



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 02.08.2001  
COM(2001) 461 final

Proposal for a

**COUNCIL DECISION**

**concerning the Community position within the Association Council on the  
participation of Poland in the Community programme Fiscalis**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1. Introduction

In line with Article 7 of the European Parliament and Council Decision 888-98/EC<sup>1</sup>, the existing Fiscalis programme may be opened to the candidate countries of Central and Eastern Europe (CEECs) and Cyprus. No mention is made of Malta and Turkey in this provision.

Previously, the European Council, at its meeting in Luxembourg (December 1997), stressed the importance of the participation of candidate countries in Community programmes in the context of the pre-accession strategy, as a means to familiarise them with Community working methods and procedures. The Helsinki European Council of December 1999 confirmed the enlargement process launched in Luxembourg. The enhanced Pre-Accession Strategy defined in 1997 has been reiterated, which includes the participation of the 13 candidate States in Community programmes as an important part of such strategy.

As regards the ten candidate countries of Central and Eastern Europe (CEECs), participation in Community programmes is provided in their respective Europe Agreements. Pursuant to the Europe Agreements, the conditions and modalities of these countries' participation are defined by the respective Association Councils.

In addition to those Community programmes in which candidate countries already participate, it is now proposed to decide terms and conditions for the participation of **Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia** in the Community programme **Fiscalis** for the duration of its remaining lifetime, i.e. till 31 December 2002.

The general objectives of the Fiscalis programme are:

- to enable officials to achieve a high common standard of understanding of Community law, in particular in the field of indirect taxation and of its implementation in Member States;
- to secure efficient, effective and extensive co-operation among Member States and between them and the Commission;
- to ensure the continuing improvement of administrative procedures to take account of the needs of administrations and taxpayers through the development and dissemination of good administrative practices.

The objective of opening it to the candidate countries will further contribute to their preparations for accession as a key feature of the pre-accession strategy. It will also enable these countries to familiarise themselves with the procedures and methods used in this Community programme.

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<sup>1</sup> OJ L 126 of 28.04.98, p.1

## 2. Candidate countries of Central and Eastern Europe (CEECs)

The Europe Agreements with these countries entered into force on various dates and provide for their participation in Community programmes dealing with a wide range of areas. They provide the possibility that other fields of Community activities may be added, if considered to be of mutual interest, so that activities in the field of internal market can be included too.

The decision-making process for this participation requires a decision by the Association Council of each of these Europe Agreements, which sets up the terms and conditions for such participation.

According to the provisions of the Europe Agreements or their additional protocols concerning these countries' participation in Community programmes, they will meet the costs resulting from their participation.

In this connection, the Luxembourg European Council indicated that candidate countries should steadily increase their own financial contribution, but agreed that Phare, if necessary, would continue to part-finance these countries' financial contributions; such support should, however, *"remain at around 10% of the Phare appropriation, not including participation in the research and development framework programme"*. The European Council also stated that *"The applicant States 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"*.

The ten CEECs, namely **Bulgaria**, the **Czech Republic**, **Estonia**, **Hungary**, **Latvia**, **Lithuania**, **Poland**, **Romania**, the **Slovakia** and **Slovenia**, confirmed to the Commission in writing their willingness to participate in the **Fiscalis** programme as from 2001, under the terms and conditions of the annexed draft Association Council Decisions, and to make available the necessary budgetary appropriations, as calculated by the Commission services.

The main issues addressed in these draft Decisions between the EC and, respectively, the above-mentioned 10 countries adopting the terms and conditions for their participation in the **Fiscalis** programme are the following:

- conditions for submission, assessment and selection of applications will be as far as possible in conformity with those prevailing for the Member States of the Union
- CEECs will contribute financially to the Community budget of the programme. The financial contributions have been calculated with a view to approximating CEEC conditions as far as possible to those applied to Member States. The annual contribution from each CEEC may be financed partly from its own budget and partly from its national Phare allocation, which should not exceed the above-mentioned 10% limit
- they will be invited as observers and for the points which concern them to the meetings of the programme committee

- these countries will be associated to the monitoring of their participation in the programme
- the Decisions shall apply for the remaining lifetime of the programme. Nevertheless, should the Community decide to extend the lifetime without any substantial change within the programme, the Decisions may also be extended correspondingly and automatically if no Party denounces them.

### 3. Conclusions

The adoption of the Association Council Decisions for the ten CEECs, allowing these candidate countries to participate in the Community's **Fiscalis** programme as from 2001, will offer them the opportunity to actively integrate in the Community's policies in this area, as part of the pre-accession strategy. It will also contribute to reinforce their institutional and administrative capacity ("Institution Building"). It is, therefore, of considerable political importance.

In order to allow the participation of **Bulgaria**, the **Czech Republic**, **Estonia**, **Hungary**, **Latvia**, **Lithuania**, **Poland**, **Romania**, **Slovakia** and **Slovenia** in the Community **Fiscalis** programme as from 2001, the Council is invited to take the respective Community position within the corresponding Association Council as set up in the ten annexed draft Council Decisions.

**Proposal for a**  
**COUNCIL DECISION**  
**concerning the Community position within the Association Council on the**  
**participation of Poland in the Community programme Fiscalis.**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 in connection with Article 300(2), second indent thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Additional Protocol<sup>2</sup> to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Poland, of the other part, has been concluded by decision of the Council and the Commission of 4 December 1995;
- (2) According to Article 1 of the Additional Protocol, Poland may participate in Community framework programmes, specific programmes, projects or other actions dealing with a wide range of areas; it also provides that other fields of Community activities to those listed can be included too;
- (3) Pursuant to Article 2, the terms and conditions for the participation of Poland in the activities referred to in Article 1 shall be decided by the Association Council;
- (4) Decision No 888/98/EC of the European Parliament and of the Council of 30 March 1998<sup>3</sup> establishing a programme of Community action to ameliorate the indirect taxation systems of the internal market (Fiscalis programme) provides in Article 7 that this programme shall be open to the participation of the candidate countries of Central and Eastern Europe (CEECs), in accordance with the terms laid down in the Europe Agreements and the Additional Protocols relating to their participation in Community programmes and insofar as Community law on indirect taxation so permits,

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<sup>2</sup> OJ L 317 of 30.12.95, p. 35

<sup>3</sup> OJ L 126 of 28.04.98, p. 1

HAS DECIDED AS FOLLOWS:

The position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and Poland, of the other part, concerning the participation of Poland in the Community Programme Fiscalis, is that set out in the attached draft decision of the Association Council.

Done at Brussels,

*For the Council*  
*The President*

**Decision n° ..../2001 of the Association Council between the European  
Communities and their Member States, of the one part,  
and Poland, of the other part,**

**of .....2001**

**adopting the terms and conditions for the participation of Poland  
in the Community programme Fiscalis**

THE ASSOCIATION COUNCIL,

Having regard to the Europe Agreement between the European Communities and their Member States, of the one part, and Poland, of the other part<sup>4</sup>,

Having regard to the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Poland, of the other part, concerning Poland's participation in Community programmes, and in particular Articles 1 and 2 thereof<sup>5</sup>;

Whereas:

- (1) According to Article 1 of the said Additional Protocol, Poland may participate in Community framework programmes, specific programmes, projects or other actions dealing with a wide range of areas;
- (2) It also provides that other fields of Community activities to those listed can be included too;
- (3) According to Article 2 of the said Additional Protocol the terms and conditions for the participation of Poland in the activities referred to in Article 1 are to be decided by the Association Council,

HAS DECIDED AS FOLLOWS:

*Article 1*

Poland shall participate in the European Community programme Fiscalis according to the terms and conditions set out in Annexes I and II which shall form an integral part of this Decision.

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<sup>4</sup> OJ L 348 of 31.12.93, p. 2

<sup>5</sup> OJ L 317 of 30.12.95, p. 35

## *Article 2*

This Decision shall apply for the duration of the remaining lifetime of the Programme. Nevertheless, should the Community decide to extend the duration without any substantial change within the Programme, this Decision would also be extended correspondingly and automatically if no Party denounces it.

## *Article 3*

This Decision shall enter into force the day of its adoption by the Association Council.

Done at Brussels,

*For the Association Council  
The President*



## ANNEX I

### **TERMS AND CONDITIONS FOR THE PARTICIPATION OF POLAND IN THE FISCALIS PROGRAMME.**

1. As stated in Article 7 of Decision No 888/98/EC<sup>6</sup> of the European Parliament and of the Council of 30 March 1998 establishing a programme of Community action to ameliorate the indirect taxation systems of the internal market - the Fiscalis programme (hereinafter called “the Programme”) – Poland’s participation in the Programme shall be in accordance with the conditions laid down in the Europe Agreement, the Additional Protocol and insofar as Community law on indirect taxation so permits. Accordingly, Poland’s participation in the Programme’s activities shall be under the following conditions:
  - Activities foreseen in Article 4 (communication and information-exchange systems, manuals and guides) will be allowed insofar as Community indirect taxation provisions make it possible;
  - Activities foreseen in Article 5 (1) (exchanges of officials) and (2) (seminars) as well as those foreseen in Article 6 (common training initiative) will be allowed under the conditions laid down in these articles;
  - Activities foreseen in Article 5 (3) (multilateral controls) would not be allowed as the Community legal framework<sup>7</sup> for co-operation in this domain is only applicable to countries which are Member States of the EU.
2. The terms and conditions for the submission, assessment and selection of applications for seminars and exchanges related to officials of Poland shall be the same as those applicable to officials of the 15 national administrations of the Member States of the European Union.
3. Annex II establishes the financial contribution to the general budget of the European Union that Poland will have to pay at the beginning of every financial year to cover the costs resulting from its participation in the Programme, from 2001 to 2002. The Association Committee is entitled to adapt this contribution whenever necessary in accordance with the principles laid down in Article 106 (2) of the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part.
4. Representatives of Poland will participate, as observers and for the points which concern them, in the Standing Committee on Administrative Co-operation in the field of Indirect Taxation foreseen in Article 11 (1) of Decision No 888/98/EC. This Committee shall meet without the presence of representatives of Poland for the rest of the points, as well as at the time of voting.

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<sup>6</sup> OJ L 126 of 28.4.98, p. 1

<sup>7</sup> Directive 77/799/EEC and Regulation 218/92/EEC

5. The Member States of the European Union and Poland will make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of all eligible persons to the Programme moving between Poland and the EU Member States for the purpose of participating in activities covered by the Decision.
6. Without prejudice to the responsibilities of the Commission of the European Communities and the Court of Auditors of the European Communities in relation to the monitoring and evaluation of the Programme pursuant to the Decision concerning Fiscalis, the participation of Poland in the Programme will be continuously monitored on a partnership basis involving Poland and the Commission. Poland will submit the necessary reports to the Commission and take part in other specific activities set out by the Community in that context.
7. The language to be used as regards the application process, contracts, reports to be submitted and other administrative arrangements for the Programme, will be one of the official languages of the European Community.
8. The Community and Poland may terminate activities under this Decision at any time upon twelve months' notice in writing. Activities in progress at the time of termination shall continue until their completion under the conditions laid down in this Decision.

## **ANNEX II**

### **FINANCIAL CONTRIBUTION OF POLAND TO THE FISCALIS PROGRAMME**

1. The financial contribution of Poland will be added to the amount available each year in the general budget of the European Union for commitment appropriations to meet the Commission's financial obligations stemming from work to be carried out for the implementation, management and operation of the Fiscalis programme.
2. The financial contribution has been calculated considering an average daily allowance of EURO 146 and an average travel allowance of EURO 695 representing costs incurred for participating in seminars and exchanges. It is estimated for the calculation of the financial contribution that Poland will participate in 15 seminars and 30 exchanges as an average number of activities per year. The financial contribution may be adjusted at the beginning of each year to take into account the actual number of activities in which Poland plans to participate during that year. The adjustment will take place by means of the required call for funds that Poland will receive from the Commission, as referred to under item 6 below.
3. Poland's contribution will be of EURO 124.291 for every single year of participation, unless determined otherwise within the conditions under item 2. From this sum, an amount of EURO 8.131 will cover supplementary costs of an administrative nature related to the management of the Programme by the Commission stemming from Poland's participation.
4. Poland will pay the annual supplementary costs of an administrative nature referred to under item 3 from its national budget.
5. Poland will pay 50% of the annual remaining cost of its participation from its national budget for year 2001; 60% for year 2002.

Subject to Phare separate programming procedures, the remaining 50% will be paid from Poland's annual Phare allocations – subject to the availability of the relevant budgetary appropriations – for year 2001; 40% for year 2002. The requested Phare funds will be transferred to Poland by means of a separate Financing Memorandum. Together with the part coming from Poland's State budget, these funds will constitute Poland's national contribution, out of which it will make payments in response to annual calls for funds from the Commission.

6. The financial regulation applicable to the general budget of the European Union will apply, notably to the management of the contribution of Poland.

Upon entry into force of this Decision, the Commission will send to Poland one or more call for funds corresponding to its contribution to the costs of the activities for the current year. The contribution will be expressed in EURO and paid into an EURO bank account of the Commission.

Poland will pay its contribution according to the call for funds:

- for the part financed from its national budget, at the latest three months after the call for funds is sent out;
- for the part financed from Phare, at the latest in a period of 30 days after the corresponding Phare funds have been sent to the country.

Any delay in the payment of the contribution shall give rise to the payment of interest by Poland on the outstanding amount from the due date. The interest rate corresponds to the rate applied by the European Central Bank, on the due date, for its operations in EURO, increased by 1,5 percentage points.

7. The daily subsistence allowances are applicable to all participants in the Programme and are determined on a country per country basis by the Commission. Poland will receive a first budget advance from the Commission at the beginning of every year. A second advance may be paid at the middle of the year depending on the actual participation of Poland in the Programme activities and on the expected participation for the rest of the year. The Polish department concerned will use these advances to pay for the travel tickets and daily subsistence allowances for Polish participants.
8. Travel costs and subsistence costs incurred by representatives and experts of Poland for the purposes of taking part as observers in the work of the committee referred to in Annex I, point 4 shall be reimbursed by the Commission on the same basis as the Member States of the European Union.

## **FINANCIAL STATEMENT**

### **1. TITLE OF OPERATION**

Opening of Community Programme Fiscalis to Poland

### **2. BUDGET HEADING(S) INVOLVED**

Revenue: 6091 Revenue accruing from the participation of candidate countries in Community programmes

Expenditure: B7-030 Economic aid to the associated countries of Central and Eastern Europe

### **3. LEGAL BASIS**

Treaty establishing the European Community, and in particular Article 95, in conjunction with Article 300(2), second indent thereof.

Additional Protocol<sup>8</sup> to the Europe Agreement with Poland of 30 December 1995 providing for the opening-up of Community programmes.

Decision No 888/98/EC<sup>9</sup> of the European Parliament and of the Council of 30 March 1998 establishing a programme of Community action to ameliorate the indirect taxation systems of the internal market.

### **4. DESCRIPTION OF OPERATION**

#### **4.1 General objective**

1. To enable officials to achieve a high common standard of understanding of Community law, in particular in the field of indirect taxation and of its implementation in Member States.
2. To secure efficient, effective and extensive co-operation among Member States and between them and the Commission.
3. To ensure the continuing improvement of administrative procedures to take account of the needs of administrations and taxpayers through the development and dissemination of good administrative practices.
4. Poland's participation in the Community programme Fiscalis will further contribute to its preparation for accession as a key feature of a reinforced pre-accession strategy. It will also enable Poland to familiarise itself with the procedures and methods used in this Community programme.

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<sup>8</sup> OJ L 317 of 30.12.95, p. 35

<sup>9</sup> OJ L 126 of 28.04.98, p. 1

5. The decision-making process for this participation requires a decision by the Association Council of the Europe Agreement. This decision sets up the terms and conditions for such participation.
6. The additional Protocol to the Europe Agreement with Poland of 30 December 1995 provides for Poland's participation in Community Programmes dealing with a wide range of areas. Since it also provides for addition of other Community areas, activities in the field of internal market can be included too.

#### **4.2 Period covered and arrangements for renewal**

From the entry into force of this Decision until the end of this Community programme, i.e. 31.12.2002.

### **5. CLASSIFICATION OF EXPENDITURE OR REVENUE**

#### **5.1 Non-compulsory expenditure**

#### **5.2 Differentiated appropriations**

#### **5.3 Type of revenue involved**

Since the first paragraph of Article 3 of the Additional Protocol stipulates that Poland itself will meet the cost of its participation, it will be invited to transfer its contribution to item 6091 of the EU's budget receipts. However, as the Community may supplement Poland's contribution (through its national Phare allocation), Poland will contribute only part of its national budget. The remaining part of this contribution will be taken from its Phare National Programme. The required Phare funds will be charged to heading B7-030 and transferred to Poland by means of a separate Financing Memorandum. Together with the part coming from Poland's State budget, these funds will constitute Poland's national contribution out of which it will make payments in response to annual calls for funds from the Commission.

### **6. TYPE OF EXPENDITURE OR REVENUE**

Expenditure comprises reimbursement of participants' travel expenses and daily subsistence allowances, organisational costs and costs incurred through seminars and exchanges.

As far as revenue is concerned, provision for Poland's contribution to cover the cost of its participation is made under item 6091. The revenue will be allocated to the items for expenditure on the programme concerned and, where appropriate, to the relevant items of operating expenditure.

The total revenue expected is given under item 7.4.

## **7. FINANCIAL IMPACT**

### **7.1 Method of calculating total cost of operation for every single financial year (relation between individual and total costs)**

The calculation is based on the following preconditions:

- Poland's contribution to the financing of the activities referred to in the Additional Protocol to the Europe Agreement is calculated according to the principle that the country bears the costs of participation itself. Heading 6091 has been created in the statement of budget revenue for that purpose.
- Based on the Additional Protocol to the Europe Agreement with Poland, the financial and budgetary arrangements for the programme concerned are as follows: the costs have been calculated on the basis of various assumptions related to the participation in a number of 15 seminars and 30 exchanges per year, including average costs of travel of EURO 695 from Poland to the country of the host administration, the duration of exchanges or seminars and average daily subsistence allowance of EURO 146.

On the basis of these assumptions, the total cost of Poland's participation will be EURO 124.291 per year.

From the above-mentioned figure, the supplementary cost of an administrative nature of EURO 8.131 per year is to be borne exclusively by Poland.

Of the remaining sum, Poland shall pay 50% from its national budget for year 2001; 60% for year 2002.

Subject to the Phare programming procedures, the remaining 50% will be paid from Poland's Phare national allocation for year 2001; 40% for year 2002.

### **7.2 Itemised breakdown of costs in EURO**

<b>EXCHANGES</b>	<b>FINANCIAL CONTRIBUTION PER YEAR</b>
Number of exchanges*	30
Length of exchanges (days)	14
Number of participants per exchange	1
Subsistence allowances**	61.320
Travel expenses***	20.850
<b>TOTAL</b>	<b>82.170</b>

<b>SEMINARS</b>	<b>FINANCIAL CONTRIBUTION PER YEAR</b>
Number of seminars*	15
Number of participants in each seminar	2
Length of seminar (days)	3
Subsistence allowances**	13.140
Travel expenses***	20.850
<b>TOTAL</b>	<b>33.990</b>

<b>TOTAL SEMINARS+EXCHANGES</b>	<b>116.160</b>
7% administrative costs	8.131

<b>TOTAL PER YEAR</b>	<b>124.291</b>
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\* number of exchanges and seminars yearly attended by Member States with the same population as Poland

\*\* € 146/day (average daily subsistence allowance)

\*\*\* € 695 (average travel allowance)

### 7.3 Operational expenditure for studies, experts etc. included in Part B of the budget

None

### 7.4 Schedule for multi-annual operations:

TOTAL EXPENDITURE:

Item 6091	2001	2002	TOTAL
Seminars + exchanges	116.160	116.160	232.320
7% administrative costs	8.131	8.131	16.262
<b>TOTAL</b>	<b>124.291</b>	<b>124.291</b>	<b>248.582</b>



**PHARE CONTRIBUTION:**

	2001 50% of operational expenditures	2002 40% of operational expenditures	TOTAL
Item	B7-030	B7-030	
	58.080	46.464	104.544

Poland's contribution from its national budget:

Item 6091	2001 50% of operational expenditures	2002 60% of operational expenditures	TOTAL
Operational expenditure	58.080	69.696	127.776
7% administrative costs	8.131	8.131	16.262
TOTAL	66.211	77.827	114.038

## **8. FRAUD PREVENTION MEASURES; RESULTS OF MEASURES TAKEN**

All the Commission's contracts, agreements and other legal commitments provide for on-the-spot checks by the Commission and Court of Auditors. Among other things, the beneficiaries of the operations are obliged to file reports and financial statements. These are analysed from the point of view of their content and the eligibility of the expenditure in line with the objective of Community financing.

The anti-fraud provisions of the basic budget headings apply to this heading too when adapted to the case of Poland.

## **9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS**

### **9.1 Specific and quantified objectives; target population**

The main objectives of the Programme are to contribute to the achievement of a high common standard of understanding of Community legislation in the field of indirect taxation, secure efficient co-operation among Member States and the Commission and improve administrative procedures.

The Fiscalis programme allows exchanges of officials involved in implementing Community legislation and the organisation of seminars.

The aim of opening up the Community programme Fiscalis is to bring to Poland the same benefits as the Member States of the European Union already enjoy from the

Programme. The objective for each year is to have Polish officials participate in an average number of 30 exchanges by a placement in one of the 15 EU members and in an average number of 15 seminars.

The integration of Polish officials in Community networks will make a definite contribution to preparing Poland for future membership.

## 9.2 Monitoring and evaluation of the operation

The monitoring and evaluation procedures included in the Fiscalis programme will also cover Polish participants.

## 10. ADMINISTRATIVE EXPENDITURE (SECTION III, PART A OF THE BUDGET)

Actual mobilisation of the necessary administrative resources will depend on the Commission's annual decision on the allocation of resources, taking into account the number of staff and additional amounts authorised by the budgetary authority.

### 10.1 Effect on the number of posts

Type of post	Staff required to manage the operation		Source		Duration Per year
	Permanent posts	Temporary posts	Existing resources of the DG department concerned	Additional resources	
Officials or temporary staff					
A	0,02		0,02		
B	0,02		0,02		
C	0,02		0,02		
Other resources (Technical assistance, item A-7002)					
<b>TOTAL</b>	<b>0,06</b>		<b>0,06</b>		

## 10.2 Overall financial impact of additional human resources

(in EURO)

	<b>Total EURO</b>	<b>Method of calculation (total cost of the action per year)</b>
<b>Officials *</b>	6.480	0,06 man/year x 108.000 EURO
<b>Temporary staff</b>		
<b>Other resources (Technical assistance, item A-7002)</b>		
<b>TOTAL</b>	<b>6.480</b>	

\* By using existing resources required to manage the operation (calculation based on A-1, A-2, A-4, A-5, A-7).

## 10.3 Increase in other administrative expenditure as a result of the operation

	2001	2002	TOTAL
A.701 (missions)*	1.750	1.750	3.500
A.7031 (compulsory committees)**	6.381	6.381	12.762
<b>TOTAL</b>	<b>8.131</b>	<b>8.131</b>	<b>16.262</b>

\* Average cost for a 2-day mission of 2 officials per year in Poland

\*\*Participation of Poland in SCAC meetings

The above expenditure will be met from the receipts (art. 4 § 2 third indent of the financial regulation) received from Poland (see point 5.3 and 7.4 of the financial statement).