

FINANCING MEMORANDUM

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

on the one part, and

The Government of **Poland**, hereinafter referred to as "**THE RECIPIENT**"

on the other part,

HAVE AGREED AS FOLLOWS:

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

ARTICLE 1 - NATURE AND SUBJECT

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

<u>Programme number</u>	PL0011.
<u>Title</u>	Cross Border Co-operation Programme 2000 Poland-Czech
<u>Duration</u>	Until 30 November 2002.

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of **5.0 MEUR** hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until **30 November 2002** subject to the provisions of this Memorandum. All contracts must be signed by this date. Any balance of funds of the EC GRANT which have not been contracted by this date shall be cancelled. The deadline for disbursement of THE EC GRANT is **30 November 2004**. All disbursements must be completed by the deadline for disbursement. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the disbursement period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall expire at the expiry of the disbursement period of the EC GRANT. All the funds which have not been disbursed shall be returned to the Commission.

ARTICLE 4 - ADDRESSES

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

for the COMMUNITY:

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

for THE RECIPIENT:

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

ARTICLE 5 - NUMBER OF ORIGINALS

This Memorandum is drawn up in duplicate in the English language.

ARTICLE 6 - ENTRY INTO FORCE

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

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

Done at
Date:

Done at
Date:

for THE RECIPIENT
.....

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

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

Annex C
Special Provisions

1. Summary

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

The 2000 programme respects the priorities and measures defined in the Commission Regulation (EC) N° 2760/98 of 18 December 1998. The proposal concentrates on the development of the infrastructure in the border regions and on the support of intensive co-operation between local and regional authorities on both sides of the border, thereby supporting the regional development policies of the Czech Republic and Poland.

The Phare 2000 programming has taken place in the context of the Joint Programming Document and therefore draws on the priorities defined therein.

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

The European Union contribution to the programme of cross border co-operation between the Czech Republic and Poland will be 10,0 M€ out of a total investment of 17.051 M€. This 2000 CBC programme will expire on November 30, 2002 (contracting for Poland) and November 30, 2002 (contracting for the Czech Republic).

2. Strategy

In recognition of the need to reinforce co-operation and stimulate integration of the countries of Central and Eastern Europe with the European Union, the 1994 Community budget included a new budget line (B7-612) allocating 150 M€ for the promotion of cross border co-operation between regions of Central and Eastern European Countries (CEEC) and adjacent regions of EU Member States. Commission Regulation (EC) No. 1628/94 of July 4, 1994, specified the implementation of a programme for such cross border co-operation in the framework of the Phare programme.

Continuation of the Phare CBC programme beyond 1995 through 1999 to coincide with the INTERREG II programme has been supported by the CEEC and by the European Commission, which considers cross border co-operation to be an important aspect of pre-accession strategies for the CEEC. This has been reconfirmed by the new Commission Regulation (EC) N° 2760/98 of December 18, 1998, which extended the cross-border cooperation to border regions between the CEEC and draws some lessons from previous experience with the CBC programmes.

The current programme is the second programme for the Czech-Polish border region prepared under Commission Regulation (EC) N° 2760/98. The Joint-Co-operation Committee (JCC) was formally established on 9 April 1999. The Joint Programming Document (JPD) as referred to under Art.7.2 of Commission Regulation (EC) N° 2760/98 has been prepared for the years 2000 through 2002. The JPD was prepared under the auspices of the JCC to allow the elaboration of common development strategies and priorities for the Czech-Polish border region in its entirety, seen as one single socio-economic and geographical entity, and provisions concerning joint implementation as from the year 2000. This document, in a multi-annual perspective, guides the programming and

implementation of the actions to be undertaken in the framework of the CBC programme and initiatives for cross-border co-operation. It also takes into account the preliminary Regional Development Plan, as prepared within the framework of the SPP programme, which is part of the 1998 national Phare programme for the Czech Republic and Poland.

For the 2000 Czech-Polish CBC programme, the JCC defines a common set of projects, and this financing proposal for the Czech-Polish border, takes into account the JPD and further JCC recommendations for projects.

The 2000 Phare budget provides an allocation of 10 M€ for the support of cross-border cooperation between the Czech Republic and Poland. Out of this total amount of 10 M€, 5 M€ are earmarked for the Czech part and 5 M€ for the Polish part – being jointly the subject of this Financing Proposal. This programme builds on the allocation of 1999 and to some extent upon the 1996 CREDO Programme:

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

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

Equally, the region bordering the Czech Republic is regarded by the Polish Government as a development priority area in the view of its strategic location in the process of integration within the European Union.

A joint study on regional development in the Czech-Polish border region has been carried out in 1997 in close cooperation between the state and relevant regional authorities of both countries. Within the framework of regional economic policy, the Czech government focuses on the financial support of regionally differentiated small- and medium-sized enterprises and on the building of infrastructure in problem regions - often border regions. The Czech government declaration N° 159 of 4th March 1998 recorded agreement that the Ministry for Regional Development is the co-ordinator in the sphere of Economic and Social Cohesion and for the Structural Funds. The Cabinet also agreed on the Principles of Regional Policy, which it considers are fully in accordance with the principles of the EU: to contribute to harmonious and balanced development both according to the requirements of individual regions, while also ensuring economic and social cohesion between regions. Thus, the new regional policy concept is based on principles and approaches common in the European Union - adapted to the conditions in the Czech Republic - and will lay the foundation for the future participation of the Czech Republic in the Structural Funds.

The cross border co-operation programme on both the Polish and Czech sides is compatible with other programmes implemented under the Phare framework. The mutual interface and complementary nature of the CBC programme with the national Phare programme will be enhanced under the 2000 programmes through focusing on institution-building on regional and local levels as well as through supporting regional development policies of the Government in the border regions. The EC's *Opinion* emphasised the need to establish an administrative framework and capacity to ensure effective regional development and the economic and social cohesion of society, highlighting this within the *Accession Partnership* as a process requiring short- and medium-term action. The decentralised approach for the 2000 CBC programmes together with institution-building measures is seen as an important element in support of this process.

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

The preparation of the 2000 programme is in compliance with the priorities of the *Accession Partnerships* and of the *National Programmes for the Adoption of the Acquis (NPAA)* of both countries. The 2000 CBC Programme is based on the following principles:

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

3. Programme Objectives and Description

3.1 Programme Objectives

3.1.1 General Objectives

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

3.1.2 Specific Objectives

More specifically, the objectives of the 2000 Phare Cross Border Co-operation Programme for the Czech Republic and Poland are:

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

3.2 Programme Description

In accordance with the Joint Programming Document, the 2000 programme for Polish-Czech cross-border cooperation identifies three priority areas for measures on both sides of the common border. The following priorities have been selected:

- Transport in an Economic Development context
- Small-scale social actions (people-to-people and institution building)

The preparation process for the 2000 programme, involved an overall review of the economic and social situation in the border regions and a programming workshop with the regional stakeholders, supported these priorities. The programme includes allocations for large infrastructure projects in the above priority areas (transport on both the Czech and on the Polish side) and for a Joint Small Projects Fund. All projects to be supported under the programme will be co-financed from Czech and Polish sources, primarily from resources of the communities in the Czech - Polish border region and of the respective Czech and Polish Governments. The Joint Co-operation Committee (JCC), established on 9th April, 1999, agreed on the programme composition at its meeting in Prague on 26th April, 2000. The criteria for project selection include the cross border impact of projects, methods of project co-financing, and project impact on the environment.

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

The JCC approved the following projects (the projects are summarised in fiche format in annex to this document and a summary table identifying all projects put forward for support during 2000 is also provided).

3.2.1 CZ - Reconstruction of Access Road II/311 to the Border Crossing Orlicke Zahori – Mostowice – CZ0013.01

The project consists of the reconstruction of Road II/311 to the border crossing at Orlicke Zahori - Mostowice. The total length of the road to be constructed is almost 20.191 km long. The Project is intended to solve problems that result from the poor condition of roads leading to the border crossing, which is to be re-opened. Currently the territory of Orlicke hory is experiencing deep economic recession and one potential way of reviving the economy is seen as tourism industry. In order to facilitate this, improved access to the region is essential including roads leading to the border crossing Orlicke Zahori – Mostowice. This will have a positive impact on the entire region and employment rates, as well as resulting in shorter commuting and delivery distances which will also reduce the impact of traffic on the environment.

There is the intention on the Polish side to reconstruct the road from the border crossing Orlicke Zahori - Mostowice to Bystrzyca Klodzka. This project is under preparation and is scheduled to be proposed for Phare CBC support in 2001.

3.2.2 CZ - Upgrading of Road II/476 Trinec - Horni Listna and Road II/468 – CZ0013.02

The project consist of the modernisation of the Road II/476 Trinec - Horni Lisna border crossing to Poland, and the Road II/468 in the Kanska land registration district in Trinec. This project will go some way to improving the transport connections between Poland and the Czech Republic.

Currently, Cesky Tesin town, the major border crossing point between the Czech Republic and Poland in the area, is heavily overloaded and congested with transit traffic which slows movement and causes significant environmental pollution and damage. The Horni Lisna –Leszna Gorna

border crossing to Poland has the capacity to relieve the overloaded crossing in Cesky Tesin, but the current standards of the roads leading to the crossing are unsatisfactory. Upgrading of those roads, i.e. Road II/476 Trinec - Horni Lisna border crossing to Poland, and Road II/468 in the Kanska land registration district in Trinec is of key importance for improving accessibility between the border regions and thus for expanding the cross-border cooperation. The Project is complementary to the Modernisation Programme of Roads leading to border crossings in Cieszyn region (road no. 04149 Leszna Gorna – Dziegieelow; road no. 04148 Dziegieelow – Cisownica) on the Polish side. The Polish Government has submitted this project for support under the Phare CBC programme 2000. In addition, the project is directly related to the Reconstruction of Underpass "Mouse Hole" on the road II/468, Trinec. This project is being carried out within the Phare CBC 1999 Programme (Phare CBC contribution: 2,6 MEUR).

3.2.3 PL - Modernisation of Roads to border crossings in the Cieszyn region – PL0011.01

At the present time parts of the road network in Poland as on the Czech side are in a severe state of disrepair and many of the roads in the area close to the Poland – Czech Republic border are in a poor condition. This frequently leads to congestion, increased travel times to and from the border, increased maintenance costs and is a contributing factor to the high accident rate. This project has been developed to address the priority trouble spots by a series of actions: by-pass construction to relieve congestion; modernisation of street lighting; road and bridge reconstruction.

3.2.4 PL - Construction of the Prudnik town by-pass – PL0011.02

This project is for the construction of the Prudnik town by-pass on the Kłodzko – Gliwice national for a length of 3.5 km. During 1999, the Prudnik – Bartulovice border checkpoint received the status of the full-commodity border checkpoint which has increased traffic flow making a by-pass indispensable. Owing to the dense housing, the number of historic buildings as well as the limited clearance under the local railway viaduct, the transit traffic is proving very destructive. The North Prudnik by-pass together with the modernisation of the railway viaduct over the existing road will be the 1st stage of the development of the transport network in the border hinterland.

3.2.5 Joint Small Projects Fund (JSPF) – CZ0013.03 and PL0011.03

The Joint Small Projects Fund (JSPF) supports the key objectives of the Polish-Czech CBC Programme, namely to help the border regions to overcome specific development problems resulting from their relative isolation in the framework of national economics; the JSPF also supports the establishment and development of co-operative networks on both sides of the border and the creation of linkages between these networks and wider European Union networks. The purpose of the support of these projects is to encourage local involvement and to facilitate the implementation of small-scale actions which may constitute the basis for larger cross-border cooperation projects. Priority will be given to projects that are planned, selected and realised jointly by Czech and Polish partners and supported from both JSPFs on the Czech and on the Polish side. The JSPF aims also at the building and developing of specialist resources for local and regional institutions involved in regional development, groundwork and implementation of cross-border projects in line with EU practice.

The JSPF shall support local and regional development across the border through small-scale activities in the fields mentioned in Article 5.1 a) to n) of the Commission Regulation No. 2760/98 of 18 December 1998. Special attention will be given to measures with a strong cross-border cooperation character which are planned in close cooperation between the regional and local authorities in the border areas and which include the establishment or development of shared management structures intended to widen and deepen cross-border cooperation between public and

para-public agencies as well as non-profit organisations. The specific JSPF objectives in Poland and the Czech Republic are in accordance with regional priorities as developed in the JPD: economic development through business cooperation, enterprise development and cooperation between institutions representing the business sector; development of tourism; improvement of basic technical infrastructures, which have posed significant problems to small municipalities or settlements in the border region; intensification of co-operation between the communities on either side of the border with a view to joint improvement of economic development, living conditions and on-going contact; encourage local involvement in the Phare CBC Programme and to support small-scale actions which may form the basis for larger cross-border co-operation projects; the development of cultural co-operation between neighbouring regions on both sides of the border; cross-border youth activities.

The minimum co-financing contribution of the beneficiary to the project is 25%. As concerns the administrative support for operating JSPF, the Phare contribution may finance indirect (overhead) costs up to 7% of total amount eligible costs as defined in the DIS manual. This financial support is provided to the administrative structures running the JSPF, normally situated in the Euroregions. The minimum Phare contribution per project is 1.000 EUR, the maximum contribution is 300.000 EUR. Within these limits, the regional Steering Committee may establish differing limits (in particular lowering the maximum contribution of Phare, keeping in view the overall amount available, and increase of the beneficiary's own contribution; differing limits may also be established with respect to the kind of projects).

The JSPF will be implemented in accordance with the Commission Regulation 2760/98, the General Guidelines of the Commission for Small Projects Funds, the Phare Guidelines and draw on the Czech Guideline for the SPF, endorsed by the Commission and in similar measure on the Polish Small Project facilities functioning within the context of the PL/D Euroregions since 1995. A Regional Steering Committee will be established for the whole Czech-Polish border region and will be the principle responsible institution for the operation of the JSPF, under the auspices of the relevant Implementing Agencies identified in Section 6. An operational Agreement will be signed between the two Implementing Agencies for the implementation of the JSPF.

Where applicable, an environmental impact assessment according to the EU Environmental Impact Assessment Directive (85/337/EEC as amended by 97/11/EC) will be carried out for all investment projects.

4. Budget

The total financial commitment under the **Phare CBC Programme 2000 Czech Republic - Poland** in support of the Projects described in section 4 above amounts to **10,0 M€**, as follows:

Sub-Programme	Sub-programme number	Investment	IB	Total
Sub-programme CZ	CZ0013	4.64	0.36	5
Sub-programme PL	PL0011	4.56	0.44	5
Total		9.2	0.8	10

List of projects:

Project number	Project Title
Sub-programme CZ00.13	
CZ0013.01	Reconstruction of Access Road II/311 to the Border Crossing Orlicke Zahori – Mostowice
CZ0013.02	Upgrading of Road II/476 Trinec - Horni Listna and Road II/468

CZ0013.03	Joint Small Projects Fund (JSPF)
Sub-programme PL00.11	
PL0011.01	Modernisation of Roads to border crossings in the Cieszyn region
PL0011.02	Construction of the Prudnik town by-pass
PL0011.03	Joint Small Projects Fund (JSPF)
PL0011.04	Monitoring

As indicated above for the small projects 0.920 m€ are allocated to Poland and 1.0 m€ are allocated to the Czech Republic – each side being separately administered by each country.

5. Implementation Arrangements

Czech Republic

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

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

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and the Government of the Czech Republic on 12 October 1998. Funds will be transferred following requests from the NAO. A payment of up to 20% of the funds to be managed locally will be transferred by the EC to the NF following signature of the Financing Memorandum and the Financing Agreement (**FA**) between the NF and the Implementing Agency (**IA**). The provisions foreseen in articles 2 and 13 of the MoU on the NF must also be met. Furthermore, the NAO must submit to the Commission the designation of the PAO and the description of the system put in place, highlighting the flow of information between the NF and the IA and the manner in which the payment function will be carried out.

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

The Ministry for Regional Development in conjunction with its Centre for Regional Development will be the IA for the Programme – i.e. the two Czech investment projects and the Czech part of the JSPF.

The NF will transfer funds to the IA in accordance with the Financing Agreement (**FA**) signed between the NF and the IA. Each individual FA will be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the IA there will be no transfer of funds from the NF to the IA. The IA will be headed by a Programme Authorising Officer (**PAO**)

nominated by the Minister for Regional Development and appointed by the NAO after consultation with the NAC. The PAO will be responsible for all the operations carried out by the IA. A separate bank account, denominated in EUR will be opened and managed by the NF in a separate accounting system in the Central Bank. In principle, all bank accounts will be interest bearing. Interest will be reported to the European Commission. If the Commission so decides, on the basis of a proposal from the NAO, interest may be reinvested in the Programme. The same procedures will apply to any funds transferred to the IA.

The NAO and the PAO will ensure that all contracts are prepared in accordance with the procedures set out in the DIS Manual if not otherwise stated in the Financing Memorandum. The project as described under point 4.2.5 (JSPF-CZ0013.03) will be implemented in accordance with the General Guidelines of the Commission for Small Projects Funds and with the Czech Guidelines for the SPF endorsed by the Commission. The two investment projects will be implemented each through one tender followed by one contract with the selected contractor or consortium.

Taking into account the characteristics of the small-scale infrastructure projects and their cofinancing nature, the tendering and contracting of the works for these projects as described under point 4.2.5 will be carried out by the recipient in accordance with the Czech Procurement Law together with the following additional conditions which must be observed:

- All contracts of an expected total value exceeding 50.000 EUR must be awarded following an open tendering procedure;
- Every such open tender will be announced in the local press, including a publication in a European Union language newspaper issued in the Czech Republic;
- The Phare Programme rules of eligibility and origin must be complied with which means that companies must be registered in an European Union Member State or a Phare beneficiary country, and all goods supplied must have a certificate of origin to state that the goods were manufactured in an European Union Member State or a Phare beneficiary country.

All funds must be contracted by 30 November 2002. All disbursements must be made by 30 November 2004. Any funds not used by the expiry date of the programme will be recovered by the Commission.

The final deadline for signature of contracts is 30 November 2002. However, in order to ensure that projects are implemented as quickly as possible, all tender dossiers (or, where applicable, requests for services or contract dossiers) must be submitted to the Commission within 6 months of signature of the FM. Specifications will be reviewed by independent experts within the framework of twinning, where possible and appropriate. Any project for which the relevant documents are not submitted within the deadline specified will be cancelled and the money made available for reallocation. If funds are reallocated to a new project, the tender dossier (or other documents as applicable) must be submitted to the Commission within 3 months of the re-allocation decision or by 31 May 2002, whichever is the earlier. The legal duration of all projects will expire by 30 November 2004. Any funds not used by the expiry date of the programme will be recovered by the Commission.

For those contracts with funds retained for a warranty period extending beyond the end of the disbursement period of the programme, the overall total of funds related to those contracts, as calculated by the PAO and established by the Commission, will be paid to the Implementing Agency before the official closure of the programme. The Implementing Agency assumes full responsibility of depositing the funds until final payment is due and for ensuring that said funds will only be used to make payments related to the retention clauses. The Implementing Agency further assumes full responsibility towards the contractors for fulfilling the obligations related to

the retention clauses. Interests accrued on the funds deposited will be paid to the Commission after final payment to the contractors. Funds not paid out to the contractors after final payments have been settled shall be reimbursed to the Commission. An overview of the use of funds deposited on warranty accounts - and notably of the payments made out of them - and of interests accrued will annually be provided by the NAO to the Commission.

Poland

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

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

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

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

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

The National Fund will transfer funds to Implementing Agencies (IA) in accordance with Financing Agreements (FAs) signed between the NFs and the IA where applicable. Each individual FA will be endorsed in advance by the European Commission. The IA is to be

headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation with the NAC. The PAO will be responsible for all the operations carried out by the IA.

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

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

All funds must be contracted by 30 November 2002. All disbursements must be made by 30 November 2004. All projects must be greater than 2 million EUR unless otherwise agreed by the Commission.

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

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

6. Monitoring and Assessment

A Joint Co-operation Committee (**JCC**) has been established in accordance with the Commission Regulation No. 2760/98 of December 18, 1998. It includes representatives of the Czech Government (i.a. the Czech Co-Chairman of the JCC, the NAO, the NAC, and regional representatives), representatives of the Polish Government (i.a. the Polish Co-Chairman of the JCC, the NAO, the NAC, and regional representatives), and the Commission. The JCC will meet at least once a year to review all Czech-Polish CBC programmes in order to assess their progress towards meeting the objectives set out in Financing Memoranda and the Accession Partnership. The JCC may recommend a change of priorities and/or the re-allocation of Phare funds.

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

7. Audit, Monitoring and Evaluation

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

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

8. Visibility/Publicity

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

9. Special Conditions

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