Expanding the administrative capacity to implement EU rail market regulations

1. Basic Information

1.1. CRIS Number: 2005/017-488.02.03

Twinning No.: PL2005/IB/TR/01

1.2. Title: Expanding the administrative capacity to implement EU rail market regulations

1.3. Sector: Transport

1.4. Location: Poland

2. Objectives

2.1. Overall Objective(s):

Strengthen and expand administrative capacities and skills of Poland to implement necessary regulatory and economic measures to reform its rail market according to EC directives and policies, and subsequently regulate this market.

2.2. Project purpose:

Further enhancement of capacities of The Office of Rail Transportation (in Polish: UTK) and the Ministry of Infrastructure by providing assistance in additional regulatory, organizational and economic matters necessary to liberalizing rail market, insuring its efficient management, and developing tools, specialized skills, and mechanisms allowing to timely comply with the acquis, policies, and directives especially on rail market interoperability and safety, and create necessary conditions and contribute to implementation of the third railway package in Poland.

2.3. Justification:

This project has been designed to address the issues critical for full and timely implementation of EU acquis and directives regarding rail market reforms by the Republic of Poland.

In the Complex Monitoring Report of November 5, 2003, in section 9, Transportation Policy, the following conclusions were presented with regard to rail transportation reforms in Poland:

- Poland must strengthen its administrative capacity to manage projects related to the Trans-European corridors
- Poland must complete coordination of its law with regard to rail transportation in particular as far as directives on interoperability and executive decrees are concerned.
• Poland must continue strengthening its administrative capacity for implementation of *acquis communautaire* in the area of rail transportation

• Poland must implement a sustainable plan for restructuring its rail transportation sector.

The report also indicates that it is necessary to complete the process of preparing and issuing executive orders and decrees to support the changes in the European and Poland’s rail transportation with particular attention given to: directives on interoperability, including the establishment of notified bodies responsible for evaluating the conformity of interoperability constituents and subsystems; strengthen the Office of Rail Transportation, and strengthen the safety system for rail transportation, including dangerous goods.

3. Description

3.1. Background and justification:

The Rail Transport Law of 28 March 2003 defines the UTK President as a central and specialized agency to undertake a number of activities leading to opening of Poland’s rail market according to EU directives. These activities involve various measures such as: regulation of rail transport market, licensing of railway operators, technical supervision over operation and maintenance of railway lines and railway operators (locomotives and rolling stock), safety of railway traffic. Major UTK statutory functions and duties involve three areas:

**Regulatory functions** such as: review of charges for access to the rail infrastructure with regard to conformity with the rules for establishing TAC; supervision over providing for equal access of railway operators to railway infrastructure, supervision over equal rights of treatment of all railway operators by infrastructure managers, supervision over correctness of determining infrastructure charges, collecting, analysing and processing information concerning the railway transport market, consideration of complaints of railways operators, cooperation with the competent bodies on coordination of functioning of the railway transport market and prevention and counteraction of exercising of monopoly practices by managers and railway operators.

**Technical and safety functions** that include a variety of activities related to inspection of operation of railway lines and safety of railway traffic, issuing safety and operation certificates, controlling how the companies adhere to safety regulations (in regard to operations), controlling observance of safety rules for railway transport and proper maintenance and operation of railway lines, supervision of safety of railway transport of dangerous goods, and other rail transportation safety.

**Licensing functions** include all spectrum of activities related to issuing, change or withdrawal of rail operating licences.

In the year 2007, EU rail market will be open for all freight carries, and there is a proposal by the European Commission that international passenger services will be freely provided on the entire EU territory from 2010. A number of EU directives
delineate the path of the reforms and changes that must occur at the Polish rail market. On February 26, 2001, the European Parliament adopted the “Rail directives package” that includes: directive 2000/12/ec of the European parliament and of the Council amending the Council directive 91/440/eeec on the development of the community's railways; Directive 2000/14/ec of February 26, 2001 of the European parliament and of the Council on the allocation of railway infrastructure capacity and levying of charges for the use of railway infrastructure and safety certification. On 29 April the 2nd railway package was adopted by the European parliament and the Council1. The proposals for the 3rd railway package are being currently discussed. Poland needs to continue intensive reforms to be ready for these changes.

Significant reformatory activities related to Poland’s rail system have already been undertaken. Two important steps have been completed in the period 2003-2005: a) the Government of Poland accepted in December of 2003, “A Program for further restructuring and privatization of the PKP Group joint stock companies”, b) the above program was amended in February 2005 by accepting by the Council of the Ministers “A strategy for restructuring and privatization of the PKP Group”

Until the year 2000, Poland’s rail system operated as a natural monopoly with strict supervision and dependence on centralized government agencies, involving high levels of political and military influence. Consequently, the comprehension of the concept of liberalization of the EU rail market among Poland’s transportation interests is limited. Currently in Poland, there are neither open rail market culture, nor sufficiently capable institutions or staff that may be able to carry out the reforms in accordance with EU policies and strategies. As a result, Poland being the second major EU country in terms of rail freight cargo volumes requires special attention and assistance in rail market reform process. One of the most important and critically needed activities is to disseminate information on such issues as: EU rail market reforms, the scope of related EU directives, and the way that the reformed and liberalized market will operate.

The experiences of the recent years have proven that Poland’s rail system reforms are more time consuming than previously assumed. To meet its obligations in the area of opening rail market, Poland’s government, and in particular The Office of Rail Transportation will have to intensify their regulatory and supervision activities. This must involve significant additional regulatory work, administrative and legal institutions building, increasing staff capacities, and developing more efficient operations procedures.

In the past, EU has initiated some very needed assistance programs that provided a basis for future reforms of Poland’s rail system (see also subsection 3.2). These initial assistance efforts indicated that the continuation of support for Poland’s rail reforms is absolutely necessary. In light of opening rail market and developing a new ownership structure of rail transportation in this country, the further strengthening of the Office of Rail Transportation as a specialized government agency responsible for rail market liberalization is a key requirement. This may be accomplished by

addressing a number of the UTK spheres of activities in that regulatory, organizational, staff capacity and institution building. The Office of Rail Transportation (UTK) must become a strong, well-organized and efficient agency regulating the open rail market. In particular, UTK capacities will have to be further strengthened in such areas as: TAC tariff imposing and monitoring, equal rail facility access enforcing, safety, interoperability, and regulatory measures. A number of previous studies and assistance programs as well as EU and EC DG TREN missions to Poland also indicated that administrative capacities in the rail sector need to be further strengthened. They indicated that this should involve: a) development of staff qualifications through continued training, b) better familiarization with EU experiences in opening (liberalizing) rail market, c) hands-on assistance in the period of creating the open rail market with utilization of EU best practices.

Based on the recent experiences, it has been concluded that:

1. UTK must be more active in initiating and implementing actions to create an open rail market as specified by the EU directives. To achieve that UTK needs further strengthening as Poland’s rail market regulating agency
2. Significant and intense reformatory actions must be completed in the coming years to insure that the objectives of the European rail system changes will be accomplished in Poland as scheduled.
3. The Office of Rail Transportation should be active in identifying needs for additional necessary legislative and institutional changes and reformatory measures that must be immediately implemented to meet the deadlines for market opening specified in the EU directives.
4. Significant information and educational efforts are necessary to increase understanding of the path of the EU rail market reforms among all groups of constituencies and stakeholders. The UTK should play an active role in these efforts.

It is therefore, critically important that UTK and Poland’s government have a possibility for utilizing the continued support of EU experts in designing and implementing rail market reforms in the coming years. Further EU institution building support will help Poland in meeting the objectives of an open rail market.

3.2. Linked activities:

This program constitutes a necessary continuation of the Phare project 2002/000-196.01.02, titled: Implementation of EU legislation in the field of civil aviation and railway sector. Within the railway section of this project several issues related to rail market reforms have been analysed and methodology for their resolution and implementation have been proposed. A thorough assessment of Poland’s TAC (track access charges) system has been conducted and proposals for its improvements have been developed. During training sessions and seminars, a vast body of knowledge on EU rail system and market liberalization and regulation has been transferred to various Poland’s stakeholders. Methodologies for establishing a modern organizational framework for the Office for Rail Transport (UTK) as a specialized government agency for rail market regulator have been addressed. There is a need for expanding these
activities based on the preliminary review made in this project to develop and implement the final organization scheme.

The above will constitute a basis for creating a complete organizational scheme for insuring a non-discriminating access to rail infrastructure, ensure full separation of rail infrastructure management from the operations (passenger and freight), and the development of the competitive environment in rail transportation.

The Phare 2002/000-196.01.02 project led to a conclusion that additional assistance for Poland in liberalization of rail market in particular to the Office of Rail Transportation is absolutely necessary. This project is designed to provide such assistance, and further and implement the proposals and methodologies proposed in the Phare project 2002/000-196.01.02

The Phare program has also intended to launch an advisory project 2002/000-580.01.10 Polish Railways Restructuring Program. This project was designed to assist PKP (Polish State Railroads) in the restructuring process including financial, employment, and organization restructuring, and assist the Government of Poland in preparing for rail market liberalization. Unfortunately, this project has not materialized. As a result a number of issues that should have been addressed in the process of reforming Poland’s rail market still require analyses and developing effective solutions. The government may consider addressing some of the issues that were supposed to be addressed by the Polish Railways Restructuring Program within other technical assistance projects.

3.3. Results:

1) A document identifying needs for additional changes in law and regulations to implement EU rail market reforms directives in Poland, proposing the scope of these changes in a form of draft amendments will be developed. This concerns regulations related to UTK objectives as an open rail market regulator.

2) The development of all necessary measures and assessment of the effectiveness of the implementation of a new system of TAC (track access charges) based on the methodologies and recommendations developed with the technical assistance program Phare project 2002/000-196.01.02. A report summarizing the implementation measures and the effectiveness of the system, including needs and proposals of necessary amendments will be developed.

3) A document presenting review methodologies for evaluating EU funded rail infrastructure investments by UTK to insure their adherence to EU interoperability and safety standards will be developed and implemented.

4) A detailed plan for interoperability implementation for the period until the year 2013 (the end of the next EU budget period) will be prepared.

5) Poland’s rail transportation safety manuals will be reviewed and assessed on how they adhere to the EC safety and interoperability standards. A summary report will be delivered including recommendations and action proposals.

6) A modern system of certifying and registering rail vehicles by UTK providing for equal treatment of all rail operators in Poland and insuring full adherence to all EU safety and interoperability standards will be implemented. A system of registering
drivers’ licenses will be also developed. Deliverables will include: manuals, definition of certification and registering procedures, description of organization schemes and staff requirements, and an implementation plan.

7) A report assessing the organization scheme and procedures, implementation measures for regulating rail market under open and competitive conditions by UTK will be prepared. The report will summarize all the previous activities and provide recommendations for further system updates. In particular, it will address the scope of activities that will be carried out, and identification of the functions to be performed by UTK and the Ministry of Infrastructure in regulating the rail market.

8) Training programs (including sessions and study tours) and publications on EU policies, directives and other regulations related to liberalization of rail market will be delivered.

3.4. Activities:

General

This technical assistance program will involve three major types of activities: analytical activities, design of systems and instruments based on the best EC and world practices in managing rail markets, and training activities.

Analytical activities will be directed to evaluate the status quo in Poland’s achieving the objectives of EU rail market reforms and will lead to the assessment of needs for additional actions to insure timely and efficient implementation of EU directives. These activities will constitute an initial step necessary to achieve the results described in subsection 3.3 items 1 through 8. Analyses will focus on establishing how Poland progressed in rail market reforms, identifying shortcomings, providing comparison to solutions applied by other EU countries, and developing a basis for design activities.

Designing of systems and instruments will involve preparing based on the results of analytical activities proposals for practical solutions in the areas described in section 3.3 items 1 through 7. The designing procedure will involve preparing draft proposals, addressing them with the beneficiaries, and developing implementation-ready solutions. The design work will also involve preparing implementation schedules coordinated with timetable for implementing relevant EU directives.

Training activities will involve seminars, workshops and study tours.

Description of Activities

The following is a description of activities leading to achieving the results described in subsection 3.3.

The project will be delivered by means of Twinning and Technical Assistance.
Activity 1 (Twinning): A proposal for necessary additional changes in Poland’s law and regulations to implement EC rail market reforms as defined in related directives and policies and in particular in the 2nd railway package.

a) A review of the current status of regulations and their consistency with EC directives will be completed. This will be an update of the previous reviews reflecting changes that have recently occurred in Poland’s rail reforms and consider the newest EU regulations.
b) Identification of necessary additional regulations will be conducted
c) Drafts of appropriate amendments will be completed and submitted for consultations with the beneficiaries.
d) A summary of the proposed amendments will be presented in a form of a concise document.

This activity will be focused on regulations directly related to the functions and objectives of UTK in regulating the open rail market in Poland.

Activity 2 (Twinning): Implementation of TAC (track access charges) system

a) This will involve development of the necessary measures and instruments, and hands-on assistance in the process of implementation of the TAC system to UTK and the Ministry of Infrastructure provided by RTA.
b) Upon the completion of the above task, the RTA will evaluate the effectiveness of the new TAC system and related procedures, and propose, if necessary further improvements in the system and UTK procedures.
c) The RTA will also assess other options for improving and making TAC more competitive. One of these optionsshould include an independent evaluation of the rail network and addressing possibilities for further reducing network costs hence lowering TAC.

Particular attention will be given in this activity to insuring the implementation of the TAC system elements based on the methodologies and proposals developed in the previous technical assistance projects (particularly Phare project 2002/000-196.01.02)

Activity 3 (TA): Evaluation of adherence of EU supported rail infrastructure projects (mainly in Trans-European corridors) to interoperability and safety standards

a) Identification and a review of methodologies for insuring that EU funded rail infrastructure investments fully adhere to interoperability and safety standards used by other countries (a minimum of three) will be completed. The methodologies and procedures used by other EU countries will be identified.
b) An assessment of Poland’s experiences in this area will be conducted.
c) A methodology proposal for insuring rail projects adherence to interoperability and safety rules will be developed in a form of a procedure document ready for immediate implementation by UTK and the Ministry of Infrastructure. This document will specify how UTK will participate in assessing these projects to accomplish its statutory objectives.
Activity 4 (TA): Development of a detailed plan for interoperability implementation for the period until the year 2013.

a) Poland’s current planning activities for insuring interoperability will be identified and compared to similar actions in other EU countries.
b) A consistent plan for interoperability assurance in the rail transportation will be developed. The plan will identify actions, implementation schedules, and funds assignments.

The recommendations presented in this activity will reflect the current TSI status, and the development of other relevant EC actions with reference to interoperability regulations implementation. The plan will focus on UTK role in assuring interoperability regulations implementation.

Activity 5 (TA): A Review of Poland’s rail transportation safety manuals.

a) The existing Poland’s rail transportation safety manuals and regulations will be provided by UTK (in English) and reviewed by the consultant.
b) The relevance of these manuals and regulations, and their consistency with EC safety and interoperability standards will be evaluated.

The assessment conducted within this activity will take under consideration the current status of developing EU safety standards.

Activity 6 (TA): Creation of a modern system of registering and providing safety certification for rail (freight and passenger) vehicles and registration of drivers’ licenses by UTK.

a) The current systems of certifying and registering rail cars managed by PKP Cargo SA and PKP Przewozy Regionalne (PKP Regional Services EWAG system) will be reviewed, and its advantages and disadvantages will be identified.
b) The scope, procedures, and other key elements of similar systems in other EU countries will be assessed. This will concern a minimum of three countries, preferably the Great Britain, France and Spain.
c) A cost – benefit analysis of transferring the system from PKP Cargo S.A. and PKP Przewozy Regionalne to UTK will be completed in terms of costs, staff requirements, and organization.
d) The UTK rail car certifying and registering system will be defined and appropriate procedures, organization schemes and staff requirements, and implementation measures will be proposed.
e) In anticipation of approving an appropriate EU directive, the consultant will develop a draft of rules and procedures for a modern system of registering drivers’ licenses and providing specialized training for the drivers (including utilization of local and international training facilities).

Activity 7 (TA): Evaluation of an organization scheme and procedures for regulating Poland’s rail market under open and competitive conditions.
This activity will be completed in two phases. Prior to initiating any activities in this project, the consultant will assess the roles that UTK and the Ministry of Infrastructure play in conducting rail reforms in Poland (hereinafter: Preliminary Activity), and regulating the open rail market according to EU directives. The consultant will provide appropriate recommendations specific to Poland’s situation, based on the experiences and comparison to other major EU countries. Based on this assessment the consultant will provide a detailed action plan with identification of individual measures, actions to be taken by UTK and the Ministry to insure the implementation of EU directives and regulate the open rail market.

The second phase will involve:

a) A review of implemented regulations and organization schemes, and their effectiveness for the open Poland’s rail market will be completed.

b) Development of drafts and necessary updates and amendments to the rules and regulations.

A consistent document summarizing the current and proposed procedures, and mutual responsibilities of subjects involved in regulating the open rail market (UTK and the Ministry of Infrastructure) will be prepared and distributed to stakeholders. This will take under consideration the findings from all other activities in this project, and proposals developed in relevant earlier technical assistance projects (especially Phare project 2002/000-196.01.02).

Activity 8 (TA): Training

Training activities will be conducted in a form of seminars and workshops, and study tours. One seminar (including training provided by an advisor/consultant) and one workshop (including discussion and case approach activities) will be organized to accomplish each of results described in subsection 3.3 items 1 through 7, for the total of 8 seminars and workshops. The training for trainers approach will be implemented. The beneficiary will insure that individuals from various regions of Poland, representing various stakeholders will participate in these events. The objective for the participants will be to disseminate the acquired information to their constituencies. It is expected that a minimum of 30 individuals will participate in each seminar and workshop, for the total of about 250 individuals in all training activities. Taking under consideration the training for trainers approach, about 800 to 1000 individuals should be familiarized will the issues addressed in this project.

One study tour for selected 15 individuals to EU countries will be conducted to familiarize them with current solutions in the areas addressed in this project. Preferably, the tour will involve visits to the Great Britain, Germany, and Spain.

The beneficiary will evaluate the effectiveness of training activities using post training evaluation measures such as tests and surveys.

The above activities will build on and expand findings and proposals resulting from the previous consultancies and technical assistance projects, with special attention on insuring practical implementation of the proposed methodologies and actions.
Especially, this project will provide assistance in effective and timely implementing of the proposals and methodologies developed within the Phare project 2002/000-196.01.02, titled: *Implementation of EU legislation in the field of civil aviation and railway sector 2002.* The need for such assistance has been identified in progress reports and in the conclusions developed by the Steering Committee for project 2002/000-196.01.02.

The objective of this program is to be current and responsive to UTK needs in regulating the open rail market in Poland as possible. It is therefore perceived that some additional detailed tasks may be added to the above described activities if appropriate EC regulations are implemented (or will be near implementation). If that is the case, the proposed eight activities will be amended in the Terms of References. This may for example involve consideration of necessary actions resulting from the proposed third railway package.

**Project organization, consultants’/advisers’ requirements and other inputs**

To achieve the objectives of this project the consultant/adviser will have to refer to experiences of various EC countries, and be capable of assessing and identify specific issues related the implementation of rail reforms in Poland. This project will constitute a necessary continuation and extension of the previous technical assistance programs (in particular Phare project 2002/000-196.01.02).

This project is designed to provide specific highly technical assistance to The Office of Rail Transportation and the Ministry of Infrastructure in reforming, liberalizing, and opening Poland’s rail market according to EU directives and policies. It is therefore critical that a highly specialized team of experts is acquired to conduct the program. In light of the above the project will have to be carried out by foreign and local experts to insure its effectiveness and practical impact. The completed technical assistance programs (in particular Phare project 2002/000-196.01.02) proved to be very effective measures for developing necessary measures and providing assistance to UTK.

**Contract 1 – Twinning**, will encompass Activity 1 and 2. This contract will be carried out by an RTA during eight months at the beginning of the project (months 1 through 8). The RTA will have excellent knowledge of EU rail directives and regulations, extensive experience in designing reforms of major rail EU rail systems (regulatory), and Poland’s rail regulatory principles. The RTA will also have complete understanding of Poland’s TAC reforms, TAC regulatory regimes, and their role in the country’s entire rail reforms package. To accomplish these activities the RTA will have good understanding of Poland’s legal system and an economic reforms path in particular public finance reforms. The RTA will have a minimum ten years of experience in rail reforms, comparative knowledge of various reforms solutions, and excellent understanding of Poland’s rail reforms. Capacity for communicating in Polish will be a significant plus. The RTA will be supported by at least one short-term specialist for the total of up to four to five man-months.

**Contract 2** will be carried out as a technical assistance project. Contract duration: 16 months. The EC regulations for consultant selection will be applied. The consulting
team should be composed of long and short-term specialists. It is estimated that, as a minimum the following lead long-term experts will be needed: EU rail market regulation specialist, TAC specialist, interoperability specialist, rail safety specialist, rail car registration and safety certification systems specialist, economic and financial specialists, transportation organization experts, IT specialist, and training program specialist. The long-term experts will be expected to conduct their activities to a large extent) in Poland. They will be supported by short term foreign and local experts. Due to significant Poland’s specific components of the projects the involvement of local experts is absolutely necessary to achieve the objectives of this project. The support of local experts will be needed principally in the following areas: Poland’s rail reforms, economic and financial assessment, legal and regulatory matters, rail infrastructure programs assessment, development of organizational schemes to be implemented in the specific Poland’s legal and regulatory environments. The project will also require that both international and local experts are experienced in data collecting and developing cooperative relations with government and rail officials. The experience of the previous technical assistance projects indicates that the participation of local experts familiar with the details of Poland’s data and information systems is necessary to conduct valuable analyses and assessments, and develop practical solutions.

The experts with significant knowledge and experience applicable to conducting rail market reforms in Poland will be sought. They should have both Poland’s or Poland-like reforms experience and understanding of restructuring rail systems. The experts should be fluent in English. Due to significant country specific activities and needs for interacting with nationals, special effort should be made for acquiring experts who have working knowledge of Polish. If the availability of such international experts is limited, appropriate local experts should be engaged. The long term international experts listed above will have: minimum ten years of experience in their respective fields with experience in various rail systems. Appropriate education background will be required. They will be expected to have experience and knowledge of reforming rail systems (with special interest in experts with experience on reforms of post-communist countries rail systems). Local experts will have to meet educational and experience requirements in rail transportation in Poland, and preferably in other countries, and have experience in working with government and rail officials in Poland, be familiar with data and information sources, and have good data collection and analytical skills.

The beneficiaries will, as an input to activities conducted in this project, will provide the selected consultant with summaries of findings of the previous projects, and provide access to all other materials that they posses, relevant to this project.

3.5 Lessons learned

According to the conclusions and the initial findings of the Phare program 2002/000-196.01.02 Implementation of EU legislation in the field of civil aviation and railway sector it is necessary to continue and extend to additional areas technical assistance for UTK.

The lessons learned from this project are:
• To be able to liberalize and appropriately regulate its rail market Poland needs to have a well-organized and strong rail market regulator (The Office of Rail Transport)
• The competences and the scope of responsibilities of the regulator must be transparent, clearly defined, and consistent with the responsibilities of other government agencies.
• There are needs for further changes in Poland’s regulations regarding rail transportation to reflect the EC directives and developing organization schemes to insure that all the players act according to these regulations.
• The competence level and skills of the regulator staff require further enhancing. The Office of Rail Transport must have sufficient internal staff, and also capacity to outsource some of market regulation related activities.
• There is a need of developing a consistent rail transportation policy and reform strategy that would confirm needs for provision of necessary public funds for infrastructure maintenance and upgrade, and rail passenger public service obligations.
• In relation to the preceding bullet, there is a need to implement an effective TAC system. Without sufficient public funding for infrastructure maintenance and a new TAC system, Poland’s rail transportation will not be competitive with road transportation.
• There is a need for developing effective schemes for cooperation and coordination of all players and stakeholders of the liberalized market.
• There are significant needs for enhancing the Office of Rail Transportation technical and safety, and licensing functions.

Poland is in a forefront of rail market liberalization activities in Europe. No feasibility studies relevant to this project have been identified in other EC countries. In the course of the Phare 2002/000-196.01.02 Implementation of EU legislation in the field of civil aviation and railway sector project however, various experiences in the rail market regulation procedures were observed in several countries. The major lesson learned from these study visits is that these procedures must be adjusted to Poland’s legal and regulatory environment, and economic system (mainly public finance system). There are no organizational schemes or market regulating procedures that may be directly without adjustment transferred from EC countries to Poland.

In addition to the above project, there were no specific feasibility studies addressing issues related to rail market liberalization and regulation. There were, however, various related activities initiated by UTK in relation to this project. A number of lessons were learned from international seminars and internal audits, and strategic brain storming sessions at UTK. Major conclusions confirm needs for further assistance in the following areas: development of a system for evaluating rail infrastructure projects as to their interoperability and safety standards, development of interoperability implementation measures, developing a modern system of registering and providing safety certification for rail vehicles and registration of drivers’ licenses, developing rail market regulating procedures.
Poland has recently updated its rail restructuring and privatisation strategies. The need for ensuring sufficient public funds to support rail transportation system has been confirmed in this document. It also reflects needs for opening rail market. The major lesson learned from the implementation of restructuring and privatisation steps in the recent years is that this is a long term process, and many of the current difficulties will not be resolved in a short time. The strengthening of the rail market regulator may constitute an important key long-term element in ensuring effectiveness of these reforms.

In the recent years, the EU missions and various professional conferences led to a conclusion that because of a strategic location, and the size of Poland’s rail network and traffic volumes, the importance of providing assistance in reforming its rail market has regional and continental importance. Lack of sufficient progress in these reforms may significantly impede the overall EU rail system reforms. This is another lesson learned and an argument for providing further assistance to the Office of Rail Regulator.

All of the above lessons learned have been considered and included in the design of this program. The program activities described in section 3.4 directly refer to the lessons learned. The program has been constructed such that all the conclusions presented in preceding paragraphs of this section will be addressed.

4. Institutional Framework

4.1. Beneficiary

The Office of Rail Transportation (In Polish: UTK), and the Ministry of Infrastructure will be the main beneficiaries of the project.

A large spectrum of government officials (mainly UTK and the Ministry of Infrastructure) will participate in program activities including a training component. This will increase their capacities by familiarization with EU experiences and developing personal skills and knowledge to perform rail market monitoring and regulation functions. These actions are necessary to insure timely implementation of the liberalization of the rail market in Poland and efficient functioning of the open rail market.

5. Budget

Detailed Budget (M€)

<table>
<thead>
<tr>
<th>€M</th>
<th>Transition Facility support</th>
<th>Co-financing</th>
<th>Total cost (TF plus co-financing)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Investment Support</td>
<td>Institution Building</td>
<td>Total Transition Facility</td>
</tr>
</tbody>
</table>

Expanding the administrative capacity to implement EU rail market regulations
Expanding the administrative capacity to implement EU rail market regulations

<table>
<thead>
<tr>
<th>Contract 1 – Twinning</th>
<th>(=I+IB)</th>
<th>project</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0,5</td>
<td>0,03</td>
</tr>
<tr>
<td>Contract 2 - TA</td>
<td>1,7</td>
<td>0,17</td>
</tr>
<tr>
<td>Total</td>
<td>2,2</td>
<td>0,2</td>
</tr>
</tbody>
</table>

(*) contributions from National, Regional, Local, Municipal authorities, FIs loans to public entities, funds from public enterprises
(**) private funds, FIs loans to private entities

The amount for co-financing for Contract 1 is entirely parallel co-financing. All costs for study visits outside Poland as part of the Twinning will be borne by the beneficiary country.

Contract 2 is jointly co-financed.

In the case of Joint Co-financing, where the final overall cost is lower than foreseen in the project fiche, the National Public and Transition Facility Co-financing are reduced proportionally so as to maintain the agreed rate of co-financing. In the case of Parallel Co-financing, where the final cost is lower than foreseen in the project fiche, it must be shown that the overall objectives of the project have been fully achieved.

6. Implementation Arrangements

6.1 Implementing Agency

PAO: Mr. Tadeusz Kozek, Under-secretary of State, Office of the Committee for European Integration, Aleje Ujazdowskie 9, 00-918 Warsaw, phone number: +48 22 455 52 41, fax number: +48 22 455 52 43.

CFCU will be the Implementing Agency:

Director, Co-operation Fund, Central Financing and Contracting Unit, ul. Górnośląska 4a, 00-444 Warsaw, phone number: +48 22 622 84 64, fax number: +48 22 622 75 65.

CFCU will be responsible for handling tendering, contracting and payments of contracts. During the preparation of TORs and contracts it will be assisted by beneficiaries.

In order to support CFCU, a task force will be established to efficiently carry out implementation works and co-ordinate them. Its task will be to prepare TOR (terms of reference) and to co-operate with CFCU on carrying out contracts.

6.2 Twinning
One Resident Twinning Adviser (RTA) (8 month-long stay in Poland plus at least one short term expert for up to four months in Poland), Project Office will be located in the Office of Rail Transportation, Warsaw, Poland., Project beneficiaries: Office of Rail Transportation, Ministry of Infrastructure, Contact person: Waldemar Fabirkiewicz, Vice-President, Office of Rail Transportation, ul. Chałubińskiego 4, 00-928 Warszawa, tel. +48 22 628 86 81

6.3 Non-standard aspects
N/A.

6.4 Contracts
Contract 1 – Twinning 500 000€ + 30 000€ Polish co-financing
Contract 2 – TA – 1,700,000€ (gross value) + 170,000€ Polish co-financing

Total project value: 2,400,000€

7. Implementation schedule
7.1. Start of tendering: I quarter 2006
7.2. Start of project activity: II quarter 2006
7.3. Project completion III quarter 2007

8. Sustainability

The following factors should confirm the sustainability of the proposed project:

a) The beneficiary has adequate staff to conduct and support the program
b) UTK has developed during the previous assistance programs efficient forms of cooperation with consultants
c) The needs for continued support in rail sector restructuring and implementing EU rail directives are clearly defined and appreciated by the UTK officials and staff
d) Lack of progress in improving the UTK activities and capacities along the EU rail directives may negatively impact transportation reforms in Poland. Because of that, the government officials fully support the actions leading to improvements in performing regulatory and other functions by UTK.
e) The government is fully committed to implementation of rail directives; however it is also well aware of its shortcomings and lack of sufficient experience in reforming rail transportation. Because of that the government will provide necessary resources and support the program to achieve the expected results.
f) The liberalization of rail market constitutes an important element of the government rail restructuring programs.

9. Conditionality and sequencing

The following are critical elements, conditions and sequence of activities:

a) Preparation of Terms of Reference
b) Signing the contract
c) Implementing program elements
d) Change assessment

e) Definition and scheduling for further actions.

The program will be conducted in an orderly fashion as an element of a long-term reforming process. For that purpose, verification and evaluation of program impact will be conducted and will constitute an important element of this program.

This program will be a continuation, logical outcome and a sequel of the components of the program CRIS number: 2002/000-196.01.02, titled: Implementation of EU legislation in the field of civil aviation and railway sector. The successful completion of this program is therefore a prerequisite for accomplishing the objectives of this program. The 2002/000-196.01.02 program will be fully completed in June 2005. It will lay a basis for creating a framework for UTK activities. This project will serve as a vehicle for providing assistance and practical solutions in practical implementation of the methodologies and solutions proposed in technical assistance project Phare 2002/000-196.01.02.

In addition, there are a number of specific issues that must be resolved prior to establishing an open rail market in Poland. If these activities are not properly addressed, there is a high probability that there may be serious delays in Poland’s implementation of EU rail directives resulting from lack of necessary know-how and administrative culture in organizing and managing open and competitive rail market.

This scope of the program presented in this project fiche, responds to the current needs for assistance and is consistent with preliminary conclusions presented by the consultant and the Steering Committee in the 2002/000-196.01.02 project.
## Annex 1: Logframe matrix

### LOGFRAME PLANNING MATRIX FOR

<table>
<thead>
<tr>
<th>Overall objective</th>
<th>Objectively Verifiable Indicators</th>
<th>Sources of Verification</th>
</tr>
</thead>
<tbody>
<tr>
<td>EStrengthen and expand administrative capacities and skills of Poland to implement necessary regulatory and economic measures to reform its rail market according to EC directives and policies, and subsequently regulate this market Ensure.</td>
<td>Development and implementation of legislation, institutional arrangements necessary for opening of the rail market. Completion of necessary steps leading to the establishment of an efficient system of managing the open rail market.</td>
<td>An assessment report by the European Commission of Poland’s rail market opening with particular attention given to the role of UTK. Not later than six months after project completion.</td>
</tr>
<tr>
<td></td>
<td>Increase of the Office of Rail Regulator (UTK) capacities necessary to meet EU deadlines for opening Poland’s rail market, its efficient regulation, and implementation of EU directives on market liberalization, interoperability, safety</td>
<td>A post-project review of the proposed/implemented legislation not later than six months after project completion or legislation introduction.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A post-project assessment of the effectiveness of the proposed activities in rail market regulation to be delivered by the beneficiary to JFK, UKIE and EC, six months after project completion.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>An assessment report by Poland’s government / UTK to be delivered six months after project completion.</td>
</tr>
</tbody>
</table>

### Project purpose (Immediate Objectives)

| Drafts of necessary legislation changes to reflect EC directives and regulations. (by the end of 2006) | A new TAC system by 2nd Q 2007 Rail infrastructure project evaluation system developed (2nd Q 2007) | A post-project assessment of the effectiveness of Poland’s rail market regulation to be delivered by the beneficiary to JFK, UKIE and EC, six months after project completion. |

### Program name and number

<table>
<thead>
<tr>
<th>Project name</th>
<th>Expanding the administrative capacity to implement EU rail market regulations</th>
<th>Contracting period expires IV quarter 2007</th>
<th>Disbursement period expires IV quarter 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total budget</td>
<td>2,400,000 Euro</td>
<td>Transition Facility Budget 2,000,000 Euro</td>
<td></td>
</tr>
</tbody>
</table>

Expanding the administrative capacity to implement EU rail market regulations
Expanding the administrative capacity to implement EU rail market regulations

<table>
<thead>
<tr>
<th>Results</th>
<th>Objectively Verifiable Indicators</th>
<th>Sources of Verification</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) A document identifying needs for additional changes in law and regulations to implement EU rail market reforms directives in Poland, proposing the scope of these changes in a form of draft amendments will be developed.</td>
<td>The document will be produced by the end of 2006</td>
<td>A monitoring report will be delivered by beneficiaries six months after project completion. It will assess the effectiveness of the legislative process.</td>
<td></td>
</tr>
</tbody>
</table>
2) The effectiveness of the implementation of a new system of TAC (track access charges) will be assessed. A report summarizing the effectiveness of the system (including proposed amendments) will be developed.

3) A manual presenting methodology for evaluating EU funded rail infrastructure investments to insure their adherence to EU interoperability and safety standards will be developed and implemented by UTK and the Ministry of Infrastructure.

4) A detailed plan for interoperability implementation for the period until the year 2013 (the end of the next EU budget period) will be prepared.

5) Poland's rail transportation safety manuals will be reviewed and assessed on how they adhere to the EC safety standards. A summary report will be delivered including recommendations and action proposals.

6) A modern system of certifying and registering rail cars by UTK providing for equal treatment of all rail operators in Poland and insuring full adherence to all EU safety standards will be implemented. A system of drivers licenses registration will also be developed (reflecting pending EU regulations). Deliverables will include: manuals, definition of certification and registering procedures, description of organization schemes and staff requirements, and an implementation plan.

7) A report assessing the organization scheme and procedures, implementation measures for regulating rail market under open and competitive conditions by UTK will be prepared. The report will summarize all the previous activities and provide recommendations for further system updates.

8) Training programs (including sessions and study tours) and publications on EU policies, directives and other regulations related to liberalization of rail market will be delivered.
<table>
<thead>
<tr>
<th>Activities</th>
<th>Means</th>
<th>Sources of Verification</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twinning Activity 1: A proposal for necessary additional changes in Poland’s law and regulations to implement EC rail market reforms as defined in related directives and policies (focused on UTK role in market regulation)</td>
<td>- Twinning covenant (one RTA and a short term expert)</td>
<td>An assessment of law consistency with European regulation report by DG TREN will be delivered Q2 2006.</td>
<td></td>
</tr>
<tr>
<td>1. A review of current regulations and their consistency with EC directives will be completed</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Identification of necessary additional regulations will be conducted</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Drafts of appropriate amendments will be completed and submitted for consultations with the beneficiaries.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. A summary of the proposed amendments will be presented in a form of a concise document.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Activity 2: Implementation of TAC (track access charges) system (focused on implementation of methodologies proposed in the previous technical assistance projects)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) Hands-on assistance in the process of implementation of the TAC system to UTK and the Ministry of Infrastructure such as monitoring TAC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) The RTA will evaluate the effectiveness of the new TAC system (to be implemented in 2005) and related procedures, and propose necessary improvements in the system and UTK regulatory procedures.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Activity 3: Evaluation of adherence of EU supported rail infrastructure projects (mainly in Trans-European corridors) to interoperability and safety standards</td>
<td>- TA contract</td>
<td>An assessment of practical implementation of the EU rail project assessment system by the end of the project.</td>
<td></td>
</tr>
<tr>
<td>1) A review of methodologies for insuring that EU funded rail infrastructure investments fully adhere to interoperability and safety standards used by other countries (a minimum of three) will be completed.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) An assessment of Poland’s experiences.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3) A methodology proposal for insuring rail</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Expanding the administrative capacity to implement EU rail market regulations

<table>
<thead>
<tr>
<th>Projects adherence to interoperability and safety rules will be developed in a form of a procedure manual ready for immediate implementation by UTK and the Ministry of Infrastructure.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Activity 4: Development of a detailed plan for interoperability implementation for the period until the year 2013.</strong></td>
</tr>
<tr>
<td>1) Current Poland’s planning activities for insuring interoperability will be identified and compared to similar actions in other EU countries.</td>
</tr>
<tr>
<td>2) A consistent plan for interoperability assurance in the rail transportation will be developed. The plan will identify actions, implementation schedules, and funds assignments.</td>
</tr>
<tr>
<td><strong>Activity 5: Review of Poland’s rail transportation safety manuals.</strong></td>
</tr>
<tr>
<td>1) The existing Poland’s rail transportation safety manuals and regulations will be provided by UTK and reviewed by the consultant.</td>
</tr>
<tr>
<td>2) The relevance of these manuals and regulations, and their consistency with EC safety standards will be evaluated.</td>
</tr>
<tr>
<td><strong>Activity 6: Creation of a modern system of certifying and registering rail cars and registration of drivers licenses by UTK</strong></td>
</tr>
<tr>
<td>1) The current system of certifying and registering rail cars managed by PKP Cargo SA will be reviewed, and its advantages and disadvantages will be identified.</td>
</tr>
<tr>
<td>2) The scope, procedures, and other key elements of similar systems in other EU countries will be assessed. This will concern a minimum of three countries, preferably the Great Britain, France and Spain.</td>
</tr>
<tr>
<td>3) An analysis of a possibility of transferring the system from PKP Cargo S.A. to UTK</td>
</tr>
</tbody>
</table>
will be completed in terms of costs, staff requirements, and organization.

4) The UTK rail car certifying and registering system will be defined and appropriate procedures, organization schemes and staff requirements, and implementation measures will be proposed.

5) The system of registering drivers licenses will be developed with consideration of pending EU regulations.

Activity 7: Evaluation of an organization scheme and procedures for regulating Poland’s rail market under open and competitive conditions.

This activity will be completed in two phases. Prior to initiating any activities in this project, the consultant will assess the roles that UTK and the Ministry of Infrastructure play in conducting rail reforms in Poland (hereinafter: Preliminary Activity), and regulating the open rail market according to EU directives. The consultant will provide appropriate recommendations specific to Poland’s situation, based on the experiences and comparison to other major EU countries. Based on this assessment the consultant will provide a detailed action plan with identification of individual measures, actions to be taken by UTK and the Ministry to insure the implementation of EU directives and regulate the open rail market.

The second phase will involve:

c) A review of implemented regulations and organization schemes, and their effectiveness for the open Poland’s rail market will be completed.

d) Development of drafts and necessary updates and amendments to the rules and regulations.

A consistent document summarizing the current and proposed procedures, and mutual responsibilities of subjects involved in regulating the open rail market (UTK and the Ministry of Infrastructure) will be prepared and distributed to stakeholders. This will take under consideration the findings from all other development and implementation of the rail market management system. Six months after project completion.
activities in this project, and proposals developed in relevant earlier technical assistance projects (especially Phare project 2002/000-196.01.02):

**Activity 8: Training**

Training activities will be conducted in a form of seminars and workshops, and study tours. The training for trainers approach will be implemented. A minimum of 30 individuals will participate in each seminar and workshop, for the total of about 250 individuals in all training activities.

<table>
<thead>
<tr>
<th>Preconditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>A successful completion of project CRIS number: 2002/000-196.01.02, titled: Implementation of EU legislation in the field of civil aviation and railway sector in the rail transportation elements.</td>
</tr>
</tbody>
</table>
Annex 2: Implementation, contracting and disbursement schedule (Transition Facility Funds Only). Date of drafting 28 March 2005

Programme Title: Expanding Poland’s necessary administrative capacities to implement EU regulations regarding rail market
Planning period: February 2005 – March 2005

<table>
<thead>
<tr>
<th>Project</th>
<th>Implementation Schedule (Quarterly)</th>
<th>Cost Estimate (M€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Implementation</td>
<td>D</td>
<td>D</td>
</tr>
<tr>
<td>Contracting</td>
<td>2,2</td>
<td></td>
</tr>
<tr>
<td>Disbursement (total)</td>
<td></td>
<td>0,360</td>
</tr>
<tr>
<td>Disbursement twinning</td>
<td>0,260</td>
<td>0,500</td>
</tr>
<tr>
<td>Disbursement TA</td>
<td>0,100</td>
<td>0,220</td>
</tr>
</tbody>
</table>

Legend: D: design of project / C: tendering and contracting / I: contract implementation and payment