

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>	PL0010.
<u>Title</u>	Cross Border Co-operation Programme 2000 Poland-Slovak Republic
<u>Duration</u>	Until 31st December 2002.

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of **4.0 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 **31st December 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 **31st December 2003**. 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 3 Visibility/Publicity Annex

Annex 2 - Special Provisions (Annex C)

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 Zilina and Presov in the Slovak Republic and in specified areas within the border regions of the Voivodships of Podkarpackie, Małopolskie and Silesia in Poland. The Euroregions: Tatry, Carpathian, Beskidy are associated with the programme. 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 Slovak 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 Slovak 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.

In the Slovak Republic, the CBC Unit at the Department of Foreign Assistance, Office of the Government, is the designated Implementing Authority. The CFCU will be the Implementing Agency. 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 responsibility of a Director. The final responsibility of the programme lies with the PAO.

The European Union contribution to the programme of cross border co-operation between the Slovak Republic and Poland will be 8,0 M€ out of a total investment over 11 million Euro. This 2000 CBC programme will expire on December 31, 2002 (contracting period).

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 first programme for the Slovak-Polish border region prepared under Commission Regulation (EC) N° 2760/98. The Joint-Co-operation Committee (JCC) was formally

established on 16 February 2000. The Joint Programming Document (JPD) as referred to under Art.7.2 of Commission Regulation (EC) N° 2760/98 has been prepared for the year 2000 exercise. The JPD was prepared under the auspices of the JCC to allow the elaboration of common development strategies and priorities for the Slovak-Polish border region in its entirety, seen as one single socio-economic and geographical entity, and provisions concerning joint implementation as from the year 2000. This document, in a multi-annual perspective, guides the programming and implementation of the actions to be undertaken in the framework of the CBC programme and initiatives for cross-border co-operation.

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

The 2000 Phare budget provides an allocation of 8 M€ for the support of cross-border cooperation between the Slovak Republic and Poland. Out of this total amount of 8 M€, 4 M€ are earmarked for the Slovak part and 4 M€ for the Polish part – being jointly the subject of this Financing Proposal. This programme builds to some extent upon the 1996 Credo Programme and covers:

- Large scale projects which consolidate and build further cross-border transport links;
- Small-scale activities helping to create the conditions for future large-scale activities issues and activities in the fields of environment and transport, economic development, urban development, socio-cultural cooperation, human resources, public services and local democracy;

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

Within the framework of regional economic policy, the Slovak government focuses on the financial support of regionally differentiated small- and medium-sized enterprises and on the building of infrastructure in problem regions - often border regions.

The cross border co-operation programme on both the Polish and Slovak sides is compatible with other programmes implemented under the Phare framework. The mutual interface and complementary nature of the CBC programme with the national Phare programme will be enhanced under the 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.

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

The preparation of the 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 sectoral development ;
- consistency and complementarity with other internationally aided programmes, in particular, the EU Phare Programme;
- assistance to the Slovak and Polish border regions to move toward participation and co-operation on joint programmes with the neighbouring partner countries;
- implementation procedures , which are efficient, effective and stable.

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 Slovak Republic and Poland are:

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

3.2 Programme Description

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

- Accessibility - including transport
- Environment
- Economic Cooperation - including linking infrastructure
- Human Resources Development
- Agricultural and Rural Development¹

¹ In order to prevent any possible overlapping, the Polish and Slovak authorities will ensure an effective coordination of the activities eligible under the "Agricultural and Rural Development" priority and those eligible

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 two large infrastructure projects in the above priority areas (transport on both the Slovak 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 Slovak and Polish sources, primarily from resources of the communities in the Slovak - Polish border region and of the respective Slovak and Polish Governments. The Joint Co-operation Committee (JCC), established on 16 February 2000, agreed on the programme composition at its meeting in Cracow on 4th May 2000. The criteria for project selection include the cross border impact of projects, methods of project co-financing, and project impact on the environment. The implementation of the investment projects and of the small projects fund will contribute indirectly to the creation and growth of small and medium businesses. An environmental impact assessment according the EU Environmental Impact Assessment Directive (85/337/EEC as amended by 97/11/EC) will be carried out for all investment projects where applicable according to this directive.

The JCC approved the following projects:

3.2.1 SK side: Modernisation of the road Radoszyce-Palota (Road II/575) to the state border between Slovakia – Poland - SK0015.01

The connection of the regions Zemplín and partially Šariš to Poland is underdeveloped. The nearest border crossing is in the locality Vyšný Komárnik - Barwinek which is at the present time highly overloaded.

This project covers the proposed link road which will be located in the area historically used for travel from Zemplín to the southeast of Poland. The total length is 3,6 km. The common approach of Slovakia and Poland to the construction of this road was agreed in 1996. The activity is the building of 3,6 km road including three bridges and accompanying structures.

In this Programme (see below) Poland is proposing the refurbishment of the complementary road from Radoszyce.

3.2.2 SK side: Common sewage system urban waste water handling of the villages in the basin of Polhoranka - SK0015.02

In the basin of the river Polhoranka lie the villages Oravská Polhora, Rabča, Rabčice, Sihelné, Zubrohlava and Klin. Currently a total of about 15.000 inhabitants are living in these villages but they have no sewage treatment plant; the sewage is therefore discharged into the river Polhoranka and subsequently Oravská priehrada, without being treated and polluting in a considerable way the water. The purpose of this project is to connect these villages to the waste water treatment plant of Námestovo so that it can be treated.

Due to this project the treatment of waste water and sewage will be brought into compliance with the requirement of the EU environmental acquis. In particular, compliance with the Urban Waste Water treatment directive (91/271/EEC as amended by Directive 98/15/EC), and related decision 93/48/EEC and the Sewage Sludge Directive 86/278/EEC will be ensured. Furthermore, the quality of the surface waters mentioned will be improved to meet the quality standards set by the relevant EU Directives (see also the Handbook on the Implementation of EC environmental legislation).

3.2.3 PL side: Modernisation of the road Radoszyce-Palota to the state border between Slovakia and Poland - PL0010.01

This project provides for the upgrading of the road to the border between Poland and the Republic of Slovakia, which corresponds to the investment under the SK project defined above. The refurbishment is concerned with a stretch of 3.7 km being the completion of the first stage of 1.5 km which is covered by Polish national funding. The modernisation will stem the degradation of the current infrastructure which has taken place though heavy traffic and thus promote further cross border economic activity.

3.2.4 PL side: Construction of the border bridge Leluchów-Circ with an access road - PL0010.02

This border crossing for small border traffic between Leluchow and Circ has been in use since 1997. Since 1999 it has been in use as a tourist crossing point for citizens coming from 35 countries. About 300.000 people crossed the border yearly in 1998 and 1999. Unfortunately there are currently no means of crossing the border here by car since high water washed away the previous rather flimsy structures. This project is therefore for establishing a solid bridge that should be proof against seasonal inundation.

3.2.5 Joint PL/SK Small Projects Fund (JSPF) - PL0010.03 and SK0015.03

The general aim of the JSPF is the support of 'people to people' projects and small-scale investment projects with a genuinely cross-border impact. The purpose of the support of these projects is to encourage local involvement and to facilitate the implementation of small-scale actions which may constitute the basis for larger cross-border cooperation projects. Priority will be given to projects that are planned, selected and realised jointly by Slovak and Polish partners and supported from both JSPFs on the Slovak and on the Polish side. The JSPF aims also at the building and developing of specialist resources for local and regional institutions involved in regional development, groundwork and implementation of cross-border projects in line with EU practice.

The specific JSPF objectives in Poland and the Slovak Republic are in accordance with regional priorities: the development of cultural and youth co-operation between neighbouring regions on both sides of the border; support for actions aimed at local and regional socio-economic development, in particular measures in support of tourism development; the support of educational activities for institutions and individuals involved in local/regional development, in local government and in organisations of public interest.

The minimum co-financing contribution of the beneficiary to the project is 10%. As concerns the administrative support for operating the JSPF, the Phare contribution may finance the JSPF's indirect (overhead) costs up to 7%² of total amount eligible costs as defined in the DIS manual. This is conditional upon the provision of at least the same amount from the regions for covering the management costs of the operation. This financial support is provided to the administrative structures running the JSPF, normally situated in the Euroregions. The minimum Phare contribution per project is 1.000 EUR, the maximum contribution is 50.000 EUR. The maximum PHARE support per project of 50.000 EUR may be raised to a maximum of 300.000 EUR; however, projects of more than 50.000 EUR require ex-ante approval from the Commission Services. One single infrastructure project has already been identified on the Slovak side of the border and is required to complement the investment on the Polish side - the border bridge Leluchów-Circ referred to above. Within these limits, the regional Steering Committee may establish differing limits (in particular lowering the maximum contribution of

² To maintain continuity on the Polish side the ceiling is expected to remain at 5%

Phare, keeping in view the overall amount available, and increase of the beneficiary's own contribution).

The JSPF will be implemented following the General Guidelines of the Commission for Small Projects Funds and in similar measure on the Polish Small Project facilities functioning within the context of the PL/D Euroregions since 1995. The two Implementing Agencies will elaborate a joint set of guidelines (to be endorsed by the respective Delegation of the European Commission). A Regional Steering Committee is established for the whole Slovak-Polish border region and will be the principle policy orientation institution for the operation of the JSPF, under the auspices of the relevant Implementing Agencies identified in Section 6.

3.2.6 PL side - Tender evaluation, monitoring

A small allocation of 50.000 EUR is set aside to ensure the financing of short-term expertise for tender evaluation and monitoring purposes. This component will be tendered out in strict compliance with Phare tendering procedures.

4. Budget (M€)

Sub-program	Sub-Program Number	Phare		Total Phare
		IB	Investment	
Sub-program PL	PL0010	0.346	3.654	4
Sub-Program SK	SK0015	0.324	3.676	4
Total		0.67	7.33	8

List of Projects:

Sub-program PL:

- PL0010.01 - Modernisation of the road Radoszyce-Palota (state border)
- PL0010.02 - Construction of the border bridge Leluchów-Circ with an access road
- PL0010.03 - Joint Small Project Fund
- PL0010.04 - Tender evaluation/ Monitoring

Sub-program SK:

- SK0015.01 - Modernisation of the road Radoszyce-Palota (state border)
- SK0015.02 - Common sewage system urban waste water handling of the villages in the basin of Polhoranka
- SK0015.03 - Joint Small Project Fund

5. Implementation Arrangements

Slovak 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 Slovak Republic on 10th 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 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 description 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.

In the Slovak Republic, the Implementing Authority will be the CBC PIU, Department of Foreign Assistance at the Office of the Government. The CFCU will be the Implementing Agency.

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) will be implemented in accordance with the General Guidelines of the Commission for Small Projects Funds and with the Slovak Guidelines for the SPF endorsed by the Commission.

The projects proposed are in line with the Phare guidelines (point 5.1.7), which foresee that given the specific nature of cross-border projects, the principle of minimum size of projects will be applied with flexibility.

All funds must be contracted by 31st December 2002. All disbursements must be made by 31st December 2003. 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 responsibility of a Director; within the Ministry of Internal Affairs and Administration. Final responsibility lies with the PAO. The Implementing Agency is the Implementing Authority for all projects.

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 the Phare guidelines for small project funds is endorsed by the Delegation.

All funds must be contracted by 31st December 2002. All disbursements must be made by 31st December 2003. All projects must be greater than 2 million EUR unless otherwise agreed by the Commission and in respect of the Phare guidelines for Small Project Funds..

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 Monitoring Committee (**JMC**) will be established. It will include the NAO, the NAC and the Commission. The JMC will meet at least once a year to review all Phare funded programmes in order to assess their progress towards meeting the objectives set out in Financing Memoranda and the Accession Partnership. The JMC may recommend a change of priorities and/or the re-allocation of Phare funds.

The JMC will be assisted 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 JMC, to which it will submit overall detailed reports on all Phare financed 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 Slovak 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.