

Official Journal

of the European Communities

ISSN 0378-6986

C 329

Volume 44

23 November 2001

English edition

Information and Notices

<u>Notice No</u>	<u>Contents</u>	<u>Page</u>
	I <i>Information</i>	
	Court of Auditors	
2001/C 329/01	Special Report No 11/2001 concerning the Tacis cross-border cooperation programme together with the Commission's replies.....	1

I

(Information)

COURT OF AUDITORS

SPECIAL REPORT No 11/2001

concerning the Tacis cross-border cooperation programme together with the Commission's replies

*(pursuant to Article 248(4), second subparagraph, EC)**(2001/C 329/01)*

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
SUMMARY		3
INTRODUCTION	1-6	4
An overview of the Tacis cross-border cooperation programme	1-5	4
The Court's audit	6	5
THE LEGAL FRAMEWORK AND COORDINATION WITH OTHER INSTRUMENTS	7-16	5
Legal framework	7-9	5
Lack of funding from Phare programme	10-14	6
Coordination with Interreg	15-16	7
BUDGETING AND PROGRAMMING OF TACIS CBC	17-25	7
Overall amount of the budget	17-21	7
Delays in allocation of funds to small projects	22	8
Capacity of regional and local authorities to manage projects	23-25	8
IMPLEMENTATION OF TACIS CBC	26-35	8
Financial implementation	26-29	8
Works contracts	30-32	9
Tendering for works contracts	30	9
Exemptions from value added tax and customs duties	31	9
Role of authorities in beneficiary countries	32	9
Supply contracts	33	9
Small project facility	34-35	10
IMPACT OF TACIS CBC PROGRAMME	36-53	10
Border crossings	36-42	10
Border management	43	11

	<i>Paragraph</i>	<i>Page</i>
Environment	44-49	11
Economic development	50-51	12
Small projects	52-53	12
CONCLUSIONS	54-57	12
Impact of programme on living standards in the border regions	54	12
Cross-border impact	55	12
Participation of local and regional authorities in Tacis CBC programme	56	13
Overall conclusion	57	13
RECOMMENDATIONS	58-62	13
ANNEX 1 — Tacis CBC programme beneficiary regions		15
ANNEX 2 — Outline implementation scheme of Tacis CBC programme		16
ANNEX 3 — Tacis CBC, Interreg and Phare CBC implementation structures		17
The Commission's replies		18

SUMMARY

Programme overview

I. The Tacis cross-border cooperation (CBC) programme was established in 1996 to help reduce the difference in living standards between the western border regions of Belarus, Moldova, Russia and Ukraine and those in neighbouring countries. It seeks to encourage cooperation between regional authorities on either side of the border and support projects with a cross-border impact. While the annual budget is small (20-30 million euro), the programme is politically important both because the region will form the new eastern border of the European Union following the next accession and because of the Union's 'Northern Dimension' policy (see paragraphs 1 to 5).

The legal framework and coordination with other instruments

II. The programme's legal framework is not geared to coordination with the Phare and Interreg programmes. Although the programmes have similar objectives, cooperation mechanisms already successfully developed by the Commission for the Phare CBC programme were not used for the Tacis CBC programme. Apart from Poland, only limited funding was available from the Phare programme for joint projects with Tacis countries, there being no specific appropriate financing mechanism for funding the regions of Phare countries bordering on NIS countries. Thus the potential for linked projects on either side of the border has been greatly reduced (see paragraphs 7 to 16).

Budgeting and programming of Tacis CBC

III. Despite the programme's political importance and the large number of project proposals initially received, its budget was cut back in 1999 and 2000. There have been serious delays in programming funds for the small project facility (SPF) and in assisting regional authorities to increase their management capacity. Infrastructure has been seldom financed outside the border-crossing sector although there is a high demand for such funding (see paragraphs 17 to 25).

Implementation

IV. Implementation has been very delayed. For works contracts, difficulties have been experienced in obtaining bids within tender budgets. Equipment has sometimes only been supplied after the end of the scheduled duration of projects because of the Commission's lengthy procurement procedures and delays in customs clearance in the beneficiary countries. Obtaining exemption from value added tax has been a major problem for projects. Implementation procedures for the SPF have been too centralised. The audit of a representative sample of Tacis CBC payments did not reveal any significant errors concerning their legality and regularity (see paragraphs 26 to 35).

Impact

V. The border crossing programme suffered particular delays so that it had not yet had an impact at the end of 2000. Most environmental projects suffered from a lack of follow-up investments either from Tacis or other sources. Despite the programme's economic development objectives, very few large projects were financed in this area. Overall, projects financed from the SPF had the most cost-effective results (see paragraphs 36 to 53).

Conclusions and recommendations

VI. While the programme has the potential to address important needs, it has had little impact so far either on improving living standards in beneficiary regions or on cross-border cooperation, and more efforts need

to be made to support the participation of local and regional authorities (see paragraphs 54 to 57). It is recommended that (see paragraphs 58 to 62):

- *coordination mechanisms between the Tacis CBC programme, the Interreg programme and the Phare programme should be significantly strengthened;*
- *consideration should be given to increasing the budget of the Tacis CBC programme and matching funding made available for bordering regions in the Phare countries;*
- *greater emphasis should be placed on infrastructure and investment support;*
- *the programme should give more priority to projects which directly contribute to increasing the living standards of the population in the eligible regions;*
- *a higher proportion of funds should be allocated to the small project facility and its management should be decentralised.*

INTRODUCTION

An overview of the Tacis cross-border cooperation programme

1. The Tacis CBC programme was launched in 1996 on the initiative of the European Parliament and covers regions in Russia, Belarus, Ukraine and Moldova ⁽¹⁾ which border on the European Union (Finland) and the Phare countries ⁽²⁾. The programme also reflects the demand of the 1994 Essen European Council for intensified cross-border cooperation in Central and Eastern Europe to promote regional cooperation and good neighbourliness.

2. A total of 132,5 million euro was committed to the programme over the period 1996-2000 which represents approximately 5 % of the total Tacis budget ⁽³⁾. According to the Commission's main policy document on the subject ⁽⁴⁾, the objectives of the programme are:

- (a) to promote economic and social development in the border regions by supporting sustainable projects to reduce the risk of stability in the region being undermined by the very significant difference in living standards on either side of the border. In particular, the programme should assist the border regions to overcome their specific development problems which stem from being on the periphery of their national economies;

- (b) to finance projects which have a cross-border impact and which are supported by communities on both sides of the border, such cooperation being considered essential to ensure sustainable development;

- (c) to finance, as a priority, projects with a demonstrable local or regional commitment.

These objectives are similar to the objectives of the Phare CBC programme ⁽⁵⁾.

3. The Tacis CBC programme was also initiated as a means to provide complementary funds for Russian border regions in order to promote joint projects with Interreg-financed projects in Finland ⁽⁶⁾. More generally, the Tacis CBC programme is the main financial instrument available to the Commission to fund projects within the context of the European Union's so-called 'Northern Dimension' policy. This initiative, which was launched after Finland and Sweden joined the European Union, seeks to develop Northern Europe through achieving a more coherent approach to addressing the specific problems and needs of the region ⁽⁷⁾. In addition, the programme has a role to play in reducing the potential isolation of the Russian enclave of Kaliningrad.

⁽¹⁾ For a map of the eligible regions see *Annex I*.

⁽²⁾ For the purposes of this report the Phare countries are countries benefiting from the European Union's Phare programme which border on the four Tacis CBC beneficiary countries: Estonia, Hungary, Latvia, Lithuania, Poland, Romania and the Slovak Republic.

⁽³⁾ The Tacis CBC programme is funded on a separate budget line from the main Tacis programme.

⁽⁴⁾ Communication from the Commission to the Council, the European Parliament, and the Committee of the Regions on cross-border cooperation within the framework of the Tacis programme, Brussels, 27.5.1997 COM(97) 239 final.

⁽⁵⁾ See Articles 3 and 5(2) of Regulation (EC) No 1628/94 and Articles 3 and 5(3) of Regulation (EC) No 2760/98.

⁽⁶⁾ The Interreg programme was introduced in 1990 by the Commission to assist border regions in Member States in tackling their specific development problems. Finland became eligible for Interreg II on its accession and under Interreg IIA (1995-99) received a total of 34 million euro for the three regions bordering on Russia (South East Finland: 9,6 million euro; Karelia Region: 13,9 million euro; Barents Region: 10,5 million euro).

⁽⁷⁾ Countries within the region covered by the 'Northern Dimension' are Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, the Russian Federation and Sweden.

4. At the same time the Tacis CBC programme is seen as a way to contribute to the pre-accession process in the Phare countries, notably through the provision of complementary funding to help address increasing concerns over the adequacy of the Phare-NIS borders, which in the coming years will become part of the European Union's eastern border, and in order to develop cross-border relations.

5. The programme is essentially implemented through three types of intervention:

- (a) projects to improve border crossings and border-related infrastructure which are jointly identified by the Commission and the national authorities in beneficiary countries;
- (b) so-called 'large projects', generally for between 1 million euro and 3 million euro. In the Ukraine, Belarus and Moldova, the

national authorities have often played a leading role in the development of these projects also;

- (c) small projects, for up to 200 000 euro in Tacis grant financing, which are identified and prepared by local and regional authorities. The beneficiary is required to provide co-financing of at least 20 %.

An overview of Tacis implementation procedures is given in Annex 2 and an outline of the different parties involved in the Tacis CBC, Interreg and Phare CBC programmes presented in Annex 3. In principle, the priority sectors have been border crossings, environment and economic development. The allocation of the Tacis CBC budgets for the period 1996 to 2000 over the three types of intervention and over the different sectors is set out in Table 1 below.

Table 1

Allocation of Tacis CBC funds 1996-2000

	Border crossings	Large projects	Small projects	Total	%
Border crossings	62,9	—	0,1	63,0	48
Environment	—	42,2	2,3	44,5	34
Economic development	—	4,8	4,4	9,2	7
Public administration and social affairs	—	0,8	3,6	4,4	3
Other	—	0,2	1,5	1,7	1
Unallocated	—	—	9,7	9,7	7
Total	62,9	48,0	21,6	132,5	100

Source: European Court of Auditors.

The Court's audit

6. An audit of the Tacis cross-border cooperation programme was carried out in the second half of 2000. The objective of the audit was to examine how well the programme had been managed and what its impact was some five years after the programme was launched. It involved file reviews and interviews at the European Commission headquarters, meetings with the recipient authorities and the audit of projects in the beneficiary countries. The on-the-spot audits covered 13 of the 15 projects with a value over 1 million euro and a sample of 10 of the 46 projects financed under the Small Project Facility, which had been, or were being, implemented. Meetings were also held in four neighbouring countries (Estonia, Finland, Hungary and Poland) to help assess the level of cross-border cooperation generated by the programme.

THE LEGAL FRAMEWORK AND COORDINATION WITH OTHER INSTRUMENTS

Legal framework

7. The Tacis CBC programme was established on the basis of Council Regulation (EC) No 1279/96 of 25 June 1996, concerning the provision of assistance to economic reform in the New Independent States and Mongolia⁽¹⁾ over the period 1996 to 1999. However, the Regulation covered the entire Tacis programme and the part of it devoted to cross-border cooperation

⁽¹⁾ OJ L 165, 4.7.1996, p. 1.

was very limited ⁽¹⁾. This was in contrast to the Phare CBC programme where the Commission established a detailed programming and implementation framework in a separate Commission regulation in 1994, the first year of the programme ⁽²⁾. There were virtually no changes to the Tacis CBC programme under the new regulation (2000 to 2006) for aid to the NIS countries apart from the introduction of a multi-annual indicative programme (Article 3) and a reference to the need for coordination with the Phare programme and the Structural Funds (Article 14) ⁽³⁾.

8. A particularly striking contrast between the Phare CBC programme and the Tacis CBC programme is that for the latter the Commission has not established coordination mechanisms for promoting dialogue and cooperation between the NIS countries and adjoining countries similar to those already in place for the Phare CBC programme. Under the Phare CBC Regulation 'Joint Programme and Monitoring Committees' (JPMCs), made up of national and regional representatives of the Phare country and the neighbouring Member State, succeeded in bringing the bordering countries together to identify, appraise and recommend new projects. The Commission itself had observer status on the JPMC but had the final decision-making authority over which projects recommended by the JPMC would actually be funded. The establishment of JPMCs for the Tacis CBC programme could similarly have promoted greater cross-border cooperation, both in relation to specific projects and to the wider development of bilateral relations between the countries concerned, including at the regional level.

9. In addition, again in contrast to the Phare CBC programme, the Commission has not required a development analysis and strategy for the beneficiary border regions to be drawn up by the authorities on the two sides of the border. Similarly, no annual Memorandum of Understanding setting down the projects to be funded and signed by the countries on either side of the border, has been established. As a result there has been no procedure for ensuring that information on Tacis CBC projects to be funded was communicated to the neighbouring countries although this was a prerequisite of cross-border cooperation.

Lack of funding from Phare programme

10. A fundamental difficulty faced by the Tacis CBC programme has been the lack of funding available on the Phare side of the border, with the exception of the border-crossing sector (particu-

larly in Poland), in order to be able to develop joint or at least related projects. Given that regional authorities in the Phare border regions concerned generally had very limited budgets of their own, it would have been desirable for Phare to provide such funding. However, the Phare CBC programme was initially limited to the Phare countries' borders with the European Union. Although the eligible border regions were extended in 1999 to cover borders between Phare countries, the programme still did not cover the Phare-NIS borders despite the growing disparity in living standards between western and eastern border regions in certain Phare countries (for example, Hungary, Poland and the Slovak Republic).

11. In principle the Phare Credo programme, set up in 1996 to provide funding primarily for cross-border projects on Phare to Phare borders but for which Phare-NIS borders were also eligible, could have been used in conjunction with the Tacis CBC programme. However, although it was originally foreseen that 102 million euro would be available under the programme over the period 1996 to 1999, just 11,7 million euro was actually contracted. Only 1,4 million euro was contracted for the Phare-NIS border over 23 projects (average size approximately 60 000 euro), none of which had direct links with Tacis CBC projects.

12. In 1998 a new budget line was created by the European Parliament entitled 'Special actions in favour of the Baltic region' to finance projects in north-west Russia, the Baltic States and Poland. From 1999 the budget has been approximately 10 million euro per annum which is financed by both Tacis and Phare ⁽⁴⁾. While designed to increase flexibility and promote a joint approach between Interreg, Phare and Tacis, as far as Russia is concerned, the programme to a considerable degree duplicates the Tacis CBC programme.

13. More fundamentally, the separation of aid to Tacis and Phare countries under two different regulations is a major but also unnecessary obstacle to effective cross-border cooperation. While for the main Tacis and Phare programmes there is a clear need for two separate regulations in order to distinguish between countries of the former Soviet Union (Tacis Regulation) and the former communist countries of Central and Eastern Europe (Phare Regulation), the very objective of cross-border cooperation is to reduce the negative impact of such divisions. Thus it would have been desirable to create a new regulation, with its own budget line, for the adjoining border regions of the Tacis and Phare countries.

14. The largely ad hoc and insufficient coordination between the Phare and Tacis services within the Commission has also hindered closer cooperation.

⁽¹⁾ Reference to the Tacis CBC programme is essentially limited to Article 3(10) and Annex IV paragraph 1.

⁽²⁾ Commission Regulation (EC) No 1628/94 of 4 July 1994 concerning the implementation of a programme for cross-border cooperation between countries in central and eastern Europe and Member States of the Community in the framework of the Phare programme (OJ L 171, 6.7.1994, p.14).

⁽³⁾ Council Regulation (EC, Euratom) No 99/2000 of 29 December 1999 concerning the provision of assistance to the partner States in Eastern Europe and Central Asia (OJ L 12, 18.1.2000, p. 1).

⁽⁴⁾ No financial allocation was made to the budget line in 1998.

Coordination with Interreg

15. While the European Union has made funding available on the Finnish side of the border with Russia through the Interreg programme, it has been difficult to establish linked Tacis CBC-Interreg projects for several reasons:

- (a) most of the Finnish Interreg programme is implemented through projects of a relatively small size (typical EU contribution of 200 000 to 250 000 euro). This makes the Tacis CBC small project facility, with its limit of 250 000 euro, the natural source of Tacis co-financing for joint projects, but only approximately 15 % of Tacis funds have been devoted to this instrument;
- (b) the timing of the calls for proposals for Interreg and Tacis CBC projects are not harmonised which makes it difficult to plan joint projects;
- (c) Interreg funds are programmed on a multi-annual basis while Tacis CBC funds are allocated each year;
- (d) Interreg funds and Tacis CBC can only be used on the territory of the beneficiary country and not on the other side of the border. This considerably limits the scope for joint projects;
- (e) whereas the selection of Interreg projects is made at regional level, by the Finnish beneficiary regions and generally in consultation with neighbouring authorities in Russia, this is not the case for Tacis CBC projects, funding decisions instead being made by the European Commission headquarters ⁽¹⁾.

16. Up until 2000 there was no systematic contact between the Commission services responsible for Tacis CBC and the Commission services in DG Regio responsible for Interreg to improve the coordination of the two instruments. Towards the end of 2000 more concerted efforts began to be made by the two services to identify ways to improve the 'interoperability' of the two instruments.

⁽¹⁾ This leads to a situation where Russian regional authorities can have more influence over the selection of Interreg projects than Tacis CBC projects.

BUDGETING AND PROGRAMMING OF TACIS CBC**Overall amount of the budget**

17. The annual budget for the CBC programme was set in 1996 at 30 million euro. It has not been possible to establish on what basis the budget was fixed at this level. This amount was maintained for the first three years of the programme, but was then reduced to 20 million euro in 1999 and 22,5 million euro in 2000, in line with a general reduction in the Tacis budget, although the issues arising from the imminent establishment of a new eastern border for the European Union, the development of the 'Northern Dimension' policy, and the special position of Kaliningrad are of growing importance.

18. The budget allocation also did not take into account the considerable number of project applications received during the first two years of the programme. While the Commission does not have precise statistics on the number of applications for large projects, the general indications are that the number of project applications decreased considerably from 1998 onwards.

19. The reason given by the beneficiary countries for this decline was that local authorities came to realise that the limited funds available for large projects outside the border-crossing sector (which was the domain of the national authorities), meant that the small probability of receiving funding for a large project did not justify the costs of project preparation. Indeed, the limited Tacis CBC budget means that on average only one, at most two, large projects per annum can be funded in each country. Because of the limited availability of funds no call for proposals for large projects was made at all in Russia in 1999 and 2000 ⁽²⁾.

20. For the small project facility (SPF), where full statistics exist for the number of project applications, it is clear that the demand for funding was much higher than the funds allocated to the programme for the period 1996 to 1998 (see Table 2 below). The total value of projects 'recommended' for financing by the Commission's project selection committee was 68 % higher than the actual funds available.

⁽²⁾ All the Commission 2000 budget for Russia was allocated to the relaunching of the Sortalava waste-water treatment plant (4,5 million euro). The funds for this project, which was originally to be financed from the 1996 budget, had been decommitted due to the lack of implementation (see paragraph 44).

Table 2

Number and value of SPF project proposals

Budget year	Projects submitted		Projects recommended		Projects approved	
	Number	Value (Mio EUR)	Number	Value ⁽¹⁾ (Mio EUR)	Number	Value (Mio EUR)
1996	91	13,8	39	5,9	16	2,4
1997	133	20,5	42	6,3	30	4,7
1998	121	20,7	47	7,1	26	4,4
Total	345	55,0	128	19,3	72	11,5

⁽¹⁾ Estimate based on average project size of 150 000 euro.
Source: European Commission.

21. Despite the limited funds available, the higher probability of winning project funding under the SPF, compared to large projects, means that local and regional authorities are keen to submit project proposals. In terms of the participation by beneficiary authorities, and particularly local and regional authorities, in the programme the SPF can be considered as much more successful than the large project component of the programme.

Delays in allocation of funds to small projects

22. Given that funds are allocated to the SPF each year, it would have been expected that a regular annual cycle for project preparation, submission and approval could have been established. This would have facilitated the task of both the Commission and the beneficiary authorities. In fact, the SPF has suffered serious delays at the programming stage. For the 1996 budget year, projects were not selected until 1998. While this delay can partly be attributed to the need to set up the implementation procedures, and the situation did improve for the 1997 budget year, the Commission was responsible for very serious delays for the 1998 budget year due to the reorganisation of the Commission services. As a result projects were not selected until October 2000, greatly slowing down the momentum the programme had started to build up and damaging its reputation in the beneficiary countries. The delay was the result of the new directorate in the Commission responsible for tendering contracts for external aid blocking the selection process until standard guidelines for this type of grants had been established for all external aid programmes.

Capacity of regional and local authorities to manage projects

23. Although the Commission itself stressed that 'a precondition for the successful implementation of any cross-border cooperation activity is the regional and local capacity to generate and develop projects' ⁽¹⁾, funds were not allocated for assistance in this

respect until the second year of the programme (1997: Regional capacity building initiative: 675 000 euro). Moreover, actual implementation only finally began in April 2000 because the Commission was unable to decide on what was the appropriate procedure for awarding contracts of this kind.

24. A further positive aspect of the SPF is that for many local and regional authorities, the maximum grant level of 200 000 euro is more manageable than that for large projects (1-3 million euro). The so-called large projects are in some cases difficult for regional and local authorities to absorb, not only because of their size, but also because of the high proportion of technical assistance involved in them. On average such large projects have included 1,3 million euro in technical assistance (approx. 80 %) and 0,35 million euro in equipment (approx. 20 %). For regional authorities, funding for infrastructure would often have been preferable, both in terms of absorption capacity and their actual needs. However, despite the opportunities under the programme for funding small-scale infrastructure ⁽²⁾, the Commission policy has generally been to limit infrastructure support to border crossings (see also paragraph 44).

25. For the preparation of large projects Russian regional authorities have generally benefited from good cooperation both with Finnish regional authorities and Finnish consultancies. In Ukraine and Moldova national ministries frequently played a major part in drawing up project applications, in some cases due to the weak capacities of the regional administrations.

IMPLEMENTATION OF TACIS CBC

Financial implementation

26. The financial implementation of the programme as at 31 December 2000 is summarised in Table 3 below.

⁽¹⁾ 'Communication from the Commission to the Council, the European Parliament, and the Committee of the Regions on cross-border cooperation within the framework of the Tacis programme', Brussels, COM(97) 239 final 27.5.1997.

⁽²⁾ See indent 10 of Regulation (EC) No 12/96: 'Whereas, in order properly to meet the most acute needs of the New Independent States and Mongolia at the present stage of their economic transformation, it is necessary to permit a limited amount of the financial allocation to be used for small-scale infrastructure projects in the context of cross-border cooperation'.

Table 3

Financial implementation of Tacis CBC programme 1996 to 2000

(Mio EUR)

	Commitments	Contracts	Payments
1996	30,0	23,7	16,1
1997	30,0	29,7	16,4
1998	30,0	28,2	4,8
1999	20,0	6,6	0,4
2000	22,5	0,0	0,0
Total	132,5	88,2	37,7

27. Implementation of the programme has generally been slow, notably in relation to the main component of the programme, border-crossing facilities. The main reasons for this are examined in the following paragraphs. As a result of implementation problems 6,3 million euro (21 % of the commitment) had to be decommitted when the period allowed for contracting the 1996 budget expired at the end of 1999.

28. In fact the amounts decommitted should have been higher since a further 2,6 million euro from the 1996 budget foreseen for service and supply contracts for border-crossing facilities had also not been contracted at 31 December 1999. However, because the Commission had delegated the management of this amount to the border crossing 'Programme supervision unit' (PSU), managed by a consultancy firm, it considered these funds to be already definitively contracted.

29. The audit of a representative sample of Tacis CBC payments did not reveal any significant errors concerning their legality and regularity.

Works contracts**Tendering for works contracts**

30. The border crossing programme in Ukraine, Belarus and Moldova suffered significant delays due to the serious difficulties in obtaining tender bids within the contract budget. All three tenders issued in 1999 for border-crossing facilities ⁽¹⁾ in these countries had to be re-tendered because in each case only one bid was received and these bids were on average double the amount foreseen in the budget. The main reason for this situation was that the

⁽¹⁾ Kamenny Log (Belarus), Chop (Ukraine), Leushen (Moldova).

consultancy company responsible for preparing the tenders had underestimated the likely range of costs, particularly the amount required by foreign companies to cover the perceived risk of working in these countries ⁽²⁾. At the same time, Commission requirements intended to ensure the financial viability of contractors made it difficult for NIS contractors to submit valid bids.

Exemptions from value added tax and customs duties

31. A major problem encountered in relation to works contracts was obtaining the agreement of the beneficiary authorities to grant exemption from value added tax for local contractors. Although exemptions were required by the Memoranda of Understanding governing the implementation of border-crossing projects, which were signed between the beneficiary countries and the Commission, in practice this requirement proved difficult for the Commission to enforce. Because of the problems experienced, contractors working in Russia and Ukraine had submitted claims of almost 2 million euro by the end of 2000.

Role of authorities in beneficiary countries

32. In other respects too, programme implementation was not always facilitated by the project beneficiaries. Delays were encountered, particularly at Svetogorsk (Russia) and Jagodin (Ukraine) in obtaining approval of the design of the border-crossing facilities. In general, the fact that in the NIS countries nine different services had responsibilities for border-crossing projects complicated decision-making ⁽³⁾. While the official project beneficiaries for border crossings were the customs authorities, the need for coordination between the national, regional and local customs authorities was not conducive to rapid implementation. Moreover, the role of the local government authorities in border crossing projects within their territory was generally not clearly defined.

Supply contracts

33. The funding of equipment typically represents 15 to 25 % of the cost of Tacis CBC projects. In approximately half of the large projects examined which were nearing completion or had already been implemented, the project had suffered from delays in the supply of equipment. These delays were due to the Commission's lengthy procurement procedures, the time taken by beneficiaries to approve equipment lists and hold ups in customs clearance in the beneficiary countries. As a result, the equipment sometimes only arrived just before the scheduled end of the project or even later.

⁽²⁾ The problem was less serious in Russia because its proximity to Finland meant that the logistical difficulties were not so great for Finnish companies.

⁽³⁾ By way of comparison, in Finland only two services were responsible for border crossings.

Small project facility

34. While it would be expected that the SPF could be implemented using lighter, more flexible procedures than for larger projects, this has not been the case. The SPF has suffered from a heavy structure much of which is far removed from the beneficiary regions despite the fact that this instrument is particularly aimed at the local and regional level.

35. Because its own staff resources available to manage the programme were limited, the Commission contracted out much of its day-to-day running to a management agency based in Denmark. Although the agency established local offices in St Petersburg (Russia) and Lvov (Ukraine), most decisions had to be taken at its headquarters and approved by the Commission services in Brussels. The Commission's delegations have had very little input into the SPF although, because of its regional emphasis, there is a greater need for the Commission to manage the SPF from within the beneficiary countries. The long procurement and payment procedures have meant that it is difficult for beneficiaries to implement projects within the 18-month limit which the Commission has insisted on for the completion of such projects.

IMPACT OF TACIS CBC PROGRAMME

Border crossings

36. Approximately half of Tacis CBC funding over the period 1996 to 2000 has been allocated to border crossings. However, construction work only began in 2000. As a result, five years after the launch of the Tacis CBC programme, the programme had not yet had any impact in this area.

37. Border crossings are a particularly striking example of the desirability of either having one financing instrument to cover both sides of the border or, failing this, at least to ensure adequate coordination between the Phare and Tacis instruments. However, the Commission did not develop a strategy for improving crossings on the Phare-NIS borders. The first major Phare support to border crossings to the NIS was launched in 1993 without any corresponding initiative from Tacis funding. Because border-crossing facilities were completed on the Phare side of the border without any parallel improvement on the Tacis side, bottlenecks persisted.

38. The first step in the Tacis border crossing programme was a needs assessment study in 1996 which covered 42 border crossings in the eligible border regions. This study represented a valid approach to developing a medium-term strategy for assisting bor-

der crossings. However, a 1995 study⁽¹⁾ financed by the Phare programme on border-crossing bottlenecks had already established the urgent need for assistance at the two border crossings on the CEEC-NIS border which had the longest average waiting times in the whole of central and Eastern Europe: Zahony-Chop (Hungary-Ukraine; 28 hours) and Kukuryki-Kozlovitchi⁽²⁾ (Poland-Belarus; 24 hours, rising on occasions to five days). It would therefore have been desirable to have financed these two crossings as a priority while determining the next round of interventions through the needs assessment.

39. In fact works at Chop only began in October 2000. More seriously, at Kozlovitchi, although it was also by far the biggest border crossing on the CEEC-NIS border, 359 028 trucks using the crossing in 1996, no Tacis infrastructure investments had taken place by the end of 2000.

40. The only two border-crossing projects where construction was close to completion at the end of 2000 were on the Russian-Finnish border, at Salla-Kelloselkä, 50 km north of the Arctic Circle (4,4 million euro) and Svetogorsk-Imatra (6,8 million euro). The Salla project is seen as a way to develop the Barents Euro-Arctic Region and shorten long-distance journey times by typically 2 to 4 hours. However, the impact of the project is, in the short term at least, expected to be relatively limited given that just 1 727 trucks used the crossing in 1996, only approximately 0,5 % of those using the Kukuryki-Kozlovitchi crossing. Following the upgrading of the border crossing it was estimated in the project feasibility study that the number of trucks would grow but still only to approximately 5 000 per annum by 2000.

41. At the Svetogorsk-Imatra crossing point, although the project was much more justified in terms of traffic usage (1996: 26 000 trucks; 283 000 cars), the very bad road from Svetogorsk to Vyborg (55 km) threatened to become as a bottleneck once the border-crossing construction had been completed.

42. The impact of the Commission's intervention at border crossings has been increased by it taking an integrated approach through its funding of training and equipment as well as the main construction component. It would, however, have been desirable for the feasibility studies carried out to provide estimates of how far delays were due to infrastructure constraints and how far to inefficient procedures in order to better ensure that excess infrastructure was not financed. Moreover, the importance of

⁽¹⁾ 'Central European Border Study: Report of Study Mission to Identify Major Border-Crossing Bottlenecks', July 1995.

⁽²⁾ Zahony-Chop lies on Pan-European Corridor 5, Trieste-Budapest-Kiev while Kukuryki-Kozlovitchi, the lorry crossing point at the Terespol-Brest border, is situated on Pan-European Corridor 2, Berlin-Warsaw-Moscow.

inadequate secondary legislation as a constraint to improving procedures did not begin to be adequately addressed until the Commission launched a study of this subject in 2000. In any event, the continued low pay of customs officials and widespread corruption are constraints, which are outside the scope of the Tacis CBC programme, but can be expected to reduce its impact.

Border management

43. The Tacis CBC programme has had little impact on improving the security aspects of border management. This partly reflects a lack of a clear approach on the part of the Commission in a situation where cooperation is made difficult by the sensitivities of the administrations in beneficiary countries, particularly in Russia and Belarus, to border management issues. The Commission allocated a total of 3 million euro for this purpose under the 1996 and 1997 CBC programmes but a study contracted by the Commission in 1997 to identify possible projects was abandoned. This was despite the fact that its preliminary conclusions stressed that efforts to improve border management on the one side of the border (Phare) would not be enough without complementary efforts on the other side of the border (Tacis).

Environment

44. Approximately one third of the Tacis CBC programme has been allocated to environmental projects. Tacis inputs have heavily focused on technical assistance and, to a lesser extent, equipment, the opportunity provided by the Tacis Regulation to finance infrastructure under the CBC programme being scarcely used (see also paragraph 24). The main environmental infrastructure project to which funds were committed was for a waste-water treatment plant (WWTP) in Sortavala in Karelia near the Finnish border. However, the 2,2 million euro allocated in 1996 had to be subsequently decommitted because funds were not contracted before the expiry of the programme, mainly due to weaknesses in the project design. New finance of 4,5 million euro was committed to relaunch the project from the 2000 budget, the increase in funding being mainly due to the improved specifications.

45. Studies were carried out to assess water quality and set up a monitoring strategy on the Bug, Latorica and Uzh rivers in the Western Ukraine (1,98 million euro) and the Prut River Basin in Moldova (1996: 2,49 million euro) without adequate consideration being given to the need to follow-up the projects with investments to make the rivers cleaner. Thus the Ukraine project did not include the identification of investments required to reduce pollution (e.g. WWTPs). For the Prut River, where the study confirmed serious health problems relating to water use and hygiene, corresponding investment projects were identified by the project. However, before the recommendations of the first project were

available, a further study of the river basin, partly overlapping the geographical area covered by the first project, was launched under the CBC programme (1998: 1,27 million euro). This second study must be considered premature and, given the serious water-related health problems in Moldova, the value of financing a further study rather than funding infrastructure investments must be questioned. The impact of both Prut River projects could have been increased if funds had been available to finance Rumanian cooperation.

46. One of the most important projects to which Tacis CBC provided funding was the Krasny Bor hazardous waste disposal site near St Petersburg (1996: 1,4 million euro), designated as an environmental 'hot spot' by the Helsinki Commission on the Baltic Sea and which threatened not only the surrounding area but also the Baltic itself. The project represented only a modest advance on previous studies and had little impact. Its proposed solution for increasing incinerator capacity at an affordable price through the purchase of a second-hand incinerator was not realistic. More fundamentally, the project was unable to address the problem of how to ensure hazardous waste was actually delivered to the official Krasny Bor site instead of being dumped illegally.

47. The Tacis CBC programme has also funded several environment projects which aim at promoting eco-tourism in order to increase the revenue of the population in the border regions. While the technical assistance funded by Tacis provided useful expertise in addressing the environmental aspects of the projects, the eco-tourism impact of the projects was very limited.

48. The one environment-related area where it did prove possible to attract both local funding and donor lending were two projects to reduce harmful energy emissions. One involved two pilot investments in the Republic of Karelia to substitute fossil fuels by woodchip (1997: 2,3 million euro), and the other foresaw energy-saving measures in the closed military town of Sneznogorsk near Murmansk (1997: 2,7 million euro). While the cross-border impact of the reduction of emissions is very limited, the projects nevertheless seemed likely to achieve some tangible, and potentially replicable, benefits in terms of fuel economies.

49. At the time of the audit it was expected that the investment component of both projects would be co-financed by the Nordic Environmental Finance Corporation (NEFCO). The Commission and NEFCO should seek to enhance cooperation at the programming and project preparation stages in order to identify further co-financing opportunities for environmental investments.

Economic development

50. Although one of the basic objectives of the Tacis CBC programme was to increase living standards in the border regions of the beneficiary countries, there have been very few large projects for economic development. Thus the first such project, the establishment of institutions for small and medium business support in Uzhgorod in Ukraine, only commenced at the beginning of 2000 (1998: 1,5 million euro) so that at the time of the audit, in October 2000, it was too early to identify specific results.

51. Support to the development of cross-border business links are particularly important now that Phare countries are starting to impose visas on NIS nationals as part of their preparation for accession ⁽¹⁾. Such restrictions are most likely to reduce local cross-border trade unless compensating measures are taken. Despite the importance of this issue, the Commission has not developed a clear approach which would help regional authorities in the identification and design of suitable projects.

Small projects

52. The projects financed under the SPF reviewed on the spot had generally produced cost-effective results in line with their objectives although those in the field of public administration and social affairs, to which approximately 30 % of the SPF has been allocated, had a limited cross-border impact. Particularly positive features of small projects were:

- (a) in contrast to the larger projects, a relatively high proportion of funding (37,5 %) was devoted to local economic development projects, the most important issue for the populations of the beneficiary regions and the primary objective of the Finnish Interreg programmes;
- (b) the SPF allowed many more institutions in the beneficiary countries to benefit from the programme than was the case with the funding for large projects;
- (c) the SPF, because it was based on NIS public bodies working with public authorities rather than consultancies from Western Europe, provided more scope for creating sustainable networks after the end of project funding;
- (d) beneficiaries' commitment was strengthened by the 20 % co-financing requirement.

⁽¹⁾ For example, the Slovak Republic, the border of which is just 2 km from Uzhgorod, introduced a visa requirement for Ukrainian citizens in 2000 as part of its accession preparations.

53. The SPF could be used in the field of public administration to achieve a genuine cross-border impact by promoting project proposals from 'Euroregions'. These are cross-border bodies, based on similar creations in the European Union, which have been established in recent years along most of the length of the Russian-Finnish and NIS-Phare border. Such bodies have the potential to develop into important forums for sustainable cross-border cooperation.

CONCLUSIONS

Impact of programme on living standards in the border regions

54. Because of its limited budget the Tacis CBC programme can at best only have a modest impact in the eligible border regions. Over its first five years the programme has not achieved even this modest impact. This is partly because of the serious delays in the border-crossing programme. Once implemented such projects should eventually assist these regions through encouraging cross-border links, although the projects are primarily aimed at the international and national rather than regional level. Environmental projects have also yielded few tangible benefits to the populations of the border regions and have been largely restricted to studies with virtually no infrastructure investment. Very few large projects have been targeted specifically at economic development. The most significant CBC contribution in this area has been through the Small Projects Facility.

Cross-border impact

55. Although a few large projects have achieved a measure of cross-border cooperation, overall the programme has fallen short of its potential in this area. This is mainly due to two factors. Firstly, in contrast to the Phare CBC programme, the Commission did not establish a joint forum in which authorities on either side of the relevant borders could meet to identify, prepare and monitor projects. Secondly, different procedures have greatly handicapped cooperation between beneficiaries of the Interreg and Tacis CBC programmes, while there have been very little Phare funds available to promote joint or even related projects, particularly as the regions of Phare countries bordering on the NIS were not eligible for the Phare CBC programme. The exception to this are the border-crossing projects, but here coordination between Phare and Tacis has been very limited, crossings on the Phare side of the border generally being built several years before those on the Tacis side.

Participation of local and regional authorities in Tacis CBC programme

56. The low managerial capacity of many local administrations has restricted their participation in the programme. The Commission has been very slow to provide assistance to build up local and regional capacity, its main project for this purpose not starting until 2000. Large projects are very often not easy for regional authorities to absorb, the small project facility being generally a more suitable instrument for encouraging their participation.

Overall conclusion

57. The Tacis CBC programme is an instrument which can play a useful role in addressing issues relating to the establishment of a new eastern border for the European Union following the next accession and giving a more concrete expression to the 'Northern Dimension' policy. However, its impact to date has been limited, not only because of implementation delays but also because of the very limited funding available, the fact that no framework for cross-border dialogue at the project programming stage was set up, the failure to provide matching funding for the Phare eastern border regions, and the insufficient priority given to projects that address the fundamental objective of the programme: namely raising the living standards of the populations in the beneficiary regions.

RECOMMENDATIONS

58. *Coordination mechanisms between the Tacis CBC programme, the Interreg programme and the Phare programme should be significantly strengthened.*

- (a) In order to ensure that such funding is used as efficiently and effectively as possible, the Commission should ensure that the regulatory framework will facilitate a cross-border programme covering both the Phare and NIS sides of the border taking into account the coming enlargement of the EU (see paragraph 13).
- (b) To improve programme coordination as well as dialogue between the NIS beneficiaries and their counterparts in Finland and the Phare countries, the Commission should establish committees along the lines of the joint programming and monitoring committees (JPMCs) established for the Phare CBC programme (see paragraph 8).
- (c) Development strategies for the eligible regions should be established and authorities in the Phare countries formally and systematically informed of which projects have been selected by the Commission for funding (see paragraph 9).

- (d) A working group should be established between the Phare and Tacis services to improve coordination between Tacis CBC and the neighbouring border regions of the Phare countries (see paragraph 14). Recent efforts by the Commission services to improve coordination between Tacis CBC and Interreg should be pursued (see paragraphs 15 and 16).

59. *Consideration should be given to increasing the budget of the Tacis CBC programme and funding made available for bordering regions in the Phare countries to finance -linked cross-border projects.*

- (a) Given the importance of the issues relating to the new eastern border of the enlarged European Union, the developing 'Northern Dimension' policy, and the initially high level of interest in the programme which has since waned for large projects, at least in part because of the limited funding, an increase the Tacis CBC programme budget should be considered (see paragraphs 17 to 20).
- (b) More attention should be given to assisting local and regional authorities to prepare project proposals (see paragraph 23).
- (c) For the Tacis CBC programme to function effectively it is essential that matching funding be made available for the Phare countries' regions which border on the Tacis CBC eligible regions (see paragraph 10).

60. *Greater emphasis should be placed on infrastructure and investment support.*

- (a) More use should be made of the provisions to use CBC funds for financing infrastructure and investments outside the border-crossing sector. To increase available funding and ensure the commitment of beneficiaries, co-financing should be introduced for all infrastructure projects (see paragraph 24).
- (b) Greater attention should be paid at the project preparation stage to the possibilities for subsequently attracting co-financing for infrastructure including consulting with NEFCO and other IFIs (see paragraphs 44, 45 and 49).
- (c) Measures should be agreed between the Commission and the beneficiary countries to ensure that the existing arrangements for the treatment of customs duties and VAT in the context of Tacis assistance are implemented (see paragraph 31).

61. *The programme should give more priority to projects which increase the living standards of the population in the eligible regions.*

- (a) The Commission should develop guidelines to assist regional authorities in the design of suitable economic development projects in order to help increase the number of projects funded in this key sector (see paragraph 51).
- (b) For eco-tourism projects, a higher priority should be given to assessing the revenue potential of such projects and to developing that potential within the project timeframe (see paragraph 47).
62. *A higher proportion of funds should be allocated to the small project facility and its management should be decentralised.*
- (a) It is particularly recommended to increase the proportion of the budget allocated to the SPF. While there may be greater administrative costs associated with the SPF than with larger projects, such costs are outweighed by its numerous benefits (see paragraphs 15(a), 21, 24 and 52).
- (b) A regular annual cycle for project proposals and awards should be introduced for the SPF (see paragraph 22).
- (c) The management of the SPF should be carried out much closer to the beneficiary. The Commission's delegations are best placed to perform this function (see paragraph 34) ⁽¹⁾.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 19 July 2001.

For the Court of Auditors

Jan O. KARLSSON

President

⁽¹⁾ The Commission Delegations in the NIS already manage the Bistro programme, another Tacis small project facility for projects up to 100 000 euro and with an annual budget of approximately 5 million euro. An independent evaluation of the programme in 2000 found its management by the Delegations to be cost-effective.

ANNEX 1

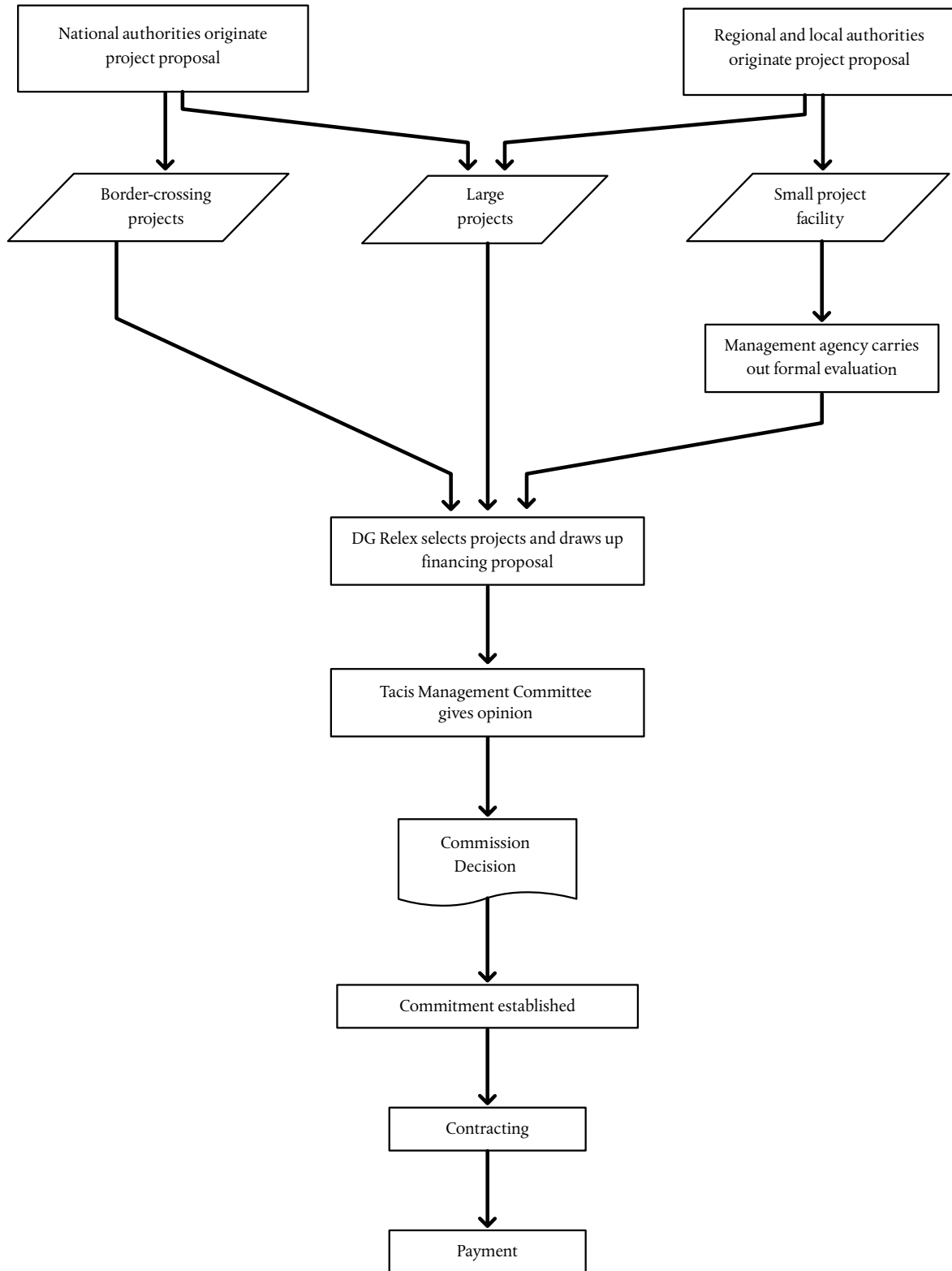
TACIS CBC PROGRAMME BENEFICIARY REGIONS



Regions eligible for the Tacis CBC programme are shown in black.

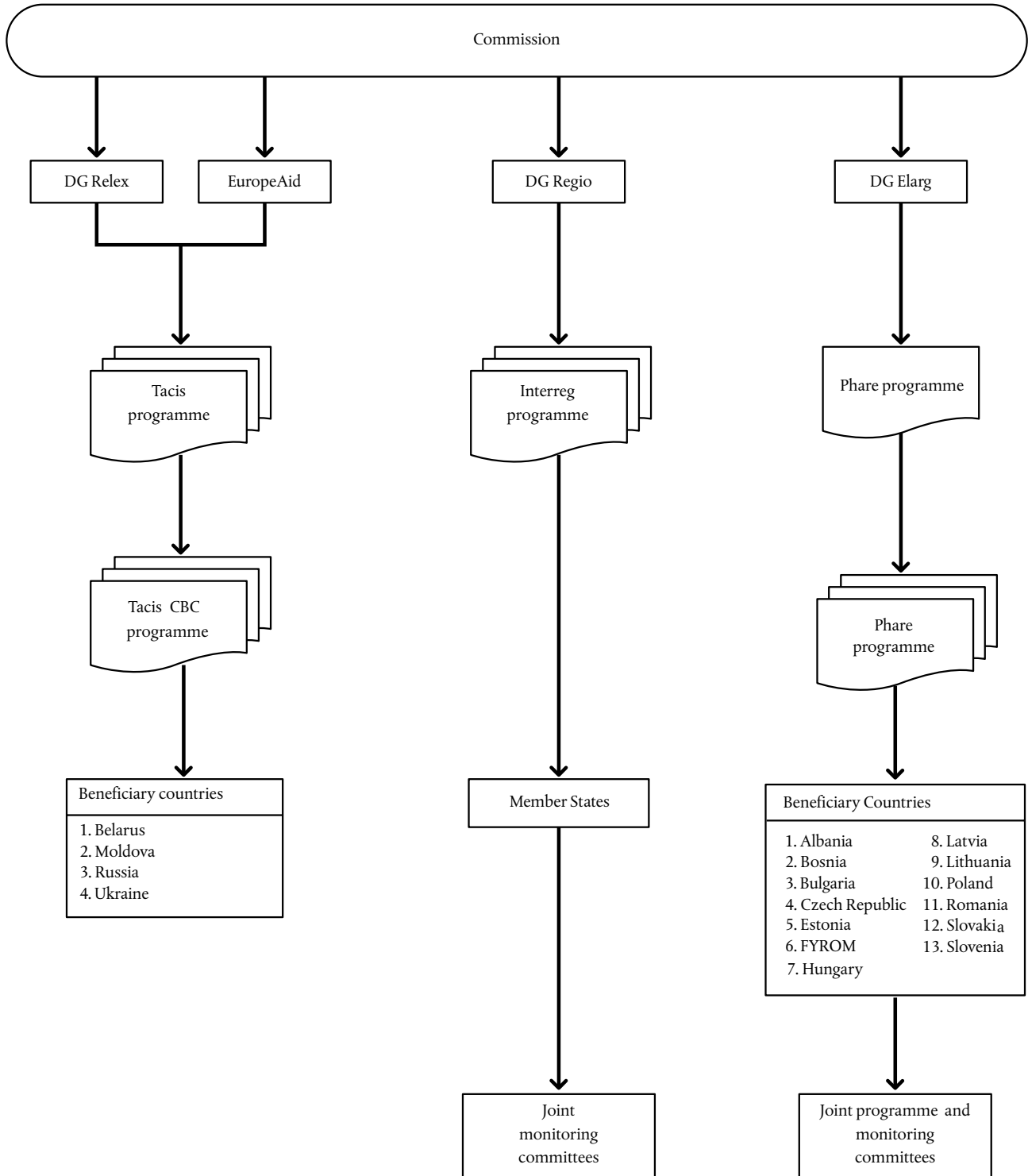
ANNEX 2

OUTLINE IMPLEMENTATION SCHEME OF TACIS CBC PROGRAMME



ANNEX 3

TACIS CBC, INTERREG AND PHARE CBC IMPLEMENTATION STRUCTURES



THE COMMISSION'S REPLIES

SUMMARY

The legal framework and coordination with other instruments

II. The Phare CBC and corresponding Interreg programmes have different implementation mechanisms and funding compared to the Tacis CBC programme which sets certain limits to possible coordination. However, the new Tacis/Interreg guidelines, Interservice consultations, joint Phare/Tacis missions to coordinate programming and Interservice meetings are first steps which have been put in place to improve coordination.

As noted in the reply to point 7, the Phare-NIS borders are not currently eligible under the Phare CBC programmes, but the Commission is willing to consider extending them to cover, *inter alia*, Tacis countries. In the meantime, cross-border projects in Phare countries' border regions adjacent to Tacis countries receive funds from the Phare national programmes.

Budgeting and programming of Tacis CBC

III. The Commission agrees with the Court that the CBC programme is important. The cutbacks in the Tacis CBC budget from EUR 30 million in 1998 to EUR 20 million in 1999 relates to a cut in the overall Tacis budget, as well as to the need to address an exceptional situation in the Caucasus after the Russian crisis in 1998 and a contribution to the Chernobyl Shelter Fund.

Compared with 1999, the 2000 budget has already increased by 12 % to EUR 22,5 million, and the Commission has requested an increase to EUR 29 million for 2001.

Separate funding from the budget line for special action in favour of the Baltic Sea region adds to the available funds, as does the funding from other sources such as the regional cooperation programme, justice and home affairs and customs programmes, and the national programmes.

The first years of the small projects facility (SPF) were characterised by the setting up of new procedures which caused some delays in its implementation but the programme is now catching up.

The limit to the share of the Tacis programme involving the financing of investment was raised from 10 % to 20 % by the new regulation which came into force at the beginning of 2000.

Implementation

IV. The programme has experienced delays, but these delays should be seen in context. The construction of new border crossing facilities is very time-consuming, particularly due to the high number of services involved in the partner countries.

At the beginning of the programme, some delays were caused by the need to set up a framework to conclude works contracts. This task was completed in January 1999 and has already resulted in faster implementation.

The difficulties in obtaining valid tender bids for works were due to unduly modest cost estimates made by a consultancy firm and the depreciation of the euro.

In addition, both the Commission and the beneficiaries have learnt from past experience, which improves timely implementation.

Impact

V. The first results of the border crossing programme became evident in the early part of 2001, when the basic construction of two crossings was completed. An additional two crossings will be completed in 2001, a further two in 2002 and construction of two more will start in the autumn of 2001.

The studies funded by Tacis in the environmental area are a precondition for subsequent investments. In many cases, the size of such investments exceeds the possibilities of the Tacis funds. Such financing is normally the remit of the international financial institutions (IFIs), but co-financing is a possibility under the new Tacis Regulation (EC, Euratom) No 99/2000.

At the beginning, it was difficult for local and regional authorities to develop good ideas for large economic development projects. The small projects facility instrument allowed a step by step approach.

Conclusions and recommendations

VI. Measures have been introduced to improve coordination between the Tacis CBC, Interreg and Phare programmes, guidelines and joint missions being the first steps. The Commission is taking action to bring Tacis and Interreg closer together. The guidelines will have to be reviewed to take account of, among other things, the perspective of accession and the EU's overall regional policy.

Tacis CBC beneficiary countries receive cross-border aid through the Tacis regional cooperation and national programmes. The CBC budget including the budget line for special action in favour of the Baltic Sea region has remained unchanged despite an overall decrease in the Tacis budget. This means that the CBC share of the total has actually increased.

The border crossing programme projects contribute substantially towards improving living conditions. One example is the western border region of Ukraine, where mainly western European companies produce textiles, furniture and shoes. These companies give employment to the local population and revenue to the local economy and the State. This production depends on fast crossings. The Commission will continue to include specific projects to foster local economic development in border regions.

From 2001 the Commission is increasing the SPF budget.

INTRODUCTION

An overview of the Tacis cross-border cooperation programme

1 to 5. The CBC started later than the main Tacis programme and the Phare CBC programme and it has relatively limited resources. At the beginning new procedures and practices had to be set up, and the impact of the programme will not be evident until some years after its start-up.

The Tacis CBC programme should be distinguished from the corresponding Phare CBC programme. Even if the basic objectives of the Tacis and Phare CBC are similar the political context is completely different, the latter being part of pre-accession assistance geared towards smoothing the transition from Phare to future Interreg programmes. The beneficiaries of the Tacis CBC programme are NIS countries whose relationship to the EU is still developing. These different starting points are reflected in the decision-making procedures and management structures and resources allocated to the two programmes.

6. The audit took place in the second half of 2000 and covers a period ending in December 2000. Although some large environmental projects were completed in 2000, most of the projects under the border crossing programme, which is the main component of CBC, are now due to be completed in 2001 and 2002.

THE LEGAL FRAMEWORK AND COORDINATION WITH OTHER INSTRUMENTS

Legal framework

7. The previous and current Tacis regulations offer an integrated framework for the different kinds of Tacis assistance given to the NIS countries (national, regional, cross-border, nuclear safety).

The Commission adopted Regulation (EC) No 1628/94, establishing the Phare cross-border programme in conjunction with Interreg. This Regulation has been replaced by Regulation (EC) No 2760/98, which notably extended the Phare CBC programme to borders between candidate countries (future internal borders of the European Union), provided that a Joint Cooperation Committee is established on each border, and that a single joint programming document in a multiannual perspective is prepared, including common development strategies for the region, seen as one single socio-economic and geographical entity.

Under the new Phare CBC regulation, the Phare CBC programme has been geared towards accession and preparing the candidate countries for their future involvement in Interreg. This objective does not, of course, apply to Tacis CBC.

8. Since the Phare CBC regulation does not apply to border regions in candidate countries adjacent to NIS countries, no Joint Cooperation Committees as provided for in Article 7 of the Phare CBC regulation have been set up for those borders.

In view of the next accession it would not seem appropriate to try to build a new institutional structure between current candidate countries and the NIS. The Commission's current guideline on bringing Tacis and Interreg funding together will be reviewed as necessary taking into account, *inter alia*, EU regional policy.

9. From 2000 the Commission changed its programming procedures for the Tacis CBC programme as a whole. As required by the new Tacis regulation the Commission drafted for the first time a strategy paper and an indicative programme covering several years and giving a coherent framework for interventions under this part of the programme. These two documents, agreed in consultation with the relevant Commission services, serve as a framework for the annual action programme.

In addition to the border crossing programme, the main component of the CBC programme, works in a way which takes into account both deficiencies and planning on either side of the border. Reference is made to those studies during the programming process.

With regard to the development strategies for the beneficiary border regions, the Commission is examining the possibilities of preparing them for the regions concerned.

Lack of funding from the Phare programme

10. The geographical scope of the Phare CBC regulation (Commission Regulation (EC) No 1628/94) was originally limited to the borders between the Phare countries and the European Union, but was extended to borders between candidate countries from 1999. The new Phare CBC regulation (Commission Regulation (EC) No 2760/98) mentioned in a recital that '...in a later stage, borders with other neighbouring countries benefiting from other Community assistance programmes may also become eligible'. This expressed the willingness of the Commission to consider extending the Phare CBC programme even further to cover borders with, *inter alia*, Tacis countries. In the meantime since cross-border projects in Phare countries' border regions adjacent to Tacis countries are not funded through the Phare CBC

programme, they receive funds from the Phare national programmes. These projects are mainly border crossings, but also small 'people-to-people' projects in the context of small project funds.

11. The Credo programme, which was a Phare multi-country programme, managed with the help of a technical assistance office, received an allocation of EUR 12 million in 1996, and its implementation has been finalised in 2000.

While originally it was the Commission's intention to allocate a global amount for EUR 102 million over a four-year period to it, preference has been given to extending the Phare CBC programme, which until 1998 only covered the borders between the European Union and candidate countries, to borders between candidate countries, in order to prepare these also for Interreg.

In addition, in line with the overall Commission policy to phase out a number of multi-country programmes to the benefit of Phare programmes per individual country, CBC programmes between candidate countries are also managed under the Phare decentralised implementation system (DIS). From 1999, up to one third of the total Phare CBC appropriation has been allocated to borders between candidate countries, representing over EUR 50 million per year. Borders between candidate countries and the NIS could receive support from national Phare programmes.

12. The Commission agrees with the Court that the concept of the budget line for 'Special action in favour of the Baltic Sea region' overlaps with the CBC concept.

13. The Commission does not disagree that a specific regulation covering both sides of the border could in the past have facilitated cross-border cooperation. However, it has chosen to take a number of practical steps to bring together the funding provided by the two instruments, for instance through systematic consultations and the organisation of joint missions in the programming process.

14. The Phare and Tacis programmes are managed in different ways: one is already being implemented locally by the partner countries under the Phare decentralised implementation system, the other is managed centrally from Brussels. Better cooperation arrangements are being developed: joint Phare and Tacis missions are now being launched by the Commission, in response to the findings of the audit.

Coordination with Interreg

15 and 16. Many of the points made by the Court concerning the lack of harmonisation of procedures have been addressed sys-

tematically in the Commission's practical guide to bringing Interreg and Tacis funding together, published in April 2001. The Commission services have worked closely together in order to prepare this guide, which sets out clearly the steps the Commission is taking to improve coordination and includes recommendations on how to prepare projects for potential project applicants.

In particular, the Commission will insist on harmonised calls for proposals; projects with both an Interreg and a Tacis dimension will be given priority during the selection process; and the introduction of the indicative four-year programme for Tacis CBC provides a multiannual element to coordination. This programme was adopted in 2000 and it is being updated in the summer 2001.

BUDGETING AND PROGRAMMING OF TACIS CBC

Overall amount of the budget

17. The budget allocation of EUR 30 million was set on the basis of a political assessment of the needs and opportunities of good projects, and taking into account the balance between needs and resources for the Tacis programme as a whole. The intention has been to increase the programme, in view of the enlargement. However, the general series of cuts to the Tacis programme affected CBC as well, in particular in 1999.

Since 1999, the programme has increased back to its original level, if account is taken of the separate budget line for special action in favour of the Baltic Sea region, introduced by Parliament, and now closely integrated with the CBC budget line. It is quite clear that the issues covered by the CBC demand increased attention. In future programming exercises, border management will benefit from the Tacis national programmes as well.

19. An increased supply of funds could indeed lead to an increased demand, and thus to a greater number of project applications. But there is another factor at work, which is the limited capacity of local authorities to come up with well-designed project proposals. The Commission set up the regional capacity building initiative (RCBI) to address this issue, and is considering extending its duration, given the improvement in the quality of project applications that has been observed in 2001 as a result. Although it might be beneficial to provide more infrastructure than has been provided in the past, this should result from a technical

assessment of the needs of individual projects. The balance between technical cooperation and infrastructure or equipment should not be affected by policy constraints.

A project which came up in a call for proposals in 1996 was decommitted and then later carried out in 2000 with a much larger budget. Hence there was no call for proposals in 2000.

20. The SPF budget has been affected by the general budgetary constraints as have other components of the programme and therefore supply was not able to keep up with demand. SPF is one of the four priorities mentioned in the indicative programme and its share of the total budget has been between 10 % and 25 %.

21. The SPF was designed to cater to the needs of the local and regional authorities, and they are the only ones entitled to submit projects under this facility. This is not the case for the large projects, where not only local and regional authorities may submit project proposals but also other entities, and where the size of the proposed operation often makes it too complex to be managed by local and regional authorities in the first place.

22. The Commission is in the process of catching up. The fourth call for proposals (budget year 1999) was launched in December 2000, with a submission deadline in March 2001. A fifth submission deadline is now planned for the end of the year 2001 for the budget year 2000.

23. The problem of the regional and local authorities' capacity to contribute to project design has been addressed in the national Tacis programmes by using EU experts to develop the initial outline submitted by the local counterpart into project terms of reference. Such technical assistance to the counterpart could be applied to CBC project design.

The regional capacity building initiative (RCBI) suffered from difficulties in tendering and contracting procedures in its first two years. The implementation has been speeding up since April 2000, following contract signature.

24. All Tacis funding is on grant terms, even when used for investment, although loans are more suited to the size of most investment projects and they require a greater commitment on the part of the beneficiary. There is an opportunity cost in grant finance, which should therefore never be considered to be 'free'.

The ceiling of 20 % imposed by the Tacis regulation on the amount of funding available for investment purposes reflects these concerns. But there is a case for arguing that Tacis projects should more often lead to investment projects for which financing has been secured beforehand.

The SPF aims at capacity building, and in general investments in infrastructure are not perceived to be capacity building. EUR 200 000 is not to be seen as a ceiling for SPF, since the local participation can be higher than 20 %. Nor is EUR 50 000 a floor, since SPF can finance smaller projects.

The border crossings projects are a priority for the Commission as the CBC programmes deal with present and future borders and the programme's focus on border crossing facilities is in accordance with the 1996 Tacis regulation (Article 3(10)) and the 2000 regulation (Article 2(4b)).

25. The project preparation capacity of the authorities of Ukraine and Moldova has been considerably less than that of the Russian authorities who have been helped by their Finnish counterparts.

IMPLEMENTATION OF TACIS CBC

Financial implementation

27. The slow implementation of the border crossing part of the programme was affected by the large amount of preparatory work required, on feasibility studies, drafting of works contracts, memoranda of understanding, tender preparation, etc. This preparatory work plus various problems originating with the beneficiaries, such as the need for construction permits, were the main reasons for delays.

Before construction works can start, up to nine ministries are involved in the design approval of the crossings. These procedures are quite often complex and time-consuming.

Almost all works projects funded from the 1996 to 1999 budget will be completed by 2002. At two crossings (Salla and Svetogorsk in Russia) the basic construction was completed on 18 January 2001 and will be fully operational in autumn the same year. Leushen (Moldova) and Kamenny Log (Belarus) will be completed

in 2001. Projects in Jagodin and Chop are due to be completed by the middle of 2002. Works for the remaining two crossings funded under the 1999 CBC budget are due to start in September/October 2001.

The problem raised by the lack of a framework to conclude works contracts, which was a reason for the delay at the starting-up phase, has been solved and will in future not hinder the smooth continuation of the programme.

Delays relating to studies will be avoided in future. The programme is based on a study, which identified possible projects for funding.

Although there were thorough design studies, the issue of the design of the works was reopened at the beneficiary's request at the time when works should have started. This problem will be avoided in future since the partner States will be asked to do the design of the projects themselves.

A further factor affecting construction is the difficult weather conditions in the region, which can hold up work for several months during winter. That was the case at Salla and Svetogorsk, where although the works contracts were signed in October, the actual work could not start until April the following year.

The programme now runs much faster, following the establishment of the framework, as evidenced by the recent completion of construction works at two crossings.

28. Funds were contracted to the PSU due to a lack of resources in the Commission to run the programme, which was fully in line with the Commission practice and regulations at that time.

30. There were difficulties in obtaining valid tender bids due to wrong cost estimates by the consultancy company entrusted with that task. The depreciation of the euro against the dollar further affected the process.

It can be difficult for NIS contractors to bid for Tacis contracts although they are eligible to do so. Some NIS contractors overcome these difficulties by bidding in consortium with EU contractors. The problem is also being addressed through local seminars which aim to make NIS companies familiar with Commission tendering procedures.

31. The difficulties over VAT exemption are a problem the Commission shares with other donors. Exemption from tax is included

in the Memoranda of Understanding (and the general rules) signed between the Commission and the beneficiary countries. Regulations on tax exemptions for Tacis CBC projects can be susceptible to varying interpretations by individual officials. The Commission continues to address this question at the highest level in the beneficiary countries to ensure in future the correct application of regulations allowing for tax exemptions.

Due to efforts by the Commission, the problem had been largely resolved by the middle of 2001 as far as border crossings are concerned, and claims in Russia and Ukraine should be lowered considerably.

32. In the past contractors were asked to do the design and the construction of the crossings. This proved to be very difficult, as described in the report. The Commission will change this procedure in future and the beneficiary countries will be asked to prepare the design of the projects themselves. Technical support will be available if needed. The aim will be to ensure ownership of projects from the outset and the agreement of all parties before implementation of the Tacis CBC programme is launched.

33. There have been delays in delivery of equipment and construction materials, as the report says. While it is correct to say that the Commission's performance was not always as quick as it might have been, the main cause of delay has been on the side of the beneficiary countries. The inordinate amount of time the beneficiaries can take to approve the equipment lists has caused greater delays than problems over customs. In some cases equipment supplies require the agreement of nine ministries. Therefore, for example in Russia approval has taken more than six months in some instances despite the Commission urging the beneficiary to reach a decision. The overall position may improve as the authorities get more used to working with Tacis.

For all projects, including those dealing with environment issues, the Commission's rules require project managers, contractors and beneficiaries to go through a number of steps. These take longer in the NIS, a fact not always recognised when setting project duration. This was not apparent at the outset and, although improved sequencing of the various components of a project may help where technical assistance is linked to equipment delivery and infrastructure construction, where appropriate future projects will have greater durations than the current norm of two years.

34. The Commission has sought to bring the SPF closer to the beneficiaries, but while the Facility continues to be managed from Brussels, the general procedures of the Tacis regulations must be applied.

35. The role of the Danish management agency has been as an administrative secretariat to assist the Commission in its daily work: circulate information about the programme, give advice on the preparation of project applications, support selected projects during the life of the contract, advise on and approve minor changes in the implementation of projects and prepare documents for major changes to the contract which would require Commission approval. The selection of projects, major contract changes, approval of payments, etc. have to be done by the Commission.

Some form of additional management support is essential, as there are a large number of projects, which require a high level of attention. From 2002, when technical assistance offices have been phased out, the work will have to be carried out by in-house staff. No decision has yet been taken over the possible deconcentration of the management of projects to delegations. Other multi-country programmes, such as the Tacis regional programme, are not being deconcentrated as their projects are not focused on single countries. As all Tacis CBC projects operate in a single Tacis country, project management could be deconcentrated in the same way as the Tacis national programme.

IMPACT OF TACIS CBC PROGRAMME

Border crossings

36. The construction of new border crossing facilities is a complex and time-consuming task. The Commission services responsible have to deal with up to nine agencies responsible for border crossings in the beneficiary countries. Before construction can begin, the lengthy preparatory work has to be completed (works contracts, environmental impact assessments, design studies and tenders).

The impact of the programme was not apparent before the end of 2000, but the first results are now clearly visible.

37. The first major Phare support with regard to borders to the NIS started in 1993, but many of the crossings on the Phare side were financed from national budgets from the respective countries. Some of those investments were matched on the NIS side with national funds of the corresponding partner State. In other words, major parts of the investments on the Phare eastern border received support through national budgets and not through Phare.

The lack of information and coordination between the Phare and the Tacis countries themselves as opposed to the teams managing the two programmes is often the reason for bottlenecks

38 to 40. At the beginning Tacis CBC programming was influenced by Finland and Sweden's accession to the European Union and the fact that EU Member States shared for the first time common land and maritime borders with Russia. Therefore, the programme was focused at first on north-west Russia, though Belarus, Ukraine and Moldova were not neglected.

In 1996 EUR 2,9 million was allocated to Belarus including the crossings at Kozlovitchi (freight traffic) and at Varshavsky Most (passenger traffic) in the Brest region. Due to inaccurate cost estimates by a consultancy company, tender procedures for Varshavsky Most were not completed successfully and so it was decided to postpone the crossing works until work had started on the new terminal at Kozlovitchi 2 (K2).

The Commission made EUR 7 million available in its 2000 CBC budget to the Brest region (new terminal Kozlovitchi 2). Furthermore, the Commission intends to allocate additional funding to the Brest region under the 2002 budget to ensure the completion of that important terminal. The amount of EUR 7 million will however be sufficient to start the construction.

The impact of the Salla crossing should not be measured exclusively in terms of the number of trucks using it. In the long run it will serve the development of the northern region by facilitating crossings.

41. Due to improvements the Leningrad-Oblast road is suitable for truck traffic in summer and passenger traffic in the whole year.

42. There is a need for equipment and training on procedures, as well as for infrastructure, and so the border crossing programme covers all three areas complemented through Tacis customs and justice and home affairs programmes.

The size and capacity of the crossing is determined by the estimates of traffic volumes. The calculation is based on the assumption that modern control practices are applied, and so the infrastructure should not be oversized. Delays which continue after the refurbishment of a crossing would be due either to a further traffic increase or to inappropriate control procedures.

The outcome of the study on border legislation referred to by the Court showed that in all four countries concerned, the application of border legislation, rather than the legislation itself, is responsible for delays. The legislative means to implement modern control techniques are in place, and the need is for training and improvement of secondary legislation.

The Commission is aware of the problems of low pay and corruption and takes precautions in project design and management. The Tacis national programmes have included projects aimed at helping combat corruption.

43. The CBC programme had two separate financial proposals for border management, one in 1996 and one in 1997 with a total amount of EUR 3 million.

The main part (EUR 2 million) was foreseen for Russia for a project on the impact of Schengen on the future EU-Russian border after enlargement. In the beginning the Russian authorities welcomed the project, but it failed finally due to a lack of a clear ownership of various Russian agencies involved in the preparatory phase of the project. It was therefore decided to allocate parts of the funds to complete the Salla border crossing in Russia.

The remaining funds were used for a border demarcation project at the border between Belarus and Lithuania and for conferences and working groups on cross-border cooperation, which is clearly a border management activity.

The Tacis justice and home affairs programme also funds activities in the four countries concerned strengthening their overall border management capacity.

Environment

44. The 1996 project in Sortavala had indeed to be decommitted. This development is not only due to the weakness of the design, but also to the lack of progress in related preparatory work by the local authorities. The project responds however to a real need. This is why it has been reprogrammed under the 2000 programme.

The use of Tacis funds to finance infrastructure is encouraged by the new Tacis regulation.

It is also the intention of the Commission to seek increased cooperation with IFIs, in particular with the Nordic Environmental Finance Corporation (NEFCO) in the development of future programmes.

45. The financing of investments in the environmental area needs to be preceded by feasibility studies and accompanied by the setting-up of new institutions and institutional relationships. This is what the Tacis programme has focused on. In addition, Tacis has been able to provide funding for small or medium-sized

investments, as was the case for the Sortavala project (Tacis CBC 2000 budget), but in doing so it has tried not to lose sight of the fact that grant funding has an opportunity cost, and is thus not a 'free' good. Tacis co-financing of investment can be justified in cases where the economic rate of return exceeds the financial rate of return, which, admittedly, is often the case in the environmental sector. Additionality is a precondition for grant financing, for technical assistance projects as well as for investment projects. In other words, grant funding should be a financing source of last resort. Investment financing should usually be the remit of the international financial institutions (IFIs). Having said that, the Commission accepts that there is scope for increased coupling between its own Tacis environmental projects and downstream investments projects: it will increasingly be selecting projects which are due to be followed by investments, and preferably by investments for which financing is secured.

The Prut River projects do not duplicate each other as they are complementary: one concerns the river itself while the other covers its tributaries. The results of both projects will be available soon, allowing donors, including the Commission and governments to address the need for investment for the river basin as a whole.

46. The project has offered advice on the implementation of a ticketing system for monitoring hazardous waste from official producers until it reaches the Krasny Bor site. The project has made recommendations to reduce the number of authorised waste carriers, in order to increase efficiency of the control system. Enforcement will of course remain with the St Petersburg authorities.

47. These projects are not completed yet (Karelia Parks) and ecotourism by its nature will not increase in a measurable way before completion and subsequent positive publicity.

48. The conclusion that the projects to reduce harmful energy emissions seem likely to achieve tangible and potentially replicable benefits is shared by the Commission. However, the cross-border emission reduction can by nature only be marginal as Sneznogorsk is only a very small isolated town and the Finnish border somewhat distant from it.

49. The aim of the Commission's joint environmental programme (JEP) is to identify co-financing opportunities for environmental investments. It is actively seeking co-financing with NEFCO and other international financial institutions, and a specific project for co-financing is foreseen under the 2001 action plan.

This cooperation should be endorsed with the launching of the Northern Dimension Environmental Partnership (NDEP) endorsed by the Goteborg European Council.

Economic development

50 and 51. The report correctly states that there have so far been few economic development projects financed through CBC. However, the situation is changing as there is already one major project underway, another approved and being prepared for launch and still more being proposed under the 2001 CBC programme.

The first economic development project, at Uzhgorod in Ukraine, is providing lessons for the design of such future projects. Although it has not progressed far enough to have had an impact, it is already evident that its future sustainability might have been enhanced if it had been designed to operate within the network of enterprise development projects established in Ukraine through the Tacis national programme: the linkage is being made as the project nears conclusion. Greater attention could also have been paid to identifying a partner in either Hungary or Slovakia and it is proving more difficult to remedy this.

Project sustainability may also be affected by the short life of the Tacis project. It is conceived as a two-year project: parallel projects financed from the national programme have generally been implemented over four to five years through follow-on projects. These points will be taken into account in future CBC projects. However, experience in other Tacis projects suggests that most institution building, private sector and eco-tourism projects would need three to five years to achieve sustainability.

These points are already in view in the design of a similar project at Ungheni in Moldova financed from the 2000 CBC programme. Arrangements are in hand for the Ungheni beneficiary to visit the Uzhgorod project and a counterpart organisation has already been identified in Iasi in Romania. In that case, all parties are aware of the significance of the preparations for accession by Romania although these are seen as a mixture of negative factors, as the border regime tightens, and the positive effect of the border becoming the frontier with the European Union itself. Motivation to take forward this project is, therefore, strong on both sides of the border.

Small projects

52 and 53. Where possible the positive features of the SPF will be incorporated into larger projects. For example the two economic development projects referred to above involve co-financing, albeit in kind, from the beneficiaries. This has taken the form of premises gifted to the project.

53. Since 1999 the SPF has also been open to associations which means that Euroregions can now apply.

CONCLUSIONS

Impact of the programme on living standards in the border regions

54. The Tacis CBC budget is indeed limited but this is linked to the size of the overall Tacis budget. Evidence of the programme's impact was not apparent at this stage of its implementation but the basic construction of two major border crossings was completed shortly after the audit and more will be completed in 2002.

The positive impact of the small projects facility is recognised. The Court's criticism of the absence of a link to investment in the environmental programmes will be addressed through the reorientation of the joint environmental programme instrument. The setting up of the NDEP will lead to better coordination between grant technical assistance and IFI investment.

Economic development has had a limited share of overall Tacis CBC resources due to the prioritisation of other parts.

Cross border impact

55. The Phare CBC regulation provides for Joint Cooperation Committees to prepare joint programming documents in a multiannual perspective for the border regions between central European States, and with the European Union, but since the Phare regulation is primarily geared towards accession and cooperation with EU States, no such joint strategy has been elaborated for borders between Phare and Tacis countries.

The development of the 'Practical guide to bringing Interreg and Tacis funding together' is already improving coordination between those two instruments, and will continue to do so over the next few years.

Action has been taken to improve coordination. An example is the series of conferences financed by the CBC programme starting in late 1999 which brought together border guards and customs officials from both sides of the border. Working groups at the conferences developed together a manual of best practices/standards at border crossings, which has been agreed by all representatives from the corresponding Tacis and Phare countries. This facilitates border crossings and procedures.

56. Efforts have been made to provide assistance for local and regional authorities through the SPF programme.

As far as large projects are concerned, the Commission will pay particular attention to the question of absorptive capacity when drawing up its final programme proposals.

57. The Commission takes the view that in December 2000 it was too early to make an assessment of the full impact of the CBC programme. Tacis CBC beneficiary countries receive cross-border aid through the Tacis regional cooperation and national programmes. The CBC budget including the budget line for special action in favour of the Baltic Sea region has remained unchanged despite an overall decrease in the Tacis budget. This means that the CBC share of the total has actually increased. In the final analysis the programme's budget, which the Court finds limited, is decided by the budgetary authority. The Phare framework for cross-border dialogue as well as the whole Phare CBC regulation is related to the pre-accession process.

RECOMMENDATIONS

58. The Commission will work to improve coordination between Interreg and Tacis. The practical guide specifically allows for amendments to take into account future developments.

- (a) The Commission understands the Court's recommendation for a regulatory framework which would facilitate a cross-border programme covering both Phare and NIS sides of the border as including also procedural measures like improved co-ordination mechanisms. The Commission is willing to consider extending the Phare CBC programme to cover NIS/Phare borders. The current guidelines on bringing Tacis and Interreg closer together would have to be reviewed taking into account i.a. the perspective of accession and the EU's overall regional policy.
- (b) While the Phare CBC regulation already provides for joint committees to prepare programming documents for the border regions between central European States and the European Union, it is primarily geared towards accession, and no such joint strategy has been elaborated for borders between Phare and Tacis countries.

The Commission is committed to improving coordination between Interreg and Tacis.

- (c) The Commission welcomes the Court's recommendation on development strategies and is examining the possibilities for preparing such cross-border strategies for the regions concerned.

A first step in this direction is the Brest Euroborder study which was submitted to the Commission in June 2001, and

which goes far beyond proposals to support infrastructure projects. It covers a wide range of areas, important for the development of the Brest region, including a strategic development plan.

- (d) The creation of an interservice group on interoperability is being considered.

59. The duration of the regional capacity building initiative, designed to help local and regional authorities to prepare project proposals, has just been extended.

- (a) and (b) It is not wholly clear that waning interest is linked to reduced funding. The lower level of interest in large projects may also reflect the limited design capacity of potential beneficiaries. The Commission is willing to provide greater help with project design as suggested.

The Commission has recently increased its efforts to assist local authorities, notably in the context of Interreg/Tacis coordination. A seminar was held in Helsinki in June 2001 and another is planned for St Petersburg in the autumn.

- (c) The recital of the Phare CBC regulation envisages the possibility of extending the programme to neighbouring countries benefiting from other EU assistance programmes and the Commission services are actively considering how better cooperation could be achieved.

60. The emphasis on technical assistance, rather than on infrastructure and investment support, must be seen against the background of a limited budget and the relatively large share of border crossings where spending is concentrated on infrastructure.

- (a) Appropriate use should be made of the facility for financing activities outside the border crossing sector. Co-financing designed to ensure the commitment of the beneficiaries would work only if the level of co-financing was affordable by the beneficiary.
- (b) The possibility of attracting IFI investment is notoriously difficult unless the IFI is involved in the initial design. It may be possible to do this with NEFCO due to the existing relationship, but is less likely with other IFIs at present.
- (c) The Commission continues to address this question at the highest level in the beneficiary countries to ensure in future the correct application of regulations allowing for tax exemptions.

Due to efforts by the Commission, the problem had been largely resolved by the middle of 2001 as far as border crossings are concerned.

61.

- (a) While the Commission agrees that economic development projects should be designed on the basis of appropriate guidelines the existence of such a document would not in itself substantially increase the number of projects.
- (b) An aim of financial sustainability should be included in Tacis projects in support of eco-tourism, along with any enterprise-based projects. This may mean that projects would require more than the one to two years usually allowed, and provision should be made for a follow-on project where necessary.

62.

- (a) From 2001 the Commission is increasing the SPF budget. Indicative figures for 2001, 2002, 2003 are EUR 4,4, 4,5 and 5,0 million respectively.
 - (b) In April 2001 the Commission introduced a regular annual cycle for SPF proposals and awards.
 - (c) The Commission does not disagree that SPF management should be carried out much closer to the beneficiary but since other multi-country programmes are not being deconcentrated, the SPF will, on present plans, continue to be managed from Brussels.
-