

European Commission Decision on the implementation of the PHARE programme in the EU candidate countries (15 June 1998)

Caption: On 15 June 1998, the European Commission draws up a report on the guidelines for the implementation of the Community Programme for Poland and Hungary: assistance for the restructuring of the economies (PHARE) of the countries of Central and Eastern Europe (CEECs) which have applied for accession to the European Union.

Source: European Commission. Decision of the Commission on the guidelines for PHARE programme implementation in candidate countries, 1998-1999, SEC/98/1012. Brussels: 1998. 18 S.

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URL:

http://www.cvce.eu/obj/european_commission_decision_on_the_implementation_of_the_phare_programme_in_the_eu_candidate_countries_15_june_1998-en-ff1f1b1c-14ce-4d31-bcb4-6fd3357e2a43.html

Publication date: 05/09/2012

Decision of the Commission on the guidelines for PHARE programme implementation in candidate countries, 1998-1999 (Brussels, 15 June 1998)

1. Introduction

Financial assistance from the European Communities for the Countries of Central and Eastern Europe (the CEECs) is provided through the Phare programme under Council Regulation 3906/89.

These General Guidelines, as provided by article 8 of the Council Regulation, set out the broad parameters within which the Phare programme will operate in 1998-9 in the countries of Central and Eastern Europe which have applied for membership of the European Union (the candidate countries). The Commission may propose to extend the duration of these guidelines beyond 2000.

As the role of Phare in the accession process has grown, it has become clear that a conceptual distinction needs to be drawn between activities in the candidate countries and those in Albania and the Former Yugoslavia (except Slovenia), which have not applied to join the Union, and whose programmes do not, therefore focus on accession. These General Guidelines, which are part of the pre-accession process, apply only to Phare activities in the ten candidate countries. General Guidelines for Phare in the non-associated countries will be issued in a separate document, and in the meantime the previous Guidelines of 1994-1997 will be prolonged and continue to apply.

2. Evolution of the Phare programme

The Phare programme was established as a grant programme in 1989 to support the process of economic and social reform in Poland and Hungary. As the political situation in Central and Eastern Europe developed, Phare's geographical coverage was gradually extended and its budget increased. There are currently 14 countries eligible for Phare assistance (including Croatia which remains eligible although Phare activities there are suspended), 10 of which are associated.¹

The nature of Phare has also evolved. Early activities were focused on the immediate needs of transition economies for critical aid and institutional reform. As the transition process progressed, the scope of programmes supported by Phare widened to address longer term economic development and investment requirements. During this period, Phare was principally "demand driven"; i.e. the partner countries themselves were the driving force in shaping programmes. This helped ensure that partner countries had a real stake in the programme, and that it remained flexible and responsive to the very different, and rapidly evolving, needs of the partner countries. The disadvantage of this approach was that programmes became disparate with a proliferation of priorities and small projects and, as a result, were sometimes difficult to manage, as underlined in the 1997 Phare Interim Evaluation report.

Whilst the Copenhagen European Council was significant for the Phare programme in that it first authorised the use of up to 15% of Phare resources for the co-financing of large-scale infrastructure projects, the Essen European Council in December 1994 was a real turning point for Phare. It confirmed the Union's commitment to membership for the ten associated countries, and adopted the pre-accession strategy in which Phare was identified as the main financial instrument. This linked Phare explicitly to the accession process. The Essen Council also raised the proportion of Phare funds that could be spent on the co-financing of large infrastructure works to 25%, and confirmed the multi-annual programming approach.

At the Amsterdam Council of June 1997 the European Council invited the Commission to further build on the ongoing reforms of the Phare programme which the Commission had already undertaken, as well as to further develop pre-accession assistance. Therefore, in Agenda 2000 the Commission proposed a re-inforcement of the pre-accession strategy for the period 1998-1999, including a refocussing of the Phare programme which is the basis for these Guidelines. It also proposed new financial instruments for the period 2000-2006.

In December 1997 the European Council stated that the Council will decide on the establishment of a new

instrument, the Accession Partnership, which will be the key feature of the enhanced pre-accession strategy: it will mobilise all forms of assistance to the applicant countries in a single framework. This single framework will cover in detail for each applicant the priorities to be observed in adopting the Union acquis and also the financial resources available for that purpose, in particular the Phare programme." The European Council also stated that the Phare programme would focus on accession by setting two priority aims: the reinforcement of administrative and judicial capacity and investments related to the adoption and application of the acquis.

3. Phare: The main financial instrument for accession

3.1. The Opinions

The Copenhagen European Council of June 1993 adopted the following criteria for countries seeking to join the Union:

- the achievement of stable institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities,
- the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union, and
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

In addition, the Madrid European Council of December 1995 emphasised the importance of strengthening the administrative structures of the candidate countries in the pre-accession context. At the same time the Commission was asked to forward its Opinions on the applications for membership made by the candidate countries and to prepare a composite paper on enlargement. The Commission did this in July 1997, noting that none of the candidate countries fully satisfied all the criteria for accession yet, and identifying, for each country, the areas where further progress is necessary to meet the obligations of membership.

In its conclusions, the Luxembourg European Council in December 1997 supported the enhanced pre-accession strategy, centred on Accession Partnerships and the increased pre-accession aid.

3.2. Fundamental objective for Phare

The fundamental objective for Phare in the candidate countries will be to assist these countries to join the Union as soon as possible. The programme will thus be transformed into an "accession-driven" programme. It will concentrate on a limited number of priorities in line with the Copenhagen criteria to maximise its impact on this fundamental aim.

To achieve this Phare support will focus on the priority areas for action identified in the Opinions. These will be set out in the Accession Partnerships (see §4.1 below). The change in Phare policy toward a prioritised accession-driven approach will be complemented by changes in the way in which Phare is managed, aimed at improving the speed, efficiency, effectiveness and transparency of its activities.

4. A new programming framework

4.1. The Accession Partnerships

Accession Partnerships will be drawn up for all the candidate countries. The principles, priorities and intermediate objectives and conditions will be decided by the Council. They will bring together in one document per country the assessment (based on the Opinions and the subsequent work by the Council) of the priority areas in which the candidate countries need to make progress in order to become ready to join the Union, and the ways in which Phare will support their efforts to do so - i.e. a double programming

- of the priorities for the preparation for accession, based in particular on the adoption of the acquis, and on the Opinions
- of the financial means available to help each country to tackle the priorities identified.

They will be complemented by National Programmes for the Adoption of the Acquis (NPAA), which will give details of each country's commitments with regard to achieving" the criteria adopted at the Copenhagen Council, taking on the *acquis communautaire*, and will take account of such instruments as the "Pact on Organised Crime", "Joint Economic Assessments" etc..

The Accession Partnerships will be multi-annual, covering the pre-accession period, thus providing the framework for the multi-annual programming of assistance to the candidate countries, which will be of even greater importance in future as it is necessary to enable the candidate countries (and other co-financiers, e.g. the IFIs) to plan and develop programmes which will be ready for immediate implementation. The Accession Partnerships will be subject to review at regular intervals. Significant adjustments will be made according to the procedure laid down in article 2 of Council Regulation 622/98.

4.2. Phare programming

4.2.1. Multi-annual Perspective for Phare

The Cannes European Council of June 1995 confirmed the indicative financial allocation for Phare for the five years 1995-1999 as 6.693 billion ECU, thus providing the basis for indicative multi-annual programming, although the Phare budget is adopted on an annual basis by the Budgetary Authorities.

Out of this total, approximately 3 billion ECU remain to be committed over the period 1998-1999, subject to the annual budget decisions of the budgetary authorities. The overall indicative national allocations may be reviewed in the light of past performance and absorption capacity as well as progress in implementing the Accession Partnerships.

4.2.2. Annual Financing decisions

Financial assistance for the priorities identified in the Accession Partnerships will be made available through annual financing decisions taken by the Commission, following the procedure set up in article 9 of Council regulation 3906/89. The financing decisions will be followed by a Financing Memorandum signed with each of the candidate countries (or an exchange of letters, for multi-beneficiary programmes) which will identify the projects to be implemented as well as indicate the commitments that the country will undertake in this respect.

4.2.3. Programming of National Envelopes

The Accession Partnerships will provide the basis for programming Phare National Programmes, including Cross Border Cooperation Programmes, as well as other pre-accession assistance that may become available after the year 2000. The Accession Partnerships will not determine programming of multi-beneficiary programmes.

Cross Border and border region development assistance will be continued. Expansion of the programme's geographical application will be pursued to permit the financing of cross-border activities between CEECs and on CEEC/NIS borders rather than limiting eligible regions to those bordering a Member State, as is currently the case. This approach will ensure that sufficient resources are invested in the future external borders of the European Union.

4.2.4. Programming of Multi-beneficiary programmes

Multi-beneficiary programmes will be used where there is a specific justification for a multi-country approach - such as economies of scale, the need to promote regional cooperation or the need for certain types of delivery mechanisms, such as in the case of Justice and Home Affairs.

The number of multi-beneficiary programmes will be reduced in order to rationalise the large number of programmes that are currently being managed, and ensure that programmes cater to the individual needs of the candidate countries as far as possible.

However, two new and important multi-beneficiary investment programmes will be set up: the Small and Medium Sized Enterprise Facility and the Large Scale Infrastructure Facility which are described in more detail in section 7 on investment.

5. Two main priorities for Phare

Two overriding priorities to which Phare assistance should be directed have been identified through the Opinions.

The first priority is "Institution Building", i.e. helping the candidate countries to develop the structures, human resources and management skills needed to put in place economic, social and regulatory systems equal to the task required for approximation of laws and implementation of the *acquis communautaire*, and an inclusive democratic civil society capable of fulfilling the requirements of the "Copenhagen Criteria" and the objective of social and economic convergence. It is estimated that around 30% of Phare resources will be needed for this purpose.

The second priority is the need to support investments in order to achieve progress in addressing sectoral, regional and structural imbalances in the economies of the candidate countries. This will include a contribution towards the adaptation of public and private sector enterprises to respect EC norms, in the development of key regional infrastructure to drive forward the process of integration with the EU, and, where necessary, in the completion of the process of economic and social reform. It is estimated that around 70% of Phare resources will be needed for this purpose.

The split of around 30% for institution building and around 70% for investment is indicative only, to be applied to the Phare budget for the 10 candidate countries in 1998-9. These figures do not reflect the relative importance accorded to the two priorities, but are rather based on an assessment of needs, related costs as well as absorption capacity particularly in the field of institution building. These proportions should be seen as an objective and not as a rigid division of resources, and will be applied with flexibility on a country by country basis, giving priority to the needs arising in the field of Institution Building.

The Commission will aim to ensure complementarity of the assistance provided under the headings of Institution Building and Investment.

All measures to be financed through annual Financing Memoranda will be identified from the priorities set out in the Opinions and the Accession Partnerships, thus focusing on recognised pre-accession priority areas with measurable objectives (of quantity and quality, as far as possible) and impact. The Financing Memoranda will thus reflect the specific needs of each country. Where appropriate, the Commission will also propose the financing of certain projects designed to complete the transition process, including aspects of economic and social reform, in order to help candidate countries fulfil the Copenhagen criteria.

6. Institution building

The Opinions clearly demonstrate that the reinforcement of institutional and administrative capacity of

candidate countries is a key requirement for enlargement, if the countries are to be in a position to adopt, implement and enforce the *acquis* as required by membership of the Union. This will require modernisation of the candidate countries' administrations and judiciary: in some cases entirely new administrative structures and a significant level of focused high quality training as well as structural reforms in some sectors. In this area significant efforts are required by the candidate countries across the whole spectrum of institutions and organisations involved in the legislative process and its enforcement.

In its approach to programming, delivery and monitoring, the Commission's accession-driven approach will aim, within the framework of the Accession Partnerships, to prioritise key sectors, concentrate resources to maximise impact on these sectors, and ensure quality control in the delivery of this assistance to these sectors by streamlining the way in which assistance is provided. The Commission will aim to draw on expertise from specific organisations and administrations in Member States, in order to help transfer know-how to the candidate countries.

Institution building activities will not only have to be focused on the weaknesses identified at the central level of the countries' administrations, but equally at the regional and local level. Here particular focus will be given to the administrative cooperation necessary for the modernisation of the administrative and budgetary procedures.

In addition, in order to ensure the guarantee of democracy, the rule of law, human rights and the respect for and protection of minorities, as called for in the European Copenhagen Council, assistance to strengthen the institutional capacity of nongovernmental organisations will also be provided by the Phare Programme.

All assistance and instruments will primarily be focused on tackling the national priorities identified in the Accession Partnerships with maximum flexibility, efficiency and speed. The implementation of programmes and the use of Phare funds will aim to develop the capacity of the candidate countries to develop their own institutions and training systems in the medium term, in particular through intensified interaction with officials and practitioners from Member State institutions.

As an integral part of their NPAA, each candidate country will prepare an Institution Building Plan for the key Ministries, agencies, and institutions responsible for approximation and implementation of the *acquis* in the sectors identified in the Accession Partnership. The Institutional Building Plan should include:

- an inventory of regulatory, policy-making, organisational, equipment-needs,
- a sequence of primary and secondary legislative actions
- a financial and budgetary plan for these actions
- a programme description with projects and indicative financial allocations
- a clear indication of timescales and milestones to be achieved.

6.1. Mechanisms for Support to Institution Building

A limited number of institution building mechanisms will be established to provide core expertise and services which may be paid for by the National Programmes and which may be used to ensure quality control of institution-building activities funded by Phare.

By preference and as far as possible, expertise will be drawn from administrations and organisations in Member States in order to assist the comparable administrations and organisations in the candidate countries which are identified as priorities for institution building. The costs incurred by Member States will be paid by the Phare programme and the Commission will enter into direct framework agreements with the Member States, as far as permitted by the Financial Regulation. These mechanisms will facilitate the institution building process in the candidate countries with support instruments which will:

- facilitate twinning arrangements between priority ministries, institutions, professional organisations (e.g. the judiciary and social partners), agencies, European and regional bodies and local authorities, in particular through the secondment of Officials from the Member States and the candidate countries, complemented with support from the private sector with relevant sectoral experience where necessary.
- provide specialist technical advice on the *acquis*, (as has been provided through TAIEX to date)
- ensure quality control of actions and measures funded by the Commission
- facilitate training and internships in the Member States (in addition to the existing internships in the European Commission).

6.2. Specific Actions

6.2.1. Participation in Community Programmes

The participation of candidate countries in Community programmes will be further pursued through the progressive opening-up to the candidate countries of a broad range of Community programmes. They provide a useful preparation for accession by familiarising the associated countries and their citizens with the Union's policies and working methods. As provided in the Europe Agreements and their additional protocols on participation in Community programmes, Phare support (of the order of 10% of the national envelope) will be provided on a co-financing basis alongside a contribution from the candidate countries themselves. This 10% limit does not include participation in the research and development framework programme which will be funded as "investment support" (see §7 below).

The Luxembourg European Council agreed that the candidate countries should be allowed to take part, as observers and for the points which concern them, in the management committees responsible for monitoring the programmes to which they contribute financially, under specific arrangements adapted to the case in question. In addition, the Community agencies in which the candidate countries will be able to participate will be determined on a case-by-case basis.

In the case of the European Training Foundation, the Commission will continue to draw on the ETF's expertise in the context of assistance for vocational education.

6.2.2. Justice and Home Affairs

Of crucial importance is the strengthening of the candidate countries capacity to legislate and implement legislation and put in place appropriate structures in the field of Justice and Home Affairs, *inter alia* with regard to the fight against organised crime, terrorism, trafficking in human beings and drugs. The control of external frontiers, respect for international norms in fields such as asylum, visas and immigration are equally important. Assistance will be provided in order to reinforce the functioning of the judicial system, including legal assistance and judicial review. Specialised assistance, *inter alia* through the mobilisation of experts from Member States, to support the development of capacity to handle Justice and Home Affairs will be provided under the Phare programme, drawing in particular on the work of the existing National Contact Points, an arrangement which will be continued and extended to include the candidate countries in future. Phare funds will also be used to finance the cost of equipment linked to the implementation of projects in these areas.

Assistance will be provided to strengthen the functioning of the judicial system, including legal care and judicial review.

6.2.3. Civil Society Measures

Safeguarding and developing the democratic process in the candidate countries is key to satisfying the Copenhagen criteria. In addition, to assistance which may be provided at Government level, financial and technical assistance may be provided to non-governmental organisations e.g. through partnership measures in cooperation with EU or central and east European counterparts with the relevant sectoral experience, with a view to:

- supporting initiatives aimed at the consolidation and further development of democratic practices and the rule of law
- strengthening the institutional capacity of non-governmental organisations and social partners at all levels
- supporting the inclusion and participation of all individuals who risk being socially, economically or politically marginalised due to culture, beliefs, gender, age, orientation or disability.

These measures will be financed alongside the support provided through the Phare Democracy Programme which is financed from a separate budget line.

6.2.4. General Technical Assistance Facility

A general technical assistance facility will be maintained to ensure the required flexibility in the provision of assistance in specific areas. Through this facility technical assistance will be contracted in particular to assist with project identification and preparation.

6.3. National Contact Points for Co-ordination on institution building

Given the importance of facilitating user-friendly cooperation between officials and experts and in order to ensure respect of the strict timetables foreseen, a National Contact Point will be nominated in each candidate country and Member State. The National Contact Points will serve to:

- interact with the Commission/Member States/Candidate Countries
- manage liaison with their administration for operational issues
- identify appropriate resources to meet Institution Building Plan needs
- liaise with TAIEX/other Commission instruments on the operational level when required
- co-ordinate the preparation, programming and revision of the Institution Building Plan (candidate countries Contacts only)
- Monitor progress in the implementation of twinning assistance

The National Contact Points network will meet with the Commission services on a regular basis. The Commission will oversee the process of twinning and administrative assistance involving the Contact Points to ensure implementation of preaccession assistance in an appropriate and transparent manner. A plenary meeting of the National Contact Points and Commission representatives will be held from time to time in order to update all parties on the management of the process and will prepare an annual report. A principal function of the National Contact Points will be to ensure quality control of the twinning and exchanges undertaken and to ensure that actions channelled through them are appropriately and transparently implemented.

7. Investment in the *acquis*

The adoption of the *acquis communautaire* means that the candidate countries will, as soon as possible, have to adapt their enterprises and main infrastructure to respect Community norms. This will require considerable investment which will be all the more effective for being placed within an appropriate institutional and regulatory context.

Given the scale of the problems identified in the Opinions, the only alternative to long transitional periods is a major investment effort by the applicant countries to adapt to Community norms and standards and to develop their infrastructure. If the necessary investments are not made and the candidate countries' ability to withstand competitive pressures and market forces are not enhanced, the benefits of enlargement may be reduced.

The need for enhanced investment levels is particularly true for the enforcement of Community rules in areas such as competition, environment, energy (including nuclear safety), transport safety, social and labour legislation, veterinary and phytosanitary norms, legislation for industrial products, consumer protection, control of production processes and fair trading, and justice and home affairs.

The infrastructure investment required in order to implement the environmental *acquis* is enormous and constitutes one of the priority areas for pre-accession support from Phare for large infrastructure and other projects.

Phare can only meet a very small proportion of the needs in purely financial terms but, as a grant programme, it can play a key role in catalysing co-financing operations which will have major impact with partner countries' public and private sectors and with the International Financial Institutions. To this effect a Memorandum of Understanding has been drawn up between the European Commission, the EBRD and the World Bank on cooperation for pre-accession preparation of the candidate countries which aims to ensure enhanced co-ordination, harmonised action and strengthened cooperation between the respective financial instruments as well as to identify specific co-financing opportunities and standardise procedures. Close cooperation will also be ensured with the EIB through a separate Memorandum of Understanding, and in the context of the latter's pre-accession facility under which loans shall be issued to the candidate countries in areas of key EU policy objectives to facilitate the adoption of the *acquis communautaire*, including environmental protection and TENs.

After the year 2000, the Commission has proposed the reinforcement of pre-accession aid in the field of agriculture and structural aid, a large part of whose funds would be set aside for the financing of investments.

Investment support from the Phare programme will be focused on a limited number of areas identified in the Accession Partnerships in order to achieve real impact in helping the candidate countries to prepare for membership. In addition to investment in infrastructure (e.g. transport, environment and investment linked to institution building) Phare may also support investment aimed at helping candidates to meet the Copenhagen criteria in the following areas:

- alignment with EU norms and standards;
- investment in the private sector in support of pre-agreed accession objectives such as restructuring a sector of the economy (e.g. heavy industry, agriculture) where a detailed plan exists or where Phare support can help to finalise such a plan;
- support policies similar to those which operate in the EU, such as regional, social and rural development policies;
- support for SMEs (including creation of microenterprises).

All support to the private sector will require national co-financing. Distortion of competition should be avoided, in particular, through the full implementation of the provisions of the Europe Agreements on state aids. Investment in human and intellectual capital will also be covered, which could include Phare contributions to the participation of the candidate countries in Community Research' and Development programmes.

To maximise efficiency of implementation, Phare's investment support will be provided through existing implementation structures and instruments that are simple and flexible and that do not duplicate others already in use by IFIs or public and private sector agencies. In this regard, Phare investment support assistance may include supply programmes, large and small scale infrastructure, sectoral grants for national credit schemes, support for SMEs, border control management measures and, in certain cases, interest rate subsidies. Specific criteria for investment support are provided in Section 7.2.

7.1. The Focus of Phare Investment Support Programme

7.1.1. Investment in EU Norms

The Opinions conclude that, for all candidate countries, compliance with EU norms is not simply a matter of transposing EU legislation but must increasingly focus on the problems of implementing, monitoring and enforcing that legislation in the candidate countries' economy. Investment in EU Norms will be focused on supporting key institutions' whose infrastructural capacities or methodology in monitoring and enforcing compliance with the *acquis* require strengthening.

Accompanying Institution Building support will be provided on all such Phare investment projects to ensure that the investments are sustainable and effective.

In addition, Phare grant support alongside national credit schemes² will be provided for the promotion of compliance levels in a limited number of economic sectors where economic externalities are high. These schemes will offer support through financial intermediaries (e.g. environmental funds) to enterprises and utilities for the financing of *acquis* related investments which produce a benefit for the public good (i.e. externalities). Such support is justified as a precursor to the candidate countries' participation in the EU's own structural fund system after accession.

7.1.2. Structural Actions including Industrial Restructuring

Enlargement will bring considerable economic advantages but will also bring greater heterogeneity to the Union. Some sectoral, regional and social adjustment problems will result. These could limit the benefits of enlargement and make more difficult the further development of the *acquis* unless adequate preparations are made.

Phare investment and strategy development support will be provided to counter these problems, offering grant co-financing for actions which are often economically but not financially viable in the absence of grant support. Special emphasis shall be given to financing pilot actions for regions with declining industries and to financing pilot testing agricultural restructuring support initiatives where comprehensive government restructuring/modernisation plans exist. Phare resources will be used to improve the conditions required to attract investors needed for effective restructuring through accompanying measures, such as the financing of core elements of small infrastructure, re-training, credit schemes with complimentary social and technology related measures (i.e. investment in intellectual and human capital and support for the creation of microenterprises).

Structural actions, which focus on regional, social and agricultural development will be financed under the Phare programme. Inspired by the EU's own Structural and Cohesion Funds, Phare's limited resources in this area will respect the principles of concentration, programming, partnership and additionality.

A key goal for Phare support in this area will be to ensure that the applicant countries have the necessary strategies and experience gained from pilot actions in 1998-1999 to absorb the financial resources for pre-accession aid that will be available from the year 2000, and which will comprise aid for agriculture and a structural instrument which will give priority to measures similar to those of the Cohesion Fund. At that time, more comprehensive integrated regional, rural development and agri-environmental programmes based on national level "regional development policies" may be financed, ensuring an appropriate transition towards the future eligibility of the candidate countries to the structural fund system after accession.

Regional cooperation in border regions will be emphasised not only with current Member States, but also between CEECs and between CEECs and the NTS. These projects will be financed from either national or cross-border budget lines, as appropriate.

7.1.3. Large Scale Infrastructure

The Opinions show that the state of infrastructure remains poor in the candidate countries, limiting their capacity to withstand the competitive pressures from market forces within the Community (one of the key Copenhagen criteria for membership). Failure to address these infrastructure issues now will lead to bottlenecks as trade flows increase after accession, thereby preventing the full benefits of integration being reaped by the enlarged Union. The European Council in Copenhagen recognised that there was a role for Phare in facilitating major infrastructure networks in Central and Eastern Europe, subject to certain criteria and to a 15% limit on capital financing from Phare funds for such activities. This limit was subsequently raised to 25% by the European Council in Essen. With its funds, Phare grant support can supplement commercial funding and play a role in catalysing co-financing operations with candidate countries and IFIs.

Due to the unique regional nature of much of this support, Phare will establish a horizontal Large Scale Infrastructure facility which shall provide resources, additional to those available under the national envelopes, for projects of particular accession priority. This facility may also finance the preparation for projects recognised as key for Phare support but which are not yet ready for financing.

Phare's Large Scale Infrastructure projects will focus on the extension of Trans European Networks beyond the borders of the European Union into and between the candidate countries and on tackling key accession related environmental problems, especially those with a transboundary impact. Examples of such projects may include feeder road, rail rehabilitation, water, waste and anti-air pollution projects. Project preparation will also be financed to help prepare suitable investment projects which may be subsequently financed from future pre-accession aid.

7.1.4. SME support

The Opinions highlight that candidate countries must continue to support the development of their small and medium sized enterprise sector whose general activity and access to credit continues to be constrained by economic transition but whose contribution to the accession process will be very important, not only in introducing greater market flexibility but also in generating wealth and employment and in financing much of the work needed in order for companies to comply with EU norms.

Phare investment support - and technical assistance for certain countries still experiencing major restructuring problems - shall be provided to assist the countries efforts in this regard. This assistance will also help to address the cost of adaptation of existing SMEs to meet the new requirements of respect of EU norms and standards.

To address the common needs observed, to varying degrees, in all candidate countries and in order to generate economies of scale in the design and delivery of support to SMEs, a horizontal SME facility will be set up to the benefit of SMEs (including microenterprises) in all candidate countries which will operate in

cofinancing with the EIB and EBRD, and as wide as possible participation from commercial sources and financial institutions in the EU (in principle from at least two Member States) and in the candidate countries.

7.2. General Criteria for Phare Investment Support

To maximise the impact of its very limited investment funds, Phare must rigorously apply the following principles when evaluating and selecting projects for investment support:

1. **Catalytic:** Phare's support must catalyse a priority accession driven action which would otherwise have not taken place or which would have taken place at a later date.
2. **Cofinancing:** Phare must use its grants to attract as much co-financing as possible from all sources to investment support projects. Large scale infrastructure projects shall always be cofinanced with IFIs. As a rule, a;; investment projects will be co-financed by the beneficiary.
3. **Additionality:** Phare intervention shall not displace other financiers, especially from the private sector or IFI system.
4. **Project Readiness and Size:** projects will only be financed by Phare if they are ready for contracting and once all the necessary technical studies have been completed, where required.
5. **Sustainability:** the investment actions supported should be sustainable in the long term beyond the date of accession. As such, they must comply with EU norms and standards, be -coherent with the sector policies of the EU and respect the principle of sustainable development (for instance by means of environmental appraisal), as well as be financially sustainable to cover future maintenance and operating costs.
6. **Competition:** all actions financed must respect the competition provisions of the Europe Agreements.

Accountability for the use of Phare investment support funds will be assured through the National Fund system described in §8.3 below.

8. Mechanisms and procedures

8.1. Decentralised implementation

As part of the preparation of the candidate countries for accession, the policy of decentralisation of the implementation of the Phare programme to the candidate countries will be continued. This means that, to the extent permitted by the European Communities' Financial Regulation, the implementation of national programmes will be the responsibility of the candidate countries, under the supervision of the European Commission which remains ultimately responsible for the use of the funds.

Decentralised implementation has been a feature of Phare since 1990 and is a means to progressively prepare the countries to administer Community funds after accession. Thus the intention is to establish, within limits and in a gradual manner, a relationship between the Commission and the candidate countries in which responsibility is shared along the lines of the relationship existing with Member States for implementing the Structural Funds. This will only be authorised by the Commission on a case by case basis in those sectors where predefined criteria can be respected by the candidate, country and/or implementing agency in question which will ensure sound and efficient management and transparency of the use of the funds in line with the objectives of the agreed programmes. Under this system candidate countries would be bound by the rules governing Phare as well as the Community's Financial Regulation. Partner country would be financially accountable and if the rules are not complied with, funds would be recovered by the Commission for the total value of the Phare contract in question.

8.2. Commission Supervision of Decentralised Implementation

The Commission will continue to supervise the implementation of the Phare programme under the decentralised implementation system. To reflect the greater decentralisation of programme implementation to the candidate countries, the Commission's supervision will be exercised increasingly on the spot through the Delegations. This, in particular, takes account of the observations made by the European Court of Auditors and the European Parliament calling for increasing the role of the Delegations in particular with a view to reducing duplication of controls and decision making processes.

8.3. Implementation Structures in the Candidate Countries

Implementation structures will be rationalised in the candidate countries with two objectives:

- a) to increase the transparency of the operations and avoid dispersion of funds
- b) to use, as far as possible, sustainable institutions and implementing agencies which will be responsible for the management and implementation of programmes financed from Community funds on membership.

Thus the following structure will be pursued in each candidate country for the future implementation of the Phare programme:

- a **National Fund (NF)** will administer the funds allocated. It will preferably be located within the Ministry of Finance. The establishment of the Fund under the responsibility of a **National Authorising Officer (NAO)** will reduce the parallel structures in the financial management and enhance the co-ordination of funds in the country concerned.
- The number of implementing agencies through which the Phare programme will be implemented in each country under the authority of the NAO will be strictly limited, and a policy of completely phasing out Programme Management Units either through their closure or their integration into institutions which will retain a role in programme implementation on membership.

Where there is no appropriate implementing agency to administer the funds of a programme component for the candidate country, e.g. in the case of institution building which is multi-sectoral by nature, a Central Finance and Contracting Unit (CFCU) will be set up (if not already in place) to carry out all tendering and contracting of the programme, whilst project selection and monitoring will rest the responsibility of the Ministries/administrations directly benefiting from the assistance.

8.4. Procedures

Assistance will be contracted on the basis of existing procedures, in compliance with the Commission's Financial Regulation. In addition, particular attention will be paid to increasing the visibility of the EU through projects funded by the Phare programme.

8.4.1. Institution Building

For certain types of projects to be financed under institution building specific arrangements will be required - for example, Framework Agreements signed directly by the Commission with Member States to provide for payment from Phare of the costs incurred when their administrations are to be mobilised. Examples include cases where:

- the provider is a network of competent Member States Institutions
- the provider is a recognised multilateral institution with particular competence in the area concerned (e.g. CEN, European Environmental Agency)
- the candidate country chooses to draw on the services of an institution in a Member State that is sponsored

by that country's government

- the applicant country intends to support a partnership with a pre-qualified training institution from a Member State.

In all other cases, standard Phare procedures will be used for the selection of contractors.

8.4.2. Investment

Where possible national procurement rules of the candidate countries will be applied in the tendering and contracting of projects. However, this will only be authorised by the Commission where the national rules clearly respect and effectively apply the principles of the European Communities' Financial Regulation and directives on public procurement, in particular with regard to equal access, fair competition, transparency, visibility and public announcement of tenders (article 118 of the Financial Regulation).

8.5. Maturity and Size of Projects

Projects should be clearly defined and only proposed for financing when they are ready for implementation. In the case of projects which require tendering the Commission will only propose to allocate resources to them if they are ready for tendering as soon as the financial commitment has been confirmed by the Commission. Where funds cannot be fully committed to a given country, due to a lack of mature projects, these funds will be reallocated to one of the two horizontal investment facilities (SME facility or LSIF) to which all countries can have equal access.

As far as possible, contracting should take place within the first 6-12 months after the signature of the financing memorandum (although in some cases e.g. for large scale infrastructure projects a longer period may be required). The minimum size of projects will be 2-3 MECU, although this principle will be applied with flexibility in the case of cross border and certain technical assistance projects, including in the field of civil society, institution building and participation in Community programmes. If sufficient projects meeting these criteria are not proposed for financing out of the national envelope by the candidate country, the uncommitted funds will be allocated to one of the two horizontal investment facilities (the LSIF or the SME facility).

8.6. Monitoring and Evaluation

The monitoring of programme implementation shall be carried out jointly by the candidate country in question and the European Commission, through procedures established in the individual Financing Memoranda. In order to ensure effective monitoring of implementation of assistance provided by the Phare programme, each Financing Memorandum will incorporate objectively verifiable and measurable indicators of achievements with regard to financial and physical inputs, activities, outputs and objectives. Such information will assist the Phare Management Committee in subsequently reorienting programmes where necessary. In order to gauge their effectiveness all operations financed under the Phare programme will be subject to ex-post evaluation to appraise their impact with respect to their objectives.

Systematic and regular auditing of accounts will be undertaken by outside auditors and/or the Commission as well as the European Union's Court of Auditors.

9. Conditionality

In the interests of the candidate countries and of sound financial management it is necessary to ensure that the resources of the Phare programme are used as effectively as possible. Funds will be made available subject to certain conditions.

As provided in article 4 of Regulation 622/98 where an element that is essential for continuing to grant pre-

accession assistance is lacking, in particular failure to respect the commitments contained in the Europe Agreement and for lack of progress towards fulfilment of the Copenhagen criteria, or in implementing the Accession Partnerships the Council will, on the basis of a proposal from the Commission, take appropriate steps with regard to any pre-accession assistance granted to a candidate country.

past performance and absorption capacity: the system of multi annual indicative envelopes introduced after the Essen European Council will be maintained, for as long as the requirements of the new orientations of Phare are met. However the amounts provisionally allocated to each country annually may be revised to take account of past performance and absorption capacity, e.g. where there have been persistent delays in contracting the amounts may be revised downwards and where countries have shown an ability to absorb funds rapidly they may be revised upwards.

meeting commitments: funds will be made available to support programmes and projects in which the candidate countries will undertake to meet specific commitments. Where commitments are not made or are not met (for reasons which are under the control of the candidate country) the Commission will consider reducing the allocation for the same area in the following budget year. In applying these principles the Commission will strive to ensure that they do not operate to the detriment of the overall objective of the preparation of the candidate country for membership.

1. These countries have signed Europe Agreements.
2. Phare shall avoid, where possible, the generation of counterpart funds. Consequently, on credit schemes, Phare shall provide its funds to the final beneficiary as parallel grants delivered alongside the cofinancing financial intermediary's loans.