficient enforcement of antitrust law</td>
<td>The Accession Partnership and Progress Report on Poland’s Application for Membership of the European Union</td>
<td>Current pace of the integration process unchanged</td>
</tr>
<tr>
<td></td>
<td>Setting up of the transparent ex ante state aid control</td>
<td>National Programme of Preparation for Membership to the EU</td>
<td>Adequate Parliament’s co-operation</td>
</tr>
<tr>
<td></td>
<td>Functioning of the efficient systems of registering and ex post reporting all granted state aid.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Immediate Objectives</th>
<th>Indicators of Achievement</th>
<th>Sources of Information</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Further adjustment of the Polish law in the field of antitrust, in particular in the scope of merger control and by introducing block exemptions, to achieve its compatibility with the Internal Market requirements</td>
<td>Enactment in 1999 of two basic legal Acts, transposing the acquis communautaire in the field of antitrust and state aid into the Polish law and executive regulations in 2000</td>
<td>Independent experts’ reports</td>
<td>Government policy in relation to the accession unchanged</td>
</tr>
<tr>
<td>Establishing transparent ex ante and compulsory state aid control</td>
<td>Decrease in number of infringements of the competition law and monopolistic practices</td>
<td>Information of the institutions involved</td>
<td>Transfer of valuable know-how</td>
</tr>
<tr>
<td>Setting up efficient ex post registering and monitoring system</td>
<td>Due to ex ante control state aid measures are granted in conformity with the EU rules</td>
<td>Updating of the state aid inventory</td>
<td>Difficulties in recruiting sufficient in number and skilled staff</td>
</tr>
<tr>
<td>Preparation of the Polish public administration servants, local self-governmental authorities, economic operators and judges to operate according to the rules binding in the European Communities</td>
<td>Functioning of the IT monitoring systems permits efficient and transparent registering and ex post reporting on granted state aid</td>
<td>Official publications</td>
<td></td>
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<tr>
<td>Capacity of OCCP to manage state aids</td>
<td>Production by June 2000 of first inventory</td>
<td></td>
<td></td>
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</tbody>
</table>

**Inputs:** Pre-Accession advisor, legal advice, ad hoc experts, training, study visits, equipment, educational material
### ANNEXE 2: Detailed Cost Breakdown (EUR)

<table>
<thead>
<tr>
<th></th>
<th>Investments (I)</th>
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<td></td>
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<td>205.000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>400.000</strong></td>
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<td><strong>2.700.000</strong></td>
<td><strong>355.000</strong></td>
<td><strong>3.055.000</strong></td>
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</tbody>
</table>
ANNEXE 2a
Assumptions for budget estimates (indicative only)

1. Training, study visits, short secondments
The final decision on training will be taken in consultation with the PAA. In addition, without knowing which Member State will be our *twinning partner* we cannot precisely calculate air ticket, hotel and per diem costs. Following assumptions were taken:
- air ticket: 800 EUR;
- hotel for foreign expert: 200 EUR per night
- foreign expert per diem in Poland: 227 EUR
- foreign expert fee for one day seminar: 850 EUR
- conference hall with equipment for simultaneous translation: 1000 EUR per day
- hotel for the Polish trainee in Member State: 120 EUR per night
- per diem for the Polish trainee in Member State: 50 EUR per day

In case of seminars for small audience cost of hiring conference hall and equipment are not taken into account as they can be organised in the involved Ministry premises.

List of foreseen activities:

<table>
<thead>
<tr>
<th>Type of activity, subject of training, duration, number of participants</th>
<th>EUR</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Seminar on antitrust law, in particular on block exemptions, to be organised twice within the period of project’s duration. Participants: staff of the OCCP, 10 employees from 5 departments of central office, 2 employees from each of 9 branch offices, total 28. Duration: 2 days, 2 foreign experts.</td>
<td>20.000</td>
</tr>
<tr>
<td>2. Seminar on state aid rules, procedures and case studies. Addressed to the staff of the OCCP: 20 employees of State Aid Department, 16 of another departments, 18 from branch offices, total 54 (in three groups) Two days, two experts, to be repeated next year.</td>
<td>70.000</td>
</tr>
<tr>
<td>3. as above, for representatives of the following sectors: Ministries: Economy(20), Labour and Social Care(15), Communications(5), Environment(3 central level + 2x16 voivodship level), Finance(3), Treasury(20), Transport(7), Social Insurance(5), Committee for Scientific Research(5), Agency for Industrial Development(5), total 120. 4 groups, 2 times.</td>
<td>100.000</td>
</tr>
<tr>
<td>4. Seminar for the representatives of 100 undertakings, biggest beneficiaries of public aid: 200 participants (two from each undertaking, management +accountancy). Duration: two days</td>
<td>60.000</td>
</tr>
<tr>
<td>5. Seminar on state aid rules, procedures and jurisdiction for judges of the Chief Administrative Court (12). Two days, two times</td>
<td>16.000</td>
</tr>
<tr>
<td>6. Training on specific aspects of state aid.</td>
<td></td>
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<tr>
<td>a) Sectoral: OCCP: State Aid Department(7), other departments(6), branch offices(2). Ministries: Economy(10), Transport(2), Finance(8), total: 35. Two days, two times</td>
<td>20.000</td>
</tr>
<tr>
<td>b) Regional: OCCP(7), Ministry of Economy(10), Agency for Industrial Development(5), 2 representatives of each of 16 Voivodship Office, total 54. Two days, two times.</td>
<td>20.000</td>
</tr>
<tr>
<td>c) Horizontal: OCCP(7), Committee for Scientific Research (3), Labour and Social Care(3), Environment(3 +2x16), Total 48. Two days, two times</td>
<td>20.000</td>
</tr>
<tr>
<td>d) Rescue aid: OCCP(7), Finance(3), Economy(2). Total 12. One day, one expert</td>
<td>5.000</td>
</tr>
<tr>
<td>7. State aid in financial sector: Export credits based on CIRR’s:</td>
<td></td>
</tr>
<tr>
<td>a) Lobbying among decision makers to promote introduction of the system: 10 one day meetings/workshops, 5 participants of each meeting.</td>
<td>9.500</td>
</tr>
<tr>
<td>b) Training of 50 employees (Ministry of Finance[Department of Currency Policy], Export Credit Insurance Corporation[KUKE], National Bank of Poland, other banks,</td>
<td></td>
</tr>
</tbody>
</table>
A Government Agency which is to be established to implement the system, four days in
groups of 10 people.

Procedures of granting state aid and data collection at the level of tax chambers and
offices:

Short study visits (max. 5 days) in the *twining* partner’s country to get acquainted with
practical aspects of functioning of system, in particular such issues as:
- Ensuring transparency of granted state aid: harmonisation of national legislation with
  the EU rules;
- Criteria for assessment admissibility of aid;
- Inventory of tools of hidden public aid;
- Proceedings in cases of public aid cumulation;
- Methodology of classification of state aid to particular groups;
- Calculation of amount of aid equivalent for different measures, including cumulative
  aid.

During project’s activity: 15 persons.

<table>
<thead>
<tr>
<th>6.500</th>
<th>27.000</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.700</td>
<td>8.500</td>
</tr>
</tbody>
</table>

8. OCCP, short secondments (one week) in the institutions of the *twining* partner
responsible for competition protection (antitrust and state aid), 10 employees during
project duration

9. OCCP: study visits on ad hoc basis to consult with experts of *twining* partner specific
problems arising when dealing with difficult issues, exchange of experience. 15 visits
within project duration period.

Sub-total

<table>
<thead>
<tr>
<th>478.000</th>
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</table>

Flexible reserve for training recommended by the PAA

<table>
<thead>
<tr>
<th>52.000</th>
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</thead>
</table>

Total

<table>
<thead>
<tr>
<th>530.000</th>
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</thead>
</table>

**Publications**

Cost of edition and distribution of the Manual for local authorities and economic operators
estimated under following assumptions: first edition in two volumes (antitrust and state aid)
around 100 pages each, updating around 100 pages altogether, 3000 copies: 42.000 EUR,
including author’s copyright.

Documentation on introduction of CIRR’s system: 500 copies of general documents and 1000
copies for employees of different administrative bodies and banks implementing the system:
13.000 EUR.

Total

| 55.000 EUR |

**Translation, interpreting**

Assumptions: simultaneous translation during seminars: 540 EUR per day.
Translation of documents: 12.50 EUR per page.
Interpreting during meetings: average of 180 EUR.

Total

| 60.000 EUR |

**Computer and office equipment**

Calculation made based on current prices, e.g.:
- Computer+win98+MSOffice: 1.500-1.700 EUR
- Printer 500 EUR
- Server 17.500 EUR
The Office for Competition and Consumer Protection elaborated plan of developing IT communication between headquarters in Warsaw and branch offices. This will be partially implemented starting from 1999. The project is consulted with French experts within the framework of co-operation with the French Directorate General for Competition, Consumption and Combating Abuses (DGCCRF). The expert selected by DGCCRF visited the OCCP in November 1998 (Warsaw and some of branch offices). The cost of this project implementation is estimated for 145,000 EUR. Due to assuming by the President of the OCCP function of state aid monitoring authority a new department will created, with a staff of about 30 employees. Support to the OCCP in providing necessary computer and office equipment would amount to ca 55,000 EUR. Purchase of further computers for tax chambers and tax offices (there are 16 tax chambers and 355 tax offices) involved in the system of state aid monitoring and data collection and of server and software necessary to make operational monitoring system related to sureties and guarantees issued by State Treasury or State legal persons will amount to 200,000 EUR.

Total: 400,000 EUR

Library

There is a lot of books and periodical publications presenting, commenting and explaining competition policy issues. The OCCP is aiming at having as representative as possible library, which contents will be of course accessible to all interested parties (administration bodies, economic operators, students).

Total 5,000 EUR

Legal advice, long-term and ad hoc experts

Within this project there are many sub-projects requiring long term and ad hoc experts’ assistance: drafting of legislation, elaborating concept of systems, providing legal advice.

Total 1,290,000 EUR

The PAA secondment

Budget for 24 months 360,000 EUR

TOTAL PHARE BUDGET 2,700,000 EUR
## IMPLEMENTATION SCHEDULE OF THE PROGRAMME

### ANNEXE 3

<table>
<thead>
<tr>
<th>Programme Title</th>
<th>State Aids control</th>
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<table>
<thead>
<tr>
<th>Projects</th>
<th>Implementation Schedule (Quarters)</th>
<th>Budget Allocation</th>
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<tr>
<td>Sub-Projects</td>
<td></td>
<td>EUR</td>
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<tr>
<td>(1) State aids control project (Phare financed components)</td>
<td>D/C</td>
<td>D/C</td>
<td>I</td>
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<td>Total Programme</td>
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| | | | | | | | | | | 2,700,000 |

**Legend:**
- D = design of sub-projects.
- C = tendering and contracting.
- I = contract implementation and payment.
## COMMITMENT (CONTRACT) SCHEDULE

### ANNEXE 4

<table>
<thead>
<tr>
<th>Programme Title</th>
<th>State aids control</th>
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<tbody>
<tr>
<td><strong>Projects</strong></td>
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<td><strong>Sub-Projects</strong></td>
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<th>Expected cumulative Contractual Commitments</th>
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**PLANNED**

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<th>Million EUR</th>
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<td>(3)</td>
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**State aids control project (Phare financed components)**

**Total Phare support**

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<th>Million EUR</th>
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### Programme Title

<table>
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<th>Projects</th>
<th>Sub-Projects</th>
<th>State aids control project</th>
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<td><strong>State aids control project</strong></td>
<td><strong>PLANNED</strong></td>
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| **Total Phare Support** | 0.2 | 0.7 | 1.4 | 1.9 | 2.3 | 2.4 | 2.5 | 2.7 |

<table>
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<tr>
<th><strong>Cost Estimate</strong></th>
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</table>
OFFICE FOR COMPETITION AND CONSUMER PROTECTION

MINISTRY OF ECONOMY

MINISTRY OF FINANCE

PHARE 1991-95 PL 9110 Antimonopoly Office (at present the OCCP)
• elaboration of 40 expert studies concerning competition law of European Communities in relation to particular economy sectors and basic Directives in the field of consumer protection – translation of legal acts, explanatory comments, comparative analyses;
• study on concentration level in the Polish economy;
• study on state aid admissibility and monitoring, draft legislation (1996);
• support to the Office (office and computer equipment, professional training and language courses for the employees, translation of documentation, purchase of professional literature);

PHARE SIERRA
• expert study on harmonisation of the Polish law in the field of state aid.

PHARE FIESTA II PL 9316 Ministry of Economy
• elaboration of state aid monitoring system was commissioned to the British firm Segal Quince Wicksteed Ltd.
  I stage: identification of organs granting state aid, inventory of measures and scope, sources and methods of data collection, criteria of compatibility of draft system with European Union standards, defining technical features of computer hardware and software, establishing data base – completed in October 1998.

PHARE PL 9405
• Follow-up of the above listed project:
  II stage: development of system of data collection, assumptions for IT system, elaboration of such system, installing IT infrastructure, making system operational. (assignment should be completed till 15 December 1998, but due to unsatisfactory performance project completion postponed for the end of February 1999).

PHARE PL 9304 Ministry of Finance
• project “Elaboration of state aid monitoring system in financial sector” was commissioned to the above mentioned British firm:
  - identification and inventory of state measures generated in financial sector, study on their compatibility with EU regulations, elaboration of information flow system, training of MF staff, establishing data base.
  - installing computers in 32 out of 355 tax offices.

PHARE PL 9404 Ministry of Finance
• feasibility study on development of an export bank facility was commissioned to the Spanish consortium ACE, under which system of export financing based on CIRR concept could be elaborated to achieve compatibility with measures adopted in the EU. Project was completed in March 1998.

PL 9316
• this project was addressed to all ministries and central administration bodies and was aimed at help in preparation to accession negotiation by: translation of the relevant EU documentation, expertise on specific issues, support beneficiaries in making study visit to the EU Member States to consult more difficult problems, training, purchasing computer equipment.

PHARE COP’97 PL 9707
• Ministry of Economy submitted project entitled “Implementation of rules of state aid granted to the entrepreneurs” including: drafting two act of secondary legislation resulting from the Act on state aid admissibility and monitoring in relation to regional aid, expert support, translation to Polish of two EU legal acts and training on public aid rules for around 100 people;
• Office for Competition and Consumer Protection submitted project on enforcement of the *acquis communautaire* in the field of antitrust law and consumer protection. In its component addressed to competition policy project foresees: follow-up of the study on concentration level in the Polish economy and establishing monitoring system as well as expert studies on capital and insurance markets, i.e. based on comparative analyses of solutions adopted in the EU Member States drafting guidelines for the OCCP’s strategy in the respective sectors, legal advise, translation of relevant EU documents, training.

Bilateral co-operation
• Since 1995 the OCCP is a party to bilateral co-operation with French Directorate General for Competition, Consumption and Combating Abuses (DGCCRF). This co-operation, based on inter-governmental agreement, is supported by Foundation France-Poland. Within the framework of technical assistance provided for the OCCP, France organised in Poland seminars with French experts acting as lecturers and study visits in France for the OCCP’s officials (visiting both central administration and decentralised levels). This assistance included also the State Trade Inspection (PIH), market inspection organ subordinated to the President of the Office for Competition and Consumer Protection.
• In 1998 the France undertook to help in elaboration of the concept of uniform and improved information technology infrastructure, to facilitate IT communication between OCCP’s headquarters and branch offices. This activity was aimed at assisting Polish competition authority in reinforcement of its institutional capacity and better preparation for functioning in the new administrative and territorial structure, in particular taking into consideration increased scope of competence and responsibilities.
• A draft project was prepared by IT services of the OCCP and discussed during visit to Poland of the French expert, selected by DGCCRF. The visit took place in November 1998.

ANNEXE 7
List of relevant Laws and Regulations

Note: A complete list of legislation has been made available by the OCCP as part of the project submission and is available upon request. The list is without prejudice to other legal texts adopted or to be adopted. It includes:

Antitrust law:

Primary law (provisions resulting from Treaties establishing European Communities)
General provisions (council regulations)
Law procedures related to competition restricting practices
General provisions (council regulations)
Secondary law related to merger control
Substantive law (concentration of undertakings)
Formal law (procedures of merger control)
Law procedures relevant both for ban on competition restricting practices and merger control
Existing Polish legislation

State aids:

Community:
Primary law (treaty provisions)
Secondary law
*Horizontal aid*
*Regional aid*
*Sector aid*

Existing Polish legislation:

Public aid in Poland is regulated by a number of normative acts, including:
*SURETIES AND GUARANTEES GIVEN FROM THE STATE BUDGET*
*STATE BUDGET SUBSIDIES*
*INTEREST RATES SUBSIDIES*
*INSURANCE OF EXPORT CONTRACTS GUARANTEED BY THE STATE TREASURY*
*TAX AND CUSTOMS ALLOWANCES AND OTHER PRIVILEGES*
*TAX ALLOWANCE IN CAPITAL ACCOUNT*
*DEBT AMORTISATION -FINANCIAL RESTRUCTURING*
*BASIC NECESSARY LEGISLATIVE CHANGES* (introduced and under elaboration)

Act of 24 February 1990 “On counteracting monopolistic practices” (with later amendments).
- prepared by the OCCP draft amendment to Article 11 thereof, related to control of mergers between entrepreneurs came into force on 2 January 1999. The main directions of this amendments are: increase of thresholds subject to obligation to notify merger and abandoning control of entrepreneurs’ transformations;
- amendments introduced by Article 61 of the Act of 24 July 1998 “On amendments to certain Acts defining competence of public administration bodies in relation to the State system reform” came into force on January 1, 1998. They change the name of the Act to “On counteracting monopolistic practices and protection of consumer interests” and
increased competence of the President of the OCCP in the scope of consumer protection and combating unfair competition.

The draft new Competition Act, aimed at the full transposition of the EU provisions into the Polish law and taking into account the President of the OCCP assuming functions of state aid monitoring authority, will be ready still this year and should be enacted in 1999.

Act of 16 April 1993 “On combating unfair competition”.
Draft amendment under elaboration to incorporate the EU Directive 97/55/EC of October 1997 concerning comparative advertising.

There is no one general Polish legal act related to the conditions of granting public aid. Draft Act “On admissibility and monitoring of state aid for entrepreneurs” on 16 February was adopted by the Council of Ministers. Its enactment is scheduled for 1999.

Within the period of two years since coming into force of The Act on admissibility of state aid, several legal acts must be reviewed and amended to achieve compatibility with the new Act provisions. The list of 128 acts was elaborated under PHARE SIERRA programme.
Reference to relevant Government Strategic plans and studies

The Office for Competition and Consumer Protection elaborated in May 1998 programme of the government strategy in the field of antitrust law:

“Counteracting monopolies and reinforcement of competition – Partial strategy”

This program was adopted by the Council of Ministers on 3 June 1998.

Poland’s short and medium-terms priorities in the context of future accession to the European Communities are defined in the National Programme of Preparation for Membership. Competition policy issues are presented in Chapter 13 (antitrust) and in Chapter 14 (state aid).

Information on the Office for Competition and Consumer Protection (OCCP)

The Polish competition authority named Antimonopoly Office was created by virtue of the Act of 24 February 1990 on Counteracting monopolistic practices “in order to ensure development of competition, protection of entrepreneurs exposed to monopolistic practices and protection of consumer interests”. The basic Act was subject to several amendments, among which of great significance was this of 1995 pertaining merger control.

The further amendment in 1996 increased the scope of the Office responsibilities and competence in the field of consumer protection and consequently since October 1996 this central administration body is known as “The Office for Competition and Consumer Protection”. The President of the OCCP, appointed by Prime Minister, is acting as competition and consumer protection authority, supported by the OCCP. The State Trade Inspection (PIH), performing functions of market surveillance, is subordinated to the President of the Office for Competition and Consumer Protection.

On 1 January 1999 the Act of 24 July 1998 “On amendments to certain Acts defining competence of public administration bodies in relation to the state system reform” will come into force. Articles 61 and 14 thereof refer to the OCCP and PIH respectively, amending the Act of 24 February 1990 which title is changed to “On counteracting monopolistic practices and protection of consumer interests” as well as Act of 1958 on State Trade Inspection changing its name to “Trade Inspection”. Evidently these amendments are not limited to changing names and significantly increase competence and responsibilities of both organs, in particular in the field of consumer protection.

On 28 October 1998 the Economic Committee of the Council of Ministers recommended the Office for Competition and Consumer Protection to be appointed the independent state aid monitoring authority in Poland, thus conferring to the OCCP responsibilities over the full scope of competition policy. Upon this recommendation on 6 November 1998 the relevant decision was taken by the Committee for the European Integration.

The Office for Competition and Consumer Protection is composed of central office and 9 regional branch offices and in 1998 had a staff of 192 employees. Taking over the state aid monitoring function and increase of competence in the field of consumer protection will result in demand for additional staff. To the hitherto existing, listed below departments, a new one Department of the State Aid should be added. The organisational structure of the Office is as follows:
• Management: President of the Office, two Vicepresidents, Director General;
• Cabinet of the President;
• Departments: Legal, Industry, Agriculture and Services, Universal Services, Consumer Policy, European Integration and Foreign Relations;
• Offices: Administrative and Budgetary, Information Technology;
• 9 regional branch offices.