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COUNCIL REGULATION (EC) No 1267/1999
of 21 June 1999
establishing an Instrument for Structural Policies for Pre-accession

(OJ L 161, 26.6.1999, p. 73)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Regulation (EC) No 2382/2001 of 4 December 2001	L 323	1	7.12.2001
►**M2**	Council Regulation (EC) No 2500/2001 of 17 December 2001	L 342	1	27.12.2001
►**M3**	Council Regulation (EC) No 769/2004 of 21 April 2004	L 123	1	27.4.2004
►**M4**	Council Regulation (EC) No 2257/2004 of 20 December 2004	L 389	1	30.12.2004
►**M5**	Council Regulation (EC) No 2112/2005 of 21 November 2005	L 344	23	27.12.2005

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COUNCIL REGULATION (EC) No 1267/1999

of 21 June 1999

establishing an Instrument for Structural Policies for Pre-accession

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission ([1]),

Having regard to the opinion of the European Parliament ([2]),

Having regard to the opinion of the Economic and Social Committee ([3]),

Having regard to the opinion of the Committee of the Regions ([4]),

(1) Whereas the conclusions of the Luxembourg European Council of 12 and 13 December 1997 provide for an enhanced pre-accession strategy for the applicant countries of central and eastern Europe, and a specific pre-accession strategy for Cyprus;

(2) Whereas the conclusions of the Luxembourg European Council of 12 and 13 December 1997 provide that the assistance provided for in this Regulation is to be granted for the time being to the 10 applicant countries of central and eastern Europe;

(3) Whereas Council Regulation (EC) No 622/98 of 16 March 1998 on assistance to the applicant States in the framework of the pre-accession strategy, and in particular on the establishment of Accession Partnerships ([5]), provides that those partnerships are to comprise a single framework for the priority areas and all available resources for pre-accession assistance;

(4) Whereas the pre-accession strategy includes provision for an Instrument for Structural Policies for Pre-accession (ISPA), which will be directed towards aligning applicant countries on Community infrastructure standards and provide a financial contribution for environmental measures, and transport infrastructure measures;

(5) Whereas assistance from the Community under ISPA, together with assistance from the Community under Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to the Republic of Hungary and the Polish People's Republic ([6]), and assistance from the Community under Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agricultural and rural development in the applicant countries of central and eastern Europe in the pre-accession period ([7]) is to be coordinated within the framework of Council Regulation (EC) No 1266/1999 of 21 June 1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy and amending Regulation (EEC) No 3906/89 ([8]) and to be subject to the conditionality provisions of Regulation (EC) No 622/98 and of the individual decisions on Accession Partnerships;

(6) Whereas an equal balance should be the aim between financing for transport infrastructure measures and financing for environmental measures, taking into account the specific situations in the beneficiary countries;

([1]) OJ C 164, 29.5.1998, p. 4.
([2]) Opinion delivered on 6 May 1999 (not yet published in the Official Journal).
([3]) OJ C 407, 28.12.1998.
([4]) OJ C 373, 2.12.1998.
([5]) OJ L 85, 20.3.1998, p. 1.
([6]) OJ L 375, 23.12.1989, p. 11. Regulation as last amended by Regulation (EC) No 753/96 (OJ L 103, 26.4.1996, p. 5).
([7]) See page 87 of this Official Journal.
([8]) See page 68 of this Official Journal.

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(7) Whereas the Community assistance under ISPA should facilitate the implementation by the applicant countries of the *acquis communautaire* in the field of the environment and contribute to sustainable development in these countries;

(8) Whereas Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network [1] describes the criteria for projects of common interest, which should be used, where appropriate, for selecting the measures eligible under this Regulation;

(9) Whereas the Transport Infrastructure Needs Assessment (TINA) initiated by the Council should facilitate the process of selecting priority measures for developing a pan-European transport network during the pre-accession period;

(10) Whereas provision should be made for the Commission to make an indicative allocation of the total resources from the Community under ISPA available for commitment between the applicant countries in order to facilitate the preparation of measures;

(11) Whereas paragraph 17 of the conclusions of the Luxembourg European Council of 12 and 13 December 1997 provides that financial support to the countries involved in the enlargement process will be based, in the allocation of aid, on the principle of equal treatment, independently of time of accession, with particular attention being paid to countries with the greatest need;

(12) Whereas the rates of assistance provided from the Community under ISPA should be set in order to strengthen the leverage effect of resources, promote co-financing and the use of private sources of finance and to take account of the capacity of measures to generate substantial net revenue;

(13) Whereas, as regards Community assistance, maximum transparency must be ensured in the implementation of financial assistance, and stringent controls must be applied to the use of appropriations;

(14) Whereas, in the interest of the proper management of Community assistance granted under ISPA, provision should be made for effective methods of appraising, monitoring, evaluating and controlling operations, specifying the principle governing the evaluation, defining the nature of and the rules governing the monitoring, and laying down the action to be taken in response to irregularities or failures to comply with one of the conditions laid down when assistance under ISPA was granted;

(15) Whereas, during the transitional period from 1 January 1999 until 31 December 2001, each reference made to the euro should as a general rule also be read as a reference to the euro as a monetary unit as in Article 2, second sentence, of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro [2];

(16) Whereas for the purpose of the implementation of this Regulation the Commission should be assisted by a management committee;

(17) Whereas the implementation of the measures provided for by this Regulation will help to achieve the Community's aims; whereas the Treaty does not provide, for the adoption of this Regulation, powers other than those of Article 308,

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[1] OJ L 228, 9.9.1996, p. 1.
[2] OJ L 139,11.5.1998, p. 1.

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HAS ADOPTED THIS REGULATION:

Article 1

Definition and objective

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1. The Instrument for Structural Policies for Pre-Accession, hereinafter referred to as 'ISPA' is hereby established.

ISPA shall provide assistance to contribute to the preparation for accession to the European Union of Bulgaria, Croatia and Romania, hereinafter referred to as the 'beneficiary countries', in the area of economic and social cohesion, concerning environment and transport policies in accordance with the provisions of this Regulation.

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2. The Community assistance granted under ISPA shall contribute to the objectives laid down in the Accession Partnership for each beneficiary country and to corresponding national programmes for the improvement of the environment and of transport infrastructure networks.

Article 2

Eligible measures

1. The Community assistance financed under ISPA shall include projects, stages of a project which are technically and financially independent, groups of projects or project schemes in the field of environment or transport, hereinafter referred to collectively as 'measures'. A stage of a project may also cover preliminary, feasibility and technical studies needed for carrying out a project.

2. The Community shall provide assistance under ISPA in the light of the objectives mentioned in Article 1 for the following:

(a) environmental measures enabling the beneficiary countries to comply with the requirements of Community environmental law and with the objectives of the Accession Partnerships;

(b) transport infrastructure measures which promote sustainable mobility, and in particular those that constitute projects of common interest based on the criteria of Decision No 1692/96/EC and those which enable the beneficiary countries to comply with the objectives of the Accession Partnerships; this includes interconnection and interoperability of national networks as well as with the trans-European networks together with access to such networks.

Measures shall be of a sufficient scale to have a significant impact in the field of environmental protection or in the improvement of transport infrastructure networks. The total cost of each measure shall in principle not be less than EUR 5 million. In duly justified cases, taking into account the specific circumstances concerned, the total cost of a measure may be less than EUR 5 million.

3. A balance shall be struck between measures in the field of the environment and measures relating to transport infrastructure.

4. Assistance may also be granted for:

(a) preliminary studies related to eligible measures, including those necessary for their implementation, and

(b) technical support measures, including information and publicity actions, particularly:

(i) horizontal measures such as comparative studies to assess the impact of Community assistance;

(ii) measures and studies which contribute to the appraisal, monitoring, evaluation or control of projects and to strengthening and ensuring the coordination and consistency of projects with the Accession Partnerships, and

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(iii) measures and studies to ensure effective project management and implementation and to make any necessary adjustments.

Article 3

Financial resources

Community assistance under ISPA shall be granted during the period from 2000 to 2006.

The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspectives.

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Notwithstanding the above, Community assistance to Croatia shall be granted during the period from 2005 to 2006.

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Article 4

Indicative allocation

An indicative allocation between beneficiary countries of the total Community assistance under ISPA shall be made by the Commission, acting in accordance with the procedure laid down in Article 14, on the basis of the criteria of population, per capita GDP in purchasing power parities and surface area.

This allocation may be adjusted to take account of the performance in previous years of each of the beneficiary countries in implementing ISPA measures. Due account shall also be taken of the countries' respective deficiencies in environment and transport infrastructure.

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By way of derogation from the first and second sentence of this Article, the allocation for Croatia for 2005 and 2006 under this instrument shall be determined by the Commission on the basis of an assessment of the administrative absorption capacity and accession-driven investment needs of this beneficiary country.

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Article 5

Compatibility with Community policies

1. Measures financed by the Community under ISPA shall comply with the provisions set out in the Europe Agreements, including the implementing rules for the application of the provisions on State aids, and shall contribute to the achievement of Community policies, particularly those concerning environmental protection and improvement, transport and trans-European networks.

2. The Commission shall ensure coordination and consistency between measures undertaken pursuant to this Regulation and measures undertaken with contributions from the Community budget, including contributions from Community initiatives for cross-border transnational and interregional cooperation, the operations of the European Investment Bank (EIB), including through its pre-accession facility as well as the other financial instruments of the Community and inform the Committee established under Article 14 hereof.

3. The Commission shall seek coordination and consistency between measures undertaken in the beneficiary countries pursuant to this Regulation and the operations of the European Bank for Reconstruction and Development (EBRD), the World Bank and other such financial institutions and inform the Committee established under Article 14 hereof.

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Article 6

Forms and rate of assistance

1. Community assistance under ISPA may take the form of non-repayable direct assistance, repayable assistance or any other form of assistance.

Assistance repaid to the managing authority or to another public authority shall be reapplied for the same purpose.

2. The rate of Community assistance granted under ISPA may be up to 75 % of public or equivalent expenditure, including expenditure by bodies whose activities are undertaken within an administrative or legal framework by virtue of which they are regarded as equivalent to public bodies. The Commission may decide, in accordance with the procedure laid down in Article 14, to increase this rate to up to 85 %, in particular where it considers that a rate higher than 75 % is required for realising projects essential for achieving the general objectives of ISPA.

Save in the case of repayable assistance or when there is a substantial Community interest, the rate of assistance shall be reduced to take into account:

(a) the availability of co-financing;

(b) the measure's capacity to generate revenues, and

(c) an appropriate application of the polluter-pays principle.

3. Measures which generate revenues in accordance with paragraph 2 (b) shall be those concerning:

(a) infrastructure the use of which involves fees borne by users;

(b) productive investments in the environment sector.

4. Preliminary studies and technical support measure, may be financed exceptionally at 100 % of the total cost.

Total expenditure carried out at the Commission's initiative or on behalf of the Commission pursuant to this paragraph may not exceed 2 % of the total allocation to ISPA.

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Article 6a

Award of contracts

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1. In the case of measures for which the Community is the sole source of external aid, participation in invitations to tender and contracts shall be open on equal terms to all natural and legal persons of the Member States coming within the scope of the Treaties and of the countries referred to in the second subparagraph of Article 1(1), as well as of countries benefiting from assistance pursuant to Council Regulation (EC) No 2666/2000 of 5 December 2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia [1]. ►M5 Eligibility for participation in tendering procedures under this Regulation shall be further determined in accordance with the rules of eligibility, and the derogations therefrom, set out in Council Regulation (EC) No 2112/2005 of 21 November 2005 on access to Community external assistance [2]. ◄

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2. Paragraph 1 shall also apply to co-financing.

[1] OJ L 306, 7.12.2000, p. 1. Regulation as amended by Regulation (EC) No 2415/2001 (OJ L 327, 13.12.2001, p. 3).

[2] OJ L 344, 27.12.2005, p. 23.

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In the case of co-financing, however, the participation of third countries in invitations to tender and contracts may be authorised by the Commission, after examination on a case-by-case basis.

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Participation in contractual procedures implemented through an international organisation or co-financed with a third country is further defined in Regulation (EC) No 2112/2005.

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Article 7

Appraisal and approval of measures

1. The Commission shall adopt decisions on the measures to be financed under ISPA in accordance with the procedure laid down in Article 14.

2. The beneficiary countries shall submit applications for assistance to the Commission. However, the Commission may grant assistance pursuant to Article 2(4) on its own initiative, where there is an overriding Community interest.

3. Applications shall contain:

(a) the information set out in Annex I;

(b) all relevant information proving that the measures comply with this Regulation and with the criteria set out in Annex II, and in particular that there are medium-term economic and social benefits commensurate with the resources deployed.

4. On receipt of an application for assistance and before approving a measure, the Commission shall carry out a thorough appraisal in order to assess the measure's compliance with the criteria set out in Annex II.

5. Commission decisions approving measures shall determine the amount of financial assistance and lay down a financing plan together with all the provisions and conditions necessary for the implementation of the measures.

6. The combined assistance under ISPA and other Community aid for a measure shall not exceed 90 % of the total expenditure relating to that measure.

7. The Commission shall adopt common rules for the eligibility of expenditure in accordance with the procedure laid down in Article 14.

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8. Where a measure is co-financed together with international financial institutions, expenditure meeting the rules for eligibility referred to in paragraph 7 but carried out in accordance with procedures appropriate to external sources of financing other than Community assistance and borne by those financial institutions may be used in calculating total eligible expenditure for that measure.

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9. Natural and legal persons from Cyprus, Malta and Turkey may participate in invitations to tender and contracts on the same terms that apply to all natural and legal persons from the Member States and the beneficiary countries.

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Article 8

Commitments and payments

1. The Commission shall implement expenditure under ISPA in accordance with the Financial Regulation applicable to the general budget of the European Communities on the basis of the financing memorandum to be drawn up between the Commission and the beneficiary country.

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However, annual budgetary commitments in respect of assistance granted to measures shall be carried out in one of the following two ways:

(a) commitments in respect of the measures referred to in Article 2(2) to be carried out over a period of two or more years shall, as a general rule and subject to point (b), be effected in annual instalments.

The commitments in respect of the first annual instalment shall be made when the financing memorandum is drawn up. Commitments in respect of subsequent annual instalments shall be based on the initial or revised financing plan for the measure and in principle be granted at the start of each financial year and at the latest by 1 April of the year in question according to forecast expenditure for this year;

(b) for measures with a duration of less than two years or for which the Community assistance does not exceed EUR 20 million a first commitment of up to 80 % of the assistance granted may take place when the financing memorandum is drawn up. The remainder will be committed subject to the state of the implementation of the measure.

2. Except in duly justified cases, assistance granted to a measure where substantial work has not begun within the specified contractual period shall be cancelled.

3. Payments of financial assistance for measures may take the form either of advances or of intermediate payments or payments of balances in respect of expenditure certified and actually paid.

The Commission shall adopt detailed rules on payments in accordance with the procedure laid down in Article 14.

4. The details of the payment mechanism for measures shall be laid down in the financing memorandum with each beneficiary country.

Article 9

Management and control

1. The Commission shall require the beneficiary countries:

(a) to establish ►M4 ——————— ◄ management and control systems which ensure:

(i) the proper implementation of the assistance granted under this Regulation in accordance with the principles of sound financial management,

(ii) the separation of the functions of management and control,

(iii) that expenditure declarations presented to the Commission are accurate and emanate from accounting systems based on supporting documents which are open to verification;

(b) to verify on a regular basis that the measures financed by the Community have been properly carried out;

(c) to prevent irregularities and take action against them;

(d) to recover any amounts lost as a result of irregularity or negligence.

2. Without prejudice to checks carried out by beneficiary countries, the Commission and the Court of Auditors may, through their own staff or duly authorised representatives, carry out on-the-spot technical or financial audits, including sample checks and final audits.

3. The detailed implementing provisions of the principles established in paragraphs 1 and 2 shall be contained in the financing memorandum, together with arrangements for cooperation and for coordination of programming and methodology of control between the Commission and the beneficiary country. The Commission shall inform the Committee established under Article 14 hereof.

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4. The financing memorandum shall also contain provisions concerning the reduction, suspension and cancellation of assistance where the implementation of a measure does not justify either a part or the whole of the assistance allocated.

5. In implementing this Regulation, the Commission shall ensure that the principles of sound financial management are adhered to, with particular reference to the elements set out in Annex III.

Article 10

Use of the euro

1. The amounts in the applications for assistance, together with the relevant financing plan, shall be expressed in euro.

2. The amounts of assistance and the financing plans approved by the Commission shall be expressed in euro.

3. Declarations of expenditure in support of the corresponding payment applications shall be expressed in euro.

4. Payments of financial assistance by the Commission shall be made in euro to the authority designated by the beneficiary country to receive such payments.

Article 11

Monitoring and *ex-post* evaluation

The beneficiary countries and the Commission shall ensure that the implementation of measures under this Regulation is monitored and evaluated in accordance with the provisions in Annex IV.

Article 12

Annual report

The Commission shall present an annual report on Community assistance granted under ISPA to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions. The annual report shall contain the information set out in Annex V.

The European Parliament shall deliver an opinion on the report within three months. The Commission shall report on the manner in which that opinion has been taken into account.

The Commission shall ensure that the beneficiary countries are regularly informed of the activities of ISPA.

Article 13

Information and publicity

1. The beneficiary countries responsible for implementing measures for which the Community has granted financial assistance under ISPA shall ensure that adequate publicity is given to the measure with a view to:

(a) making the general public aware of the role played by the Community in relation to the measures;

(b) making potential beneficiaries and professional organisations aware of the possibilities afforded by the measures.

Beneficiary countries shall ensure, in particular, that directly visible display panels are erected showing that the measures are being co-financed by the Community, together with the Community logo, and that representatives of the Community institutions are duly involved in the most important public activities connected with Community assistance granted under ISPA.

They shall inform the Commission annually of the initiatives taken under this paragraph.

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2. The Commission shall adopt detailed rules on information and publicity acting in accordance with the procedure laid down in Article 14.

It shall inform the European Parliament thereof and shall publish them in the *Official Journal of the European Communities*.

Article 14

Committee

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1. The Commission shall be assisted by a committee, composed of representatives of the Member States and chaired by the representative of the Commission (hereinafter referred to as 'the Committee'). The European Investment Bank shall appoint a non-voting representative.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

3. The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at one month.

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4. The Committee may examine any question relating to the implementation of this Regulation which is put to it by its Chairman, including at the request of the representative of a Member State.

5. The Committee shall adopt its rules of procedure by a qualified majority.

Article 15

Reallocation of resources

On accession to the European Union, a country shall lose its entitlement to support under this Regulation. Resources made available as a result of an applicant country acceding to the European Union shall be reallocated to other applicant countries listed in Article 1(1). Reallocation shall be based on applicant countries' need and capacity for absorbing assistance and on the criteria laid down in Article 4.

The Council, acting by qualified majority on a proposal from the Commission, shall take a decision outlining the general approach for reallocation.

In the light of the decision referred to in the second paragraph by the Council, the Commission shall decide on the reallocation of available resources among the other beneficiaries in accordance with the procedure laid down in Article 14.

Article 16

Final and transitional provisions

The Council, acting on a proposal from the Commission, shall re-examine this Regulation by 31 December 2006. It shall act on the proposal in accordance with the procedure laid down in Article 308 of the Treaty.

Article 17

Entry into force

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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ANNEX I

Content of applications (Article 7(3)(a))

Applications are to contain the following information:

1. the name of the body responsible for implementation, the nature of the measure and a description thereof;
2. the cost and location of the measure, including, where applicable, an indication of the inter-connection and interoperability of measures situated on the same transport axis;
3. the timetable for implementation of the work;
4. a cost-benefit analysis, including the direct and indirect effects on employment to be quantified where they lend themselves to be quantified;
5. assessment of the environmental impact similar to the assessment provided for in Council Directive 85/337/EEC of 27 June on the assessment of the effects of certain public and private projects on the environment ([1]);
6. information on compliance with competition law and public contract rules;
7. the financing plan including, where possible, information on the economic viability of the measure, and the total financing the beneficiary country is seeking from ISPA, the EIB including its pre-accession facility and any other Community or Member State source, the EBRD and the World Bank;
8. the compatibility of measures with Community policies;
9. information on the arrangements for ensuring the efficient use and maintenance of facilities;
10. (environmental measures) information on the place and priority of the measure within the national environmental strategy as laid down in the national programme for the adoption of the *acquis communautaire*;
11. (transport measures) information on the national transport development strategy and the place and priority of the measures within that strategy, including the degree of coherence with the guidelines for the trans-European networks and the pan-European transport policy.

([1]) OJ L 175, 5.7.1985, p. 40. Directive as amended by Directive 97/11/EC (OJ L 73, 14.3.1997, p. 5).

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ANNEX II

Appraisal of measures (Article 7(3)(b) and (4))

A. In appraising the measures, the following criteria are to be applied to ensure their high quality in accordance with Article 2:

1. their economic and social benefits, including their potential for leverage of private financing, which will be commensurate with the resources deployed; an assessment will be made in the light of a cost-benefit analysis;
2. the arrangements for ensuring effective management of the measures;
3. the priorities established by the Accession Partnerships for the areas of intervention;
4. the contribution which measures make to the implementation of Community policy on the environment and the result of the environmental impact assessment referred to in Annex I;
5. the contribution of measures to trans-European networks and common transport policies;
6. the establishment of an appropriate balance between the fields of the environment and transport infrastructure;
7. consideration of possible alternative forms of financing as referred to in Article 6.

B. The Commission may invite the EIB, EBRD or World Bank to contribute to the appraisal of measures as necessary. The Commission is to examine applications for assistance to verify in particular that the administrative and financial mechanisms are adequate for the effective implementation of the measure.

C. The Commission is to appraise measures to determine their anticipated impact in terms of the objectives of this Regulation, using appropriate quantified indicators. The beneficiary countries are to provide all necessary information, as set out in Annex I, including the results of their feasibility studies and appraisals, an indication of alternatives not pursued and the coordination of measures of common interest situated on the same transport route, to make this appraisal as effective as possible.

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ANNEX III

Financial management and control (Article 9(5))

1. In each beneficiary country, a central entity is to be designated through which Community funds granted under ISPA is to be channelled.

   The head of this entity is to have overall responsibility for the management of the funds within the beneficiary country in question.

2. Management and control systems of beneficiary countries are to provide a sufficient audit trail in order to allow, in particular, for:

   — reconciliation of the summary accounts certified to the Commission with the accounting records and supporting documents at the various administrative levels,

   — verification of the transfers of the available Community and other funds,

   — examination of the technical and financial plans of the project, progress reports, tendering and contracting procedures at the various administrative levels.

3. The procedure to be followed for the award of works, supply or service contracts are to be specified in the financing memorandum and are to respect the key principles laid down in Title IX of the Financial Regulation and in particular:

   — measures covered by a financing memorandum are to be implemented by the beneficiary country in close collaboration with the Commission, which will retain responsibility for the utilisation of appropriations,

   — the Commission in close collaboration with the beneficiary country, is to ensure that participants in tendering procedures can compete on an equal footing, that there is no discrimination and that the tender selected is economically the most advantageous.

   However, pursuant to Article 12 of Council Regulation (EC) No 1266/1999, the appropriations may be the subject of extended decentralised management, in particular as regards the *ex-ante* approval by the Commission of launching of tenders, the evaluation of bids and the award of contracts and financial management.

   These provisions, to be established in the financing memorandum with the beneficiary country, are to take account of their quantitative and qualitative financial management and financial control capacity.

4. Appropriate internal and external financial controls are to be carried out in accordance with internationally accepted audit standards by the competent national financial control authority, which must be independent in order to perform this function. Each year an audit plan and a summary of the findings of the audits carried out is to be sent to the Commission. Audit reports will be at the disposal of the Commission.

   The Commission and the beneficiary country are to cooperate in order to coordinate programmes and methods relating to audits, so as to maximise the usefulness of those carried out.

   The beneficiary country is to ensure that when checks are performed by Commission staff, or its duly authorised representatives, these persons have the right to inspect on-the-spot all relevant documentation and accounts pertaining to items financed under the financing memorandum. The beneficiary countries are to assist the Court of Auditors to carry out audits relating to the utilisation of funds granted under ISPA.

   The responsible authorities are to keep available all the supporting documents regarding expenditure on any project for a period of five years following the last payment in respect of a project.

5. The financing memorandum with each beneficiary country is to contain the following provisions for financial corrections:

   If the implementation of a measure appears not to justify either a part or the whole of the assistance allocated, the Commission is to conduct an appropriate examination of the case, in particular requesting the beneficiary country to submit its comments within a specified period of time and to correct any irregularity.

   Following the examination referred to in paragraph 1, the Commission may reduce, suspend or cancel assistance in respect of the measures concerned if the examination reveals irregularity, an improper combination of funds or a failure to comply with one of the conditions in the decision to grant

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assistance, and in particular any significant change affecting the nature or conditions of implementation of the measure for which the Commission's approval has not been sought. Any reduction or cancellation of the assistance is to give rise to recovery of the sums paid.

Where the Commission considers that an irregularity has not been corrected or that all or part of an operation does not justify either all or part of the assistance granted to it, the Commission is to conduct a suitable examination of the case and request the beneficiary country to submit its comments within a specified period. After the examination, if no corrective measures have been undertaken by the beneficiary country, the Commission may:

(a) reduce or cancel any advance;

(b) cancel all or part of the assistance granted to the measure.

The Commission is to determine the size of a correction taking into account the nature of the irregularity and the extent of any failures in the management and control systems. Any sum to be recovered for grant of undue entitlement is to be repaid to the Commission. To such a sum is to be added interest on account of late repayment in accordance with arrangements to be adopted by the Commission.

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ANNEX IV

Monitoring and ex-post evaluation (Article 11)

A. Monitoring is to be carried out by means of jointly agreed reporting procedures, sample checks and the establishment of *ad hoc* committees. It is to be carried out by reference to physical and financial indicators. The indicators will relate to the specific character of the project and its objectives. They will be arranged in such a way as to show the stage reached in the measure in relation to the plan and objectives originally laid down and the progress achieved on the management side and any related problems.

B. These committees are to be set up by arrangement between the beneficiary country concerned and the Commission. The authorities or bodies designated by the beneficiary country, the Commission and where appropriate, the EIB will be represented on the committees. Where regional and local authorities and private enterprises are competent for the execution of a project and where they are directly concerned by a project they will also be represented on such committees.

C. For each measure, the authority or body responsible for the measure is to submit progress reports to the Commission within three months of the end of each full year of implementation.

D. On the basis of the results of monitoring and taking account of the comments of the monitoring committee, the Commission is to adjust the amounts and conditions for granting assistance as initially approved, as well as the financing plan envisaged, if necessary on a proposal by the beneficiary countries.

The Commission will define the appropriate arrangements for these adjustments differentiating them according to their nature and importance.

E. The authority or body responsible for the measure is to submit a final report to the Commission within six months of completion of the measure or stage of project. The final report will contain the following:

1. a description of the work undertaken, accompanied by physical indicators, quantification of expenditure by category of work and the measures taken with regard to the specific clauses contained in the decision to grant assistance;

2. certification of the conformity of the work with the decision granting assistance;

3. a first assessment of the extent to which the expected results have been achieved, including notably:

   (a) the effective date of implementation of the measure;

   (b) an indication of the wax in which the measure will be managed once completed;

   (c) confirmation, if appropriate, of financial forecasts, especially as regards operating costs and expected revenues;

   (d) confirmation of the socioeconomic forecast, especially the expected costs and benefits;

   (e) an indication of the actions taken to ensure protection of the environment and their cost.

4. information relating to publicity actions.

F. *Ex-post* evaluation is to cover the utilisation of resources and the effectiveness and efficiency of assistance and its impact. It is to cover the factors contributing to the success or failure of implementation of measures and the achievements and results. After the completion of measures, the Commission and the beneficiary countries will therefore evaluate the manner, including the efficient and effective use of resources, in which they have been carried out. The evaluation will also cover the actual impact of their implementation in order to assess whether the original objectives have been achieved. This evaluation will, *inter alia*, address the contribution made by measures to the implementation of Community policies on the environment or to the contribution of trans-European networks and common transport policies, and they will also assess the environmental impact of the measures.

G. For the greater effectiveness of Community assistance granted under ISPA, the Commission is to ensure that in administering ISPA particular attention is paid to transparency of management.

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H. The detailed rules for monitoring and evaluation are to be laid down in the Commission decisions approving the measures.

▼B

ANNEX V

Annual report from the Commission (Article 12)

The annual report is to provide information on the following:

1. financial assistance committed and paid by the Community under ISPA with an annual breakdown by beneficiary country by type of project (environment or transport);
2. the contribution which the Community assistance under ISPA made to the efforts of the beneficiary countries to implement Community environment policy and to strengthen trans-European transport infrastructure networks; the balance between measures in the field of the environment and measures relating to transport infrastructure;
3. assessment of the compatibility of operations of Community assistance under ISPA with Community policies, including those concerning environmental protection, transport, competition and the award of public contracts;
4. the measures taken to ensure coordination and consistency between measures financed through ISPA and measures financed with contribution from the Community budget, the EIB and the other financial instruments of the Community;
5. the investment efforts of the beneficiary countries in the fields of environmental protection and transport infrastructure;
6. the preparatory studies and technical support measures financed;
7. the results of appraisal, monitoring and evaluation of measures, including information on any adjustment of measures to accord with the results of appraisal, monitoring and evaluation;
8. the contribution of the EIB to the evaluation of measures;
9. summary of information on the results of checks carried out, irregularities found and administrative and judicial proceedings in progress;
10. information on publicity actions.