1. **Basic Information**
   1.1. **Désirée Number:** PL01.02.05  
       **Twinning number:** PL/IB/2001/EC/08
   1.2. **Title:** Competition policy and consumer protection
   1.3. **Sector:** Internal Market
   1.4. **Location:** Poland

2. **Objectives:**
   2.1. **Wider Objective:**
       To establish legal framework and institutional structures of competition and consumer protection services adjusted to the requirements of the Internal Market.
   2.2. **Immediate objectives:**
       To establish legal provisions in the field of competition and consumer protection compliant with the EU legislation, including recent changes; to train employees of the OCCP and staff of market surveillance bodies in order to achieve more efficient enforcement of the new provisions; to promote awareness of new regulations among entrepreneurs, consumers, academics and judiciary.
   2.3. **Accession Partnership and NPAA Priority:**
       The project is in line with the AP and NPAA and addresses short and medium-term priorities of the AP.
       AP medium-term: Competition: reinforce the anti-trust and state aid authorities and procedures – improve transparency and flow of data, co-ordination and training at all levels; Consumer protection: market surveillance and enforcement authorities.
       The above priorities are reflected in the NPAA: 3.1.6.1. Competition Policy: Adjustment of the Polish antimonopoly law to the Community rules, further development of competition on the market and creation of conditions for the increase of competitiveness of entrepreneurs.

3. **Description**
   3.1. **Background and justification**
       The Antimonopoly Office was set up in 1990 by virtue of the Act of 24 February 1990 on countering monopolistic practices and in 1996, together with assuming function of consumer protection authority, was transformed into the Office for Competition and Consumer Protection (OCCP), combining responsibilities for both of these areas of Government policy. Subsequent amendments to the Act on countering monopolistic practices and protection of consumer interests as well as to the Act of 16 April 1993 on combating unfair competition have been extending competence of the President of the OCCP. By the end of 1998, pursuant to the decision of the Committee for European Integration, additional competence was conferred to the President of the OCCP, who was nominated state aid monitoring authority. This decision was sanctioned by the Act on the conditions for admissibility and monitoring state aid for entrepreneurs, voted on 30 June 2000 and coming into force on 1 January 2001.
       The managerial structure of the OCCP reflects its dual competence. The relevant Departments of the Office are well established and have developed their respective structures, systems and skills appropriate to their different working environment. The competition policy issues are dealt with by the Warsaw headquarters and 9 branch offices, consumer protection, by its nature, is considerably more decentralised and the OCCP must work with other Government institutions, subordinate agencies, local self-government bodies and the non-government sector. The most important in this field is the Trade Inspection, subordinated to the President of the OCCP, which is acting as the Office executive body.
       The year 2000 is marked by the significant progress in adjustment of the Polish law to the Community legislation. In addition to the above mentioned Act on state aid, three acts relevant for the field of consumer protection were voted, transposing several EU directives and fulfilling Poland’s obligation under the AP short-term priority; works on further drafts are ongoing. The new Act on competition and consumer protection, elaborated by the OCCP and fully compatible with the acquis was voted on 15 December 2000 and will come into force on 1 April 2001.
In June 1998 the Council of Ministers adopted a document with wide time horizon entitled “Counteracting monopolies and reinforcement of competition – Partial strategy”. In the field of consumer protection the OCCP’s report on implementation of tasks in the years 1998-1999 together with draft “Government Consumer Policy for the years 2000-2001” was adopted by the Council of Ministers on 30 May 2000. The present project is aimed at the continuation of legal works in the context of the scheduled changes in the relevant EU legislation (e.g. rules on horizontal restraints, new consumer directives) and at the increase of professional skills of competition and consumer protection services as well as at rising awareness of new regulations, in view to achieve better efficiency in their enforcement. Consequently, the project is to a large extent the follow-up of previous activities aimed at the harmonisation of the Polish laws and regulations to the EU changing legal framework.

3.2. Linked activities

Phare 1991-95 PL9110: elaboration of 40 expert studies concerning competition EC law in relation to particular economy sectors and basic directives in the field of consumer protection: translations, explanatory comments, comparative analyses of legal acts; study on concentration in the Polish economy, educational programmes for consumers (primary and secondary schools); support to the Office.

Phare Sierra PL9212: competition protection: draft legal acts and draft amendments to the existing laws aimed at further harmonisation of existing provisions; consumer protection: comparative analyse of the EU and Polish regulations.

Phare Fiesta II – Consumer Protection PL9316-02-07: expert projects aimed at elaboration of draft legal acts transposing the EU consumer directives, support to consumer NGO’s, training, support to the OCCP.

Tideover Resources PL9316-04-02: help in preparation to accession negotiations (translations of legal acts, expert projects), support to the Office (computer equipment, study visits).

COP’97 PL9707: follow-up of some projects (e.g. concentration level), expert studies and drafting regulations adjusting Polish law to the Community legislation, support to consumer courts of conciliation, pilot implementation of consumer accidents monitoring system, training, study visits.

Phare 1999: twinning covenant with Swedish partner based on the project elaborated by the OCCP is still under negotiations: project has been addressed to both areas of competition policy, i.e. antitrust and state aid.

Phare 2000: The European Commission accepted the project addressed to consumer protection and market surveillance issues (to be implemented under twinning agreement) and to antitrust (tendering). The main focus of the twinning component consists in creating market surveillance system consistent with the EU models, in its antitrust part the project foresees legal assistance in drafting secondary legislation and in improving existing enforcement procedures, as well as improvement of professional skills of the OCCP’s staff.

Bilateral co-operation: The OCCP is since 1995 the part of a bilateral co-operation with the French DG for Competition, Consumption and Combating Abuses (DGCCRF): seminars, study visits to France for OCCP’s and TI’s officials (visiting both central administration and decentralised organs), preparing a draft specification for a uniform information technology infrastructure of the OCCP and Trade Inspection (central and local levels), diagnosis on equipment needs in TI laboratories in the context of EU technical standards.

3.3. Results

Draft legal acts adjusting Polish regulations to the new developments in the Community legislation prepared; procedures for enforcement of the new legal provisions functioning; trained staff in this respect; awareness of entrepreneurs and consumers of their respective rights and obligations allows for decrease in the number of infringements of the competition and consumer protection laws, upgrading of the TI’s laboratory equipment grants more efficient market surveillance and improvement of the OCCP information network allows for better data flow.

3.4. Activities (inputs)

The actions envisaged under the project are addressed to the OCCP (headquarters and regional branch offices), the Trade Inspection, other Government agencies, donors of public aid for entrepreneurs, territorial self-government bodies (district consumer advocates), consumer NGO’s, judiciary, academics, economic operators.
Competition policy

Antitrust (twinning)
- study on the efficiency of the enforcement of recently enacted provisions, proposals for eventual procedural improvements;
- legal assistance in elaboration of draft amendments to the Act in the context of declared changes in the Community provisions (e.g. horizontal restraints);
- continuous training for the OCCP’s staff concerning anti-trust provisions (in particular those recently amended): seminars organised in Poland and participation in seminars abroad; study visits, short secondments in the competition authorities of selected Member States;
- help of the Member State’s experts in law enforcement; assistance in the investigations conducted by the OCCP, in particular in the case of recently adopted provisions.

State aid (TA)
- legal assistance in elaboration of draft acts amending existing Polish provisions in order to adjust them to the changes in the Community legislation, draft amendments to the Act on the conditions for the admissibility of public aid for entrepreneurs and to the Act on Special Economic Zones, as well as amendments to the relevant implementing regulations in order to reflect changes in the EU law;
- training for the employees of the OCCP on state aid rules: participation in seminars in Poland and abroad, study visits may be part of the project.
- seminars on specific state aid measures addressed to: staff of the central public administration: 2 days, 60 persons (including 30 from the OCCP); administration bodies on the self-government level (Voivodship, one day, 32 persons; district: one day, 50 persons; county: one day, 150 persons) and entrepreneurs: one day, 90 persons in 3 groups 30 persons each’
- experts’ assistance in assessing the admissibility of granted aid.

Consumer protection (twinning)
- expert analysis and study on the transposition of the above mentioned directives into the national laws of the EU Member States (it should be already accomplished by the time of the project implementation) and on the hitherto experience in enforcement (in the case of Directive 98/27/EC it will be follow-up and progress report on the work done under COP’97 law harmonisation project);
- legal support in drafting amendments to the existing regulations resulting from the changes in the Community laws;
- practical aspects of the implementation of the act on general product safety – analysis and assessment of the EU and Polish procedures (including poll among Polish organs responsible for product safety), proposals for improvements;
- expert study on the EU MS experience in the field of legal limitations of the freedom of contracts between big sales networks and their suppliers, in view of the evident difference in their bargain powers; presentation of legal solutions and practical experiences in particular Member States;
- elaboration of study on government control on unfair advertising, presentation of the EU Member States experiences, training for the OCCP’s employees;
- according to the assumed legislative schedule within the period of project duration works on enforcement of the new act on consumer credit will be initiated - practical expert advice and presentation of the EU experience, in particular in the context of the efficiency of adopted solutions, will help in more efficient implementation of new provisions.
- adequate training for the employees of the OCCP, Trade Inspection, consumer advocates, judiciary, personnel of consumer courts of conciliation;
elaboration and publication of educational materials promoting new legal regulations to be available to consumers and to serve as a help to the OCCP, Trade Inspection, consumer advocates and NGO’s providing free legal advice for consumers and entrepreneurs – this task is to be commissioned to the consumer organisations;

The efficient enforcement of consumer protection provisions requires creation of the market surveillance system adjusted to the Community models. Works on elaboration of such a model are ongoing and the adequate support of the Member State administration is foreseen under PHARE 2000. At present, in the area most relevant for the project, one should mention the following institutions:

**Inspection for Purchasing and Processing of Agricultural Products (ISIPAR)**

This Inspection, acting by virtue of the Act of 30 June 1970, is responsible for the control of the economy in the field of cereals and their processing, grains of edible crops and oil plants, feeding stuffs, meat and poultry and their processing, fruits, vegetables, milk and its processing, as well as other food products of plant origin, also agricultural machines, equipment for food industry and control of industrial fattening, pasturage and slaughter of animals and poultry. It is entitled to control and assess the quality of products. The ISIPAR’s competence is limited to the sphere of production, purchase, transportation, storage and processing. They do not pertain wholesale and retail trade, as well as catering business.

**Veterinary Inspection (IW)**

Among the tasks of the IW, acting pursuant the Act of 24 April 1997, there are in particular the following: combating contagious decease of animals and inspection of animals for slaughter and meat, supervision over health quality of food products of animal origin, including sanitary conditions of their procurement, production and storage.

**Sanitary Inspection (IS)**

It was created by virtue of the Act of 14 March 1985. The main task of the IS consist in preventive and current sanitary supervision in the field of contagious decease and other decease resulting from surrounding’s conditions. The IS implements these tasks by way of supervising and controlling hygiene of surroundings, hygiene in manufacturing plants and in other institutions, e.g. educational, leisure etc. These tasks include health conditions of food and feeding.

**Trade Inspection (TI)**

The TI was created by virtue of the Act of 25 February 1958, at present superseded by the Act of 15 December 2000 which entered into force on 1 April 2001. Its tasks include control of safety and quality of products and services, in particular those which may endanger health and life of consumers. This control is related first of all to the protection of interests of the final user. The activities of the Trade Inspection focus on the market and are not limited to the food stuffs only but include all products and services intended for consumer use. Its competence have been increased by adopting the act on product safety and implementing regulation introducing national system of information on dangerous products. The TI is also protecting consumer economic interests by way of supervising and controlling legality and integrity of entrepreneurs’ activities. Implementing regulations to the Act on Trade Inspection provides for the cooperation of the TI with control bodies listed above.

**Inputs addressed to both parts of the project:**

One should realise that some of the infringements of the legal provisions may not be deliberate, but result from the lack of knowledge. Therefore we propose a rising awareness programme consisting of:

- elaboration and publication of a book containing selected decisions and resolutions in the antimonopoly cases in order to promote this subject among lawyers, academics, students and economic operators.
- creation of data base for adjudication (court verdicts and decision in the antimonopoly cases and court verdicts in cases of unfair competition) with appropriate software enabling easy and quick access. Updating of data base will be assured by the Office of Adjudication which is to be created under provisions of the new Act on competition and consumer protection.
- elaborating training materials in the form of computer presentation or slides, presenting assumptions and solutions adopted in the new Acts: already enacted Act of 30 June 2000 on the admissibility and monitoring of state aid for entrepreneurs, Act of 7 March 2000 on general product safety, Act of 16 March 2000 on amendments to the Act on combating unfair competition and on amendments to the Act on radio and TV broadcasting, new Act of 15 December 2000 on competition and consumer protection that will come into force on 1 April 2001 and Act on consumer credits (under elaboration). The recently adopted legal acts, adjusting Polish law to the Community legislation, vested on the President of the Office for Competition and Consumer Protection and on the subordinated to the...
President Trade Inspection several new responsibilities requiring a technical support (e.g. state aid monitoring system, data collection for state aid register and inventory, national system of exchange of information on dangerous products, operating register of unfair contract terms, extended tasks for the TI laboratories). The relevant projects aimed at preparing the OCCP and Trade Inspection to meet the above requirements were elaborated in co-operation with the French experts in the frame of bilateral co-operation with DGCCRF. Both institutions started to implement elements of these projects using budgetary funds, but due to financial constrains the whole concept may be executed only gradually, step by step. In the present project we expect financial support for further:

- upgrading of the TI’s laboratories in the context of new responsibilities resulting from transposition of the EU directives. Laboratory equipment for testing with higher technical parameters is needed as well as some computer equipment for information network between headquarters an and territorial units: and
- improving the OCCP’s information technology system to improve data flow – it requires development of the existing network existing in the Warsaw headquarters and in the territorial representations (hardware and software). Unfortunately not all of the future participants of training understand and speak English. Within the frameworks of the twinning covenant the experts of the twin institution will be training and assisting many employees of the beneficiary institutions - therefore, there is a necessity of the funds for:
- translation and interpretation. The project components addressed to antitrust law, consumer protection and market surveillance issues are to be implemented in the frame of twinning agreement with the EU Member State institution; with the exception of assignments for consumer NGO’s and purchase of equipment - the part dedicated to state aid is to be implemented under Technical Assistance, and due to the nature of the scheduled activities a strong support of local consultants will be necessary.

In the twinning component of the project we expect the PAA to be rather practitioner then academic and to represent public administration body, because practical experience in law enforcement and market surveillance will be better suited to the Office needs. The office space and equipment for the PAA and his/her assistant will be provided by the OCCP in its headquarters in Warsaw.

4. **Institutional framework**
The Office for Competition and Consumer Protection will be responsible for overall co-ordination and supervision over the project in substance. The OCCP will assure communication with another beneficiaries (e.g. Trade Inspection, NGO’s, etc.). CFCU will supervise formal and financial issues. Results of the project will not lead to a change in the institutional framework. Implementation of the twinning covenant will allow the OCCP and the TI for taking advantage of the support of the more experienced administration body in order to reinforce their institutional capacities.

5. **Detailed budget (M€):**

<table>
<thead>
<tr>
<th>PHARE Support</th>
<th>Investment support</th>
<th>Institution</th>
<th>Total PHARE</th>
<th>National Cofinancing</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract 1 - twinning</td>
<td>1.65</td>
<td>1.65</td>
<td>0.35</td>
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<tr>
<td>Contract 2 – TA</td>
<td>0.3</td>
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<td>0.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contract 3 – support consumer NGO’s</td>
<td>0.15</td>
<td>0.15</td>
<td>0.6</td>
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<tr>
<td>Contract 4- equipment</td>
<td>0.9</td>
<td>0.9</td>
<td>0.3</td>
<td>1.2</td>
<td></td>
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<tr>
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<td>2.1</td>
<td>3</td>
<td>1.25</td>
<td>4.25</td>
</tr>
</tbody>
</table>

The co-financing funds for the project implementation will be available.

6. **Implementation Arrangements**

6.1. **Implementing Agency**
PAO: Mr Pawel Samecki, Undersecretary of State at the Office of the Committee for European Integration, Aleje Ujazdowskie 9, 00-918 Warsaw, phone: (44 22) 455 52 41, fax: (48 22) 455 52 43.
CFCU: Mr Wojciech Paciorkiewicz, Member of the Board, Co-operation Fund, Central Financing and Contracting Unit, 6/12 Nowy Swiat, 00-400 Warsaw, phone: (48 22) 661 71 50, fax: (48 22) 661 76 13
The CFCU is responsible for tendering, contracting and payments in contracts concluded on behalf of the OCCP, which is responsible for preparing project and its implementation.

1.2. **Twinning**
Contact person in the OCCP:
1.3. Non standard aspects
DIS Manual will be followed.

6.4. Expected number of contracts:
1) Twinning covenant amounting to 1.650.000 EURO;
2) TA contract addressed to state aid issues for 300.000 EURO
3) Support to NGO's for 750.000 EURO
4) Investment contract for 1.200.000 EURO

7. Implementation Schedule
7.1. Start of tendering: February 2002
7.2. Start of project activity April 2002
7.3. Project completion: December 2003

8. Equal Opportunity
The President of the Office for Competition and Consumer Protection will ensure equal opportunity to participate in the project for men and women.

11. Investment criteria: n.a.
12. Conditionality and sequencing
Assumptions:
relevant for the field of consumer protection legislation already existing, new Act on competition and consumer protection effective on 1 April 2001;
additional staff for the implementation of new tasks recruited (20 new employees already in place, further will be recruited gradually);
amendments to legal acts necessary due to the obligation of transposing further EU consumer directives and to scheduled changes in the Community legislation;
introduction of new regulations requires training of all persons involved in their implementation;
raising awareness of their respective rights and obligations among consumers and entrepreneurs will contribute to better observance of competition and consumer protection legal provisions.
Conditionality:
PAA and his/her mother administration dedicated to achieve goals of the project;
engaged experts prepare good draft acts and amendments;
adequate preparation of seminars and training materials will ensure their usefulness.
Sequencing:
assessment of the current state of play in the field of legislative works and needs – first six months of project duration;
preparation of proposed changes, drafting legal acts and amendments to the existing provisions, including further stage of introducing to draft acts comments resulting from inter-ministerial consultation – 2002;
training – subsequently during the whole period of project duration;
publication of educational materials: first leaflets or brochures concerning existing already provisions by the end of the year 2002, and subsequently next editions to take on board recent developments - by the end of 2003;
purchase of laboratory and computer equipment – as soon as technically possible to enable the OCCP and the Trade Inspection more efficient performance of additional obligations resulting from the Act on general product safety and implementing regulations.
The OCCP decided this project to be the last one in the field of competition and consumer protection.
### Wider objective

To establish legal framework and institutional structures of competition and consumer protection services adjusted to the requirements of the Internal Market.

<table>
<thead>
<tr>
<th>Indicators of Achievement</th>
<th>Sources of information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Polish legal regulations adjusted to the Community legislation, including scheduled changes proposed by the European Commission; Efficient enforcement in Poland of competition and consumer protection laws compliant with the acquis.</td>
<td>The Accession Partnership and Progress Report. Independent experts' opinion.</td>
</tr>
</tbody>
</table>

### Immediate Objectives

To establish legal provisions in the field of competition and consumer protection compliant with the EU legislation, including recent changes.

<table>
<thead>
<tr>
<th>Indicators of Achievement</th>
<th>Sources of information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Draft legal acts and draft amendments to the existing regulations prepared. All planned training activities performed. Educational materials elaborated and distributed.</td>
<td>Independent expert's reports. Reports of the participants. Physical existence of educational materials.</td>
</tr>
</tbody>
</table>

To train employees of the OCCP and staff of market surveillance bodies in order to achieve more efficient enforcement of the new provisions.

To promote awareness of new regulations among entrepreneurs, consumers, academics and judiciary.

### Results/Outputs


<table>
<thead>
<tr>
<th>Indicators of Achievement</th>
<th>Sources of information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conformity of proposed solutions with acquis and functioning of Internal Market. Trained staff more efficiently performing its obligations. Decrease in number of infringements. TI's laboratories better prepared to make checks of the quality and health safety of products offered to consumers. OCCP and TI's information technology networks developed.</td>
<td>Experts' opinion. Market survey, statistics. Increased capacity of laboratories (statistics). Improvement of computer network resulting in more efficient exchange of information and communication between organisational units, transparency of collected data – to be proved by experience.</td>
</tr>
</tbody>
</table>

### Activities

Elaboration of experts' opinions and draft legal regulations. Improving professional skills of employees of the beneficiary institutions. Publication of educational materials for consumers. Publication of a book containing selected decisions and verdicts in antimonopoly cases. Creating data base of antimonopoly adjudication and court verdicts in cases of unfair competition. Dissemination of knowledge about new legal provisions in the field of competition and consumer protection. Upgrading laboratory equipment of the Trade Inspection. Developing the OCCP's information technology system.

<table>
<thead>
<tr>
<th>Inputs</th>
<th>Sources of information</th>
</tr>
</thead>
</table>

### Assumptions and Risks


Adoption by the Parliament of new or amended regulations. PAA's and his/her mother administration ensure efficient support in achieving goals of the project. Staff dedicated to improvement of professional skills. Despite of the awareness of existing regulations their deliberate infringements by entrepreneurs, aware consumers still not able to get proper redress.

Experts involved in the project implementation will deliver good products. Proposed solutions will be approved by Government and Parliament. NGO’s co-operation with public administration bodies. Trained staff remains within the structure of the beneficiary institutions.

### Assumptions and Risks

Proper overall coordination. Quality of the provided assistance. Quality of Polish staff involved. NGO’s co-operation.
### ANNEX 2-4: cumulative implementation, contracting and disbursement schedule

<table>
<thead>
<tr>
<th>Project Title</th>
<th>Competition policy and consumer protection</th>
<th>Date of Drafting</th>
<th>Planning Period</th>
<th>Budget Allocation</th>
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<td>IV’01 I’02 II’02 III’02 IV’02 I’03 II’03 III’03 IV’03</td>
<td>January 2001</td>
<td>9/2001-9/2003</td>
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<tr>
<td>Disbursement</td>
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<td>3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Legend: D = design of sub-projects / C = tendering and contracting / I = contract implementation