

Official Journal

of the European Communities

ISSN 0378-6978

L 185

Volume 37

20 July 1994

English edition

Legislation

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II

(Acts whose publication is not obligatory Commission)

COMMISSION

COMMISSION DECISION

of 20 October 1993

concerning the granting of assistance from the cohesion financial instrument to the project concerning an increase in the capacity of the Asseiceira water treatment plant in Portugal

No CF: 93/10/61/002

(Only the Portuguese text is authentic)

(94/394/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 3 May 1993 Portugal submitted an application for assistance from the cohesion financial instrument for a project concerning an increase in the capacity of the Asseiceira water treatment plant;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (5) of the Regulation;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93 and provision foreseen in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project for an increase in the capacity of the Asseiceira water treatment plant situated in Portugal as described in Annex I hereto is hereby approved for the period from 1 January 1993 to March 1994.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 5 393 000.

2. The rate of Community assistance granted to the project shall be fixed at 85 %.

3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 4 584 050.

4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.

2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.

3. The amount of the first advance payment shall be fixed at ECU 1 794 000.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have

been made in Portugal and for which the requisite finance has been specifically allocated to works to be completed not later than 31 March 1994.

2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.

3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Portugal.

Done at Brussels, 20 October 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Increase in the production capacity of the Asseiceira water treatment plant

2. Authority making the application

2.1. Name: Direcção-Geral do Desenvolvimento Regional

2.2. Address: Avenida D. Carlos I, 126 — 7º, 1200 Lisboa

3. Authority responsible for implementation

3.1. Name: EPAL — Empresa Portuguesa das Aguas Livres, SA

3.2. Address: Avenida da Liberdade 24 — 1200 Lisboa

4. Location

4.1. Member State: Portugal

4.2. Administrative unit: Médio Tejo (NUTS III)

5. Brief description

The project aims to increase the treatment capacity of the Asseiceira water treatment plant from 375 000 m³ per day to 500 000 m³ per day by means of the construction of 8 new filters identical to the current ones and a new sludge thickener. The new equipment will be incorporated into the existing hydraulic and monitoring systems.

6. Principal objectives

The project aims to increase the production/treatment capacity of the Asseiceira water treatment plant, enabling it to supply the municipalities of the Médio Tejo, with a population estimated at 150 000. In conjunction with another project to increase the carrying capacity of the Castelo de Bode pipeline, it will make it possible to increase the water supply capacity to greater Lisbon, thus keeping up with the growing requirements of the communities served (a population of approximately 2,5 million).

The results of the project must conform to the technical requirements of Council Directive 80/778/EEC⁽¹⁾.

7. Work schedule

Date of commencement: December 1992

Date of completion: March 1994

8. Cost

(ECU '000)

Total cost: 5 440

Expenditure prior to 1 January 1993: 047

Total eligible cost: 5 393

⁽¹⁾ OJ No L 229, 30. 8. 1980, p. 11.

ANNEX II

FINANCING PLAN

Project: 93/10/61/002

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Other	Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				11		12=11/1		
						Total		Central government	Other					
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13		
1993	3 166	3 166	100	2 691	85	475	15		475					
1994	2 227	2 227	100	1 893	85	334	15		334					
1995														
Total	5 393	5 393	100	4 584	85	809	15		809					

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
 15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Portugal shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Portugal.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85%. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 20 October 1993

concerning the granting of assistance from the cohesion financial instrument to the project concerning the supply of water to V. N. da Barquinha and Constância in Portugal

No CF: 93/10/61/003

(Only the Portuguese text is authentic)

(94/395/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 3 May 1993 Portugal submitted an application for assistance from the cohesion financial instrument for a project concerning the supply of water to V. N. da Barquinha and Constância;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (5) of the Regulation;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93 and provision foreseen in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project for the supply of water to V. N. da Barquinha and Constância situated in Portugal as described in Annex I hereto is hereby approved for the period from 1 January 1993 to March 1995.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 13 381 000.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 11 373 850.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 1 738 666.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Portugal and for which the requisite finance has been specifically allocated to works to be completed not later than 31 March 1995.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Portugal.

Done at Brussels, 20 October 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Supply of water to V.N. da Barquinha and Constância

2. Authority making the application

2.1. Name: Direcção Geral do Desenvolvimento Regional

2.2. Address: Avenida D. Carlos I, 126 — 7º, — 1200 Lisbon

3. Authority responsible for implementation

3.1. Name: EPAL — Empresa Portuguesa das Aguas Livres, SA

3.2. Address: Avenida da Liberdade 24 — 1200 Lisboa

4. Location

4.1. Member State: Portugal

4.2. Administrative unit: Médio Tejo (NUTS III)

5. Brief description

The conduit system increasing the water supply to the municipalities of Vila Nova da Barquinha and Constância and to the military units of the Polígono de Tancos and the Military Training Camp of Santa Margarida (CIMSM) comprises the following:

- Pipelines from the water intake to the existing reservoirs or the reservoirs to be constructed at Moita do Norte, Praia do Ribatejo, Alto de D. Luis, Constância, Vale do Mestre and the Santa Margarida Military Camp (approximately 37,5 km long),
- The Tancos reservoirs and the regulating reservoirs of the three elevatory systems provided for in Constância, Madeiras and near to Santa Margarida da Coutada,
- Three elevatory systems mentioned above supplying the reservoirs of Alto de D. Luís, Santa Bárbara, Montalvo and Vale do Mestre and CIMSM,
- Special study of a system for the remote control of the entire area covered by the project from the Asseiceira water treatment plant.

6. Principal objectives

- The aim of the project is to remedy the existing shortcomings (both quantitative and qualitative) in the municipalities of Constância and Vila Nova da Barquinha and the Military Units of the Region, with an estimated population of 15 000.

The results of the project must conform to the technical requirements of Council Directive 80/778/EEC⁽¹⁾.

⁽¹⁾ OJ No L 229, 30. 8. 1980, p. 11.

7. Work schedule

Date of commencement: August 1991

Date of completion: March 1995

8. Cost (in ECU '000)

Total cost: 13 693

Expenditure prior to 1 January 1993 13 312

Total eligible cost: 13,381

ANNEX II

FINANCING PLAN

Project: 93/10/61/003

(ECU '000)

Year	Total cost (1)	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	12=11/1	13	
1993	3 068	3 068	100	2 608	85	460	15			460			
1994	9 181	9 181	100	7 804	85	1 377	15			1 377			
1995	1 132	1 132	100	962	85	170	15			170			
Total	13 381	13 381	100	11 374	85	2 007	15			2 007			

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
 15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
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ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Portugal shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Portugal.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 20 October 1993

concerning the granting of assistance from the cohesion financial instrument to the project concerning an integrated pollution control system for the River Ave in Portugal

No CF: 93/10/61/004

(Only the Portuguese text is authentic)

(94/396/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 3 May 1993 Portugal submitted an application for assistance from the cohesion financial instrument for a project concerning an integrated pollution control system for the River Ave;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (5) of the Regulation;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93 and provision foreseen in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project for an integrated pollution control system for the River Ave situated in Portugal as described in Annex I hereto is hereby approved for the period from 1 January 1993 to December 1994.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 25 404 000.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 21 593 400.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 7 198 000.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Portugal and for which the requisite finance has been specifically allocated to works to be completed not later than 31 December 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Portugal.

Done at Brussels, 20 October 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

An integrated pollution control system for the River Ave

2. Authority making the application

2.1. Name: Direcção-Geral do Desenvolvimento Regional

2.2. Address: Avenida D. Carlos I, 126 — 7º, 1200 Lisbon

3. Authority responsible for implementation

3.1. Name: Associação de Minicipios do Vale do Ave

3.2. Address: Rua Capitão Afredo Guimarães, 1 — 4800 Guimarães

4. Location

4.1. Member State: Portugal

4.2. Region: Valo do Ave

5. Brief description

Construction of three waste water treatment plants in Gondar, Rabada and Agra. Conversion of the Santo Tirso, Guimarães and Fafe municipal dumps to receive the sludge from these plants. Connection of the solid waste treatment plant to the pollution control system.

6. Principal objectives

The project in question forms part of an intergrated programme for controlling environmental quality in the Rio Ave drainage basin and would make it possible to solve serious problems of pollution in the surface waters of the basin. It endeavours to ensure adequate treatment of domestic and industrial waste water and also the reatment and disposal of urban solid waste in compliance with the Community directives on the matter. The results of the project must conform to the technical requirements of Council Directive 91/271/EEC ⁽¹⁾.

7. Work schedule

Date of commencement: January 1992

Date of completion: December 1994

8. Cost (in ECU '000)

Total cost: 25 404

Expenditure prior to 1 January 1993: 0

Total eligible cost: 25 404

⁽¹⁾ OJ No L 135, 30. 5. 1991, p. 40.

ANNEX II

FINANCING PLAN

Project: 93/10/61/004

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other	11	%	
		2=4+6+10	% 3=2/1	4	% 5=4/2	Total 6=8+9	% 7=6/2	Central government 8	Other 9				
	1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	12=11/1	13
1993	12 702	12 702	100	10 797	85	1 905	15	953	952				
1994	12 702	12 702	100	10 797	85	1 905	15	952	953				
1995													
Total	25 404	25 404	100	21 594	85	3 810	15	1 905	1 905				

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Portugal shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Portugal.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 20 October 1993

concerning the granting of assistance from the cohesion financial instrument to the project concerning water resources and supply to Odelouca-Funcho-Franqueira in Portugal

No CF: 93/10/61/006

(Only the Portuguese text is authentic)

(94/397/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 3 May 1993 Portugal submitted an application for assistance from the cohesion financial instrument for a project concerning water resources and supply to Odelouca-Funcho-Franqueira;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (5) of the Regulation;

Whereas the project will help achieve the objectives of Article 130r of the Treaty concerning the environment;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 792/93, technically and financially discrete stages of the project have been identified for the purpose of granting assistance from the financial instrument;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93 and provision foreseen in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project concerning water resources and supply to Odelouca-Funcho-Franqueira situated in

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Portugal as described in Annex I hereto is hereby approved for the period from 1 January 1993 to December 1993.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 6 009 000.

2. The rate of Community assistance granted to the project shall be fixed at 85 %.

3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 5 108 000.

4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.

2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.

3. The amount of the first advance payment shall be fixed at ECU 3 405 000.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Portugal and for which the requisite finance has been specifically allocated to works to be completed not later than 31 December 1993.

2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.

3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Portugal.

Done at Brussels, 20 October 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Odelouca to Funcho network; Funcho-Franqueira pipeline

2. Authority making the application

2.1. Name: Direcção-Geral do Desenvolvimento Regional

2.2. Address: Avenida D. Carlos I, 126 — 7º, 1200 Lisbon

3. Authority responsible for implementation

3.1. Name: Direcção-Geral dos Recursos Naturais

3.2. Address: Avenida Almirante Gago Coutinho, 30, 1000 Lisbon

4. Location

4.1. Member State: Portugal

4.2. Administration unit: Algarve (NUTS III)

5. Brief description

Construction of a 900 m section of pipeline between the 1,3 and 2,2 km marks from the Funcho dam to Franqueira and finishing of the 7,5 km section already completed.

The pipeline, whose total length is 8,4 km, was left unfinished between the 1,3 and 2,2 km marks because the relief required the preparation of alternative plans of some complexity for the construction of retaining walls.

The project specifications will be required to comply with Council Directive 80/778/EEC ⁽¹⁾.

The water system in question comprises the Odelouca dam (to be built) and the Funcho dam (virtually completed). The two reservoirs will be linked by a pressure tunnel about 8 km long.

The project as a whole is intended to improve the supply of water to most of the municipalities in the Barlavento Algarvio and to permit irrigation of some 14 700 ha already defined and studied.

From the Funcho dam, a pipeline about 8 km long in its first phase, will take water to a distribution centre in Alcantarilha which will be connected with the water treatment station to be included in the regional water supply plan now being prepared.

It is intended that, in future, the project will be managed by an independent body comprising representatives of the municipalities.

6. Principal objectives

The pipeline will be subsequently extended to Alcantilha to improve supplies of waters to the 120 000 people living in five municipalities in the Barlavento Algarvio and facilitate irrigation of 14 700 ha.

Conclusion of this section of pipeline will in future permit the supply of water of adequate quality and quantity to areas where this is not at present the case, in compliance with Directive 80/778/EEC.

This is a top priority project since the main economic activity of the area is tourism, which means that demand for water increases, particularly during the summer.

Following its completion, the pipeline will raise water supply levels to the Community norm (100 %).

⁽¹⁾ OJ No L 229, 30. 8. 1980, p. 11.

7. Work schedule

Date of commencement: January 1991
 Date of completion: December 1993

8. Financial analysis

A cost/benefit analysis of the Odelouca-Funcho water supply system gives an economic return ranging from 27,6 (worst case) to 32,2 (best case). The financial return is guaranteed by the fact that consumers will pay a lower price for water than is currently the case.

9. Assessment of environmental impact

The nature of this project makes it subject to an environmental impact assessment pursuant to Annex II of Council Directive 85/337/EEC ⁽¹⁾ on the assessment of the effects of certain public and private projects on the environment, as transposed into domestic law by Decree-Law No 186/90 of 6 June 1990 and Regulatory Decree No 38/90 of 27 November 1990.

10. Cost (ECU '000)

Total cost: 20 951
 Expenditure prior to date of eligibility: 14 942
 Total eligible cost: 6 009

ANNEX II

FINANCING PLAN

Project: 93/10/61/006

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
	1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13
1993	6 009	6 009	100	5 107,650	85	901,350	15	901,350					
1994													
1995													
Total	6 009	6 009	100	5 107,650	85	901,350	15	901,350					

⁽¹⁾ Total eligible cost of project.

⁽¹⁾ OJ No L 175, 5. 7. 1985, p. 40.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Portugal shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Portugal.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85%. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 22 November 1993

concerning the granting of assistance from the cohesion financial instrument to the project concerning the Lisbon distribution network in Portugal

No CF: 93/10/61/001

(Only the Portuguese text is authentic)

(94/398/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 3 May 1993 Portugal submitted an application for assistance from the cohesion financial instrument for a project concerning the Lisbon distribution network;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (5) of the Regulation;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 792/93, technically and financially discrete stages of the project have been identified for the purpose of granting assistance from the financial instrument;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93 and provision foreseen in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project of the Lisbon distribution network situated in Portugal as described in Annex I

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

hereto is hereby approved for the period from 1 January 1993 to December 1994.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 9 772 000.
2. The rate of Community assistance granted to the project shall be fixed at 80 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 7 817 600.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 2 877 333.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Portugal and for which the requisite finance has been specifically allocated to works to be completed not later than 31 December 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.
2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Portugal.

Done at Brussels, 22 November 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Lisbon distribution network

2. Authority making the application

2.1. Name: Direcção-Geral do Desenvolvimento Regional

2.2. Address: Avenida D. Carlos I, 126 — 7º, 1200 Lisbon

3. Authority responsible for implementation

3.1. Name: EPAL — Empresa Portuguesa des Aguas Livres, SA

3.2. Address: Avenida da Liberdade 24, 1200 Lisbon

4. Location

4.1. Member State: Portugal

4.2. Administration unit: Greater Lisbon

5. Brief description

A 15 km extension of the Lisbon distribution network to keep pace with the growth of the city. Replacement and restoration of conduits, pipes and other parts of the network over a distance of 50 km.

6. Objectives

The project to extend and restore the Lisbon distribution network and related works will increase supply flows and help reduce water losses (currently about 20 %), so increasing water supply and meeting the estimated increase of 850 000 people in the population of the city of Lisbon. The results of the project will have to conform to the technical requirements of Council Directive 80/778/EEC ⁽¹⁾.

7. Work schedule

Date of commencement: January 1993

Date of completion: December 1994

8. Cost

(ECU '000)

Total cost	Expenditure prior to date of eligibility ⁽¹⁾	Total eligible cost
11 540	1 769	9 772

⁽¹⁾ Only expenditure incurred after 1 January 1993 is eligible.

⁽¹⁾ OJ No L 229, 30. 8. 1980, p. 11.

ANNEX II

FINANCING PLAN

Project: 93/10/61/001

(ECU '000)

Year	Total cost (1)	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13	
1993	5 395	5 395	100	4 316	80	1 079	20			1 079			
1994	4 377	4 377	100	3 502	80	875	20			875			
1995													
Total	9 772	9 772	100	7 818	80	1 954	20			1 954			

(1) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Portugal shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Portugal.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80%. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 22 November 1993

concerning the granting of assistance from the cohesion financial instrument to the project concerning the Franqueira-Alcantarilha pipeline in the Odelouca/Funcho system in Portugal

No CF: 93/10/61/015

(Only the Portuguese text is authentic)

(94/399/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 30 July 1993 Portugal submitted an application for assistance from the cohesion financial instrument for a project concerning the Franqueira-Alcantarilha pipeline in the Odelouca/Funcho system;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (5) of the Regulation;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 792/93, technically and financially discrete stages of the project have been identified for the purpose of granting assistance from the financial instrument;

Whereas Article 1 of the Financial Regulation of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93 and provision foreseen in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The Franqueira-Alcantarilha pipeline stage of project in the Odelouca/Funcho system situated in

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1988, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Portugal as described in Annex I hereto is hereby approved for the period from 1 June 1993 to 28 February 1995.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 14 971 000.

2. The rate of Community assistance granted to the project shall be fixed at 85 %.

3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 12 725 350.

4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.

2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.

3. The amount of the first advance payment shall be fixed at ECU 156 400.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Portugal and for which the requisite finance has been specifically allocated to works to be completed not later than 28 February 1995.

2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.

3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Portugal.

Done at Brussels, 22 November 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Odelouca/Funcho system; Franqueira-Alcantarilha pipeline

2. Authority making the application

2.1. Name: Direcção-Geral do Desenvolvimento Regional

2.2. Address: Avenida D. Carlos I, 126—7º, 1200 Lisbon

3. Authority responsible for implementation

3.1. Name: Instituto da Agua (INAG)

3.2. Adresse: Avenida Almirante Gago Coutinho 30, 1000 Lisbon

4. Location

4.1. Member State: Portugal

4.2. Administrative unit: Algarve

5. Brief description

The Odelouca/Funcho system to supply water to the Barlavento Algarvio includes construction of a pipeline between Funcho dam and Alcantarilha. This stage of the project concerns the construction of the final 4,5 km of the pipeline from Franqueira.

The pipeline will be a buried conduit with an internal diameter of 2,5 m and a total length of about 12,6 km.

The project specifications must comply with Council Directive 80/778/EEC ⁽¹⁾.

6. Principal objectives

The main objective of the Odelouca/Funcho system, of which this section of pipeline forms part, is to make use of surface water resources by regulating the flow of water courses in order to supply the population of the Barlavento Algarvio.

This undertaking will improve supplies of waters to seven municipalities with some 120 000 inhabitants and will help resolve the shortages which occur during the summer, when tourism and tourist-related activities cause the local population to swell considerably.

7. Work schedule

	Date of commencement	Date of completion
Design	June 1993	October 1993
Purchase of land	September 1993	1995
Main works	December 1993	February 1995
Operational phase	1997	

⁽¹⁾ OJ No L 229, 30. 8. 1980, p. 11.

8. Cost/benefit analysis

Analysis of the Odelouça/Funcho system shows that its economic return would be high with an internal rate of return ranging from 27 % to 32 %.

9. Assessment of the environmental impact

Overall, the system will improve water quality and permit better management of the available surface and ground water. Its nature and characteristics make the project subject to a prior environmental impact assessment which has already identified a series of measures to minimize any negative effects which might arise during the construction phase.

10. Cost

(ECU '000)

Total cost:	Expenditure prior to date of eligibility ⁽¹⁾ :	Total eligible cost:
14 971	—	14 971

⁽¹⁾ The date of eligibility of expenditure is 1 January 1993.

ANNEX II

FINANCING PLAN

Project: 93/10/61/015

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities			Other				
			%		%	Total	%	Central government					
	1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	12=11/1	13
1993	276	276	100	235	85	41	15	41					
1994	9 569	9 569	100	8 134	85	1 435	15	1 435					
1995	5 126	5 126	100	4 357	85	769	15	769					
Total	14 971	14 971	100	12 726	85	2 245	15	2 245					

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Portugal shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Portugal.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 10 December 1993

concerning the grant of assistance from the cohesion financial instrument to a project concerning the airport of Hierro (new access to apron and new carpark) in Spain

No CF: 93/11/65/031

(Only the Spanish text is authentic)

(94/400/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 11 August 1993 Spain submitted an application for assistance from the cohesion financial instrument for a project concerning the airport of Hierro (new access to apron and new carpark);

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The project concerning the airport of Hierro (new access to apron and new carpark) situated in Spain as described in Annex I hereto is hereby approved for the period from 1 April 1993 to 31 July 1994.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 427 996.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 363 796.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 242 530.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 31 July 1993.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 10 December 1993.

For the Commission
Peter SCHMIDHUBER
Member of the Commission

ANNEX I

SUMMARY SHEET

1. Project title

Airport of Hierro (new access to apron and new carpark)

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Aeropuertos Españoles y Navegación Aérea

3.2. Address: Pza. del Descubridor Diego de Ordas, 3, 4º — 28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Canary Islands (Hierro)

5. Brief description

The project involves the construction of a new roadway, parallel to the existing roadways, providing access to the apron nearest to pier 16 and a carpark at the entrance to the airport next to the power plant.

6. Principal objectives

The general aim is the improvement of communications between Spain's insular regions and the centre of the Community by means of air transport.

In particular, the aim is to increase the capacity of the airport by improving access to the apron and by increasing the capacity of the carpark to 190 places with unrestricted access.

7. Work schedule

Date of commencement: April 1993

Date of completion: July 1993

8. Contribution to trans-European networks

Given that this type of investment brings economic benefits through increased safety, the estimated internal rate of return is 10,8%.

9. Cost

(ECU '000) ⁽¹⁾

Total eligible cost:	427,996
Total assistance applied for from the cohesion financial instrument:	363,796

⁽¹⁾ ECU 1 = Pta 154,207.

ANNEX II

FINANCING PLAN

Project: 93/11/65/031

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure								Other	Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities			Other		11	% 12=11/1	
						Total		Central government					
1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10				
1993	427,996	427,996	100	363,796	85	64,200	15	64,200					
1994													
1995													
Total	427,996	427,996	100	363,796	85	64,200	15	64,200					

(1) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85%. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 10 December 1993

concerning the grant of assistance from the cohesion financial instrument to a project
concerning Tenerife airport (repairs) in Spain

No CF: 93/11/65/032

(Only the Spanish text is authentic)

(94/401/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 11 August 1993 Spain submitted an application for assistance from the cohesion financial instrument for a project concerning the Tenerife airport (repairs);

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The project concerning Tenerife airport (repairs) situated in Spain as described in Annex I hereto is hereby approved for the period from 12 February 1993 to 12 March 1993.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 381 150.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 323 977.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 215 984.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 12 March 1993.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 10 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Project title

Airport of Tenerife Norte (repairs)

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Aeropuertos Españoles y Navegación Aérea

3.2. Address: Pza. del Descubridor Diego de Ordas, 3, 4º — 28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Canary Islands (Tenerife)

5. Brief description

The project involves repairing the road surface at piers 12 and 20, the holding areas and the runway.

At the pier heads, the concrete is broken up over an area of about 100 m² and this will have to be taken up and a new surface laid. There are also several parts of the holding areas where the surface is cracked and this will have to be dug out and corrected. Finally, over about 1 100 metres of the runway, roughly along its centre, the surface is furrowed causing water to gather in pools. This will have to be levelled off and a new layer of hot-rolled asphalt laid across the whole width of the runway.

6. Principal objectives

The aim is to improve the runway so as to make take-off, landing and taxiing safer.

7. Work schedule

Date of commencement: 12 February 1993

Date of completion: 12 March 1993

8. Contribution to trans-European networks

Taking account of the economic benefits flowing from increased safety, the estimated internal rate of return is 12,1 %.

9. Cost

(ECU '000) ⁽¹⁾

Total eligible cost:	381,150
Total assistance applied for from the cohesion financial instrument:	323,977

⁽¹⁾ ECU 1 = Pta 154,207.

ANNEX II

FINANCING PLAN

Project: 93/11/65/032

(ECU '000)

Year	Total cost (1)	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
			%		%	Total	%	Central government	Other			%	
	1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	12=11/1	13
1993	381,150	381,150	100	323,977	85	57,153	15	57,173					
1994													
1995													
Total	381,150	381,150	100	323,977	85	57,173	15	57,173					

(1) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 10 December 1993

concerning the grant of assistance from the cohesion financial instrument to a project concerning Palma airport (extension of apron and access to industrial zone) in Spain

No CF: 93/11/65/033-034

(Only the Spanish text is authentic)

(94/402/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 11 August 1993 Spain submitted an application for assistance from the cohesion financial instrument for a project concerning Palma airport (extension of apron and access to industrial zone);

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The project concerning Palma airport (extension of apron and access to industrial zone) situated in Spain as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 30 December 1993.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 5 375 612.
2. The rate of Community assistance granted to the project shall be fixed at 80 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 4 300 489.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 2 866 992.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 30 December 1993.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 10 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Project title

Palma airport (extension of apron and access to industrial zone)

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Aeropuertos Españoles y Navegación Aérea

3.2. Address: Pza. del Descubridor Diego de Ordas, 3, 4º — 28071 Madrid.

4. Location

4.1. Member State: Spain

4.2. Region: Balearic Islands (Palma de Mallorca)

5. Brief description

Extension of the apron: marking along the edge of the new extension and repositioning of the marking at the edge of the existing apron; installation of illuminated vertical traffic signals along the access road to the new apron.

Construction of a passageway under the 'LINK' taxiway, 95 m long, 13 m internal section width, with a minimum clearance of 4,75 m. The passageway is one of the structures required to provide access to the future industrial zone to be built on the eastern edge of the airport.

6. Principal objectives

The general objective is the improvement of communications between Spain's insular regions and the centre of the Community by means of large-scale air transport.

Quantified objectives: to provide a better service at an airport through which 12 million passengers pass every year, 23 % using scheduled flights and 77 % chartered flights.

7. Work schedule

Date of commencement: 30 November 1992

Date of completion: 30 December 1993

8. Economic analysis

A single study has been carried out covering the three projects 93/11/65/033, 034 and 035. The internal rate of return is 19,7% taking account of improvements in journey times, ease of travel, the environment and safety.

9. Cost

(ECU '000) ⁽¹⁾

Total cost:	5 979,670
Expenditure prior to 1 January 1993:	604,058
Total eligible cost:	5 375,612
Total assistance applied for from the cohesion financial instrument:	4 300,489

⁽¹⁾ ECU 1 = Pta 154,207.

ANNEX II

FINANCING PLAN

Project: 93/11/65/033-034

(ECU '000)

Year	Total cost (1)	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13	
1993	5 375,612	5 375,612	100	4 300,489	80	1 075,123	20	1 075,123					
1994													
1995													
Total	5 375,612	5 375,612	100	4 300,489	80	1 075,123	20	1 075,123					

(1) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 10 December 1993

concerning the grant of assistance from the cohesion financial instrument to a project concerning Palma airport (new terminal building) in Spain

No CF: 93/11/65/035

(Only the Spanish text is authentic)

(94/403/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 7 September 1993 Spain submitted an application for assistance from the cohesion financial instrument for a project concerning Palma airport (new terminal building);

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The project concerning Palma airport (new terminal building) situated in Spain as described in Annex I hereto is hereby approved for the period from 15 May 1993 to 11 April 1995.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 85 231 850.
2. The rate of Community assistance granted to the project shall be fixed at 80%.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 68 185 480.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 5 233 083.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 22 April 1995.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 10 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Project title

Palma airport (new terminal building)

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Aeropuertos Españoles y Navegación Aérea

3.2. Address: Pza. del Descubridor Diego de Ordas, 3, 4º — 28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Balearic Islands (Palma de Mallorca)

5. Brief description

Construction of a new six-storey terminal building with a floor area of approximately 163 000 m² and approximately 7 800 m² of passageways to connect with Terminals A and B.

6. Principal objectives

The general objective is the improvement of communications between Spain's insular regions and the centre of the Community by means of large-scale air transport.

Quantified objectives: to provide a better service at an airport through which 12 million passengers pass every year, 23 % using scheduled flights and 77 % chartered flights.

7. Work schedule

Date of commencement: 15 May 1993

Date of completion: 14 April 1995

8. Economic analysis

A single study has been carried out covering the three projects 93/11/65/033, 034 and 035. The internal rate of return is 19,7% taking account of improvements in journey times, ease of travel, the environment and safety.

9. Cost

(ECU '000) (1)

Total eligible cost:	85 231,850
Total assistance applied for from the cohesion financial instrument:	68 185,480

(1) ECU 1 = Pta 154,207.

ANNEX II

FINANCING PLAN

Project: 93/11/65/035

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Communit y loans
		Total public expenditure		Cohesion instrument		National authorities				Other	Other		
						Total		Central govern- ment	Other				
	1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13
1993	13 082,707	13 082,707	100	10 466,166	80	2 616,541	20	2 616,541					
1994	42 456,341	42 456,341	100	33 965,073	80	8 491,268	20	8 491,268					
1995	29 692,802	29 692,802	100	23 754,241	80	5 938,561	20	5 938,561					
Total	85 231,850	85 231,850	100	68 185,480	80	17 046,370	20	17 046,370					

(1) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80%. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.
3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 13 December 1993

concerning the grant of assistance from the cohesion financial instrument to a project concerning the Adra by-pass in Spain

No CF: 93/11/65/006

(Only the Spanish text is authentic)

(94/404/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 4 May 1993 Spain submitted an application for assistance from the cohesion financial instrument for a project concerning the Adra by-pass;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas the project forms part of the master plan for a trans-European network concerning roads;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The project concerning the Adra by-pass situated in Spain as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 30 October 1994.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 14 068 388.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 11 958 129.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 7 972 086.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 30 October 1993.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 13 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Project title

The Adra by-pass

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Dirección General de Carreteras

3.2. Address: Paseo de la Castellana, 67 — 28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Andalucía

5. Brief description

Conversion of the N-340 highway from Cádiz to Barcelona via Málaga into dual carriageway. Section: the Adra by-pass. The length of the dual carriageway section is 10,020 km, and consists of two carriageways of 7 m in width with 2,5 m-wide outside verges and 1 m-wide inside verges and a 10 m central reserve.

Two overpasses and six underpasses are planned. The underpasses will consist of reinforced concrete frameworks, and the overpasses of two spans of 21, 227 m and decks formed of two girders.

The project includes drainage works, signposting and marking, relaying of utilities, safety and hygiene measures, etc.

6. Principal objectives

This type of measure overcomes the following problems:

- (a) physical obstacles to traffic flow;
- (b) serious noise, vibration and air pollution;
- (c) low safety levels;
- (d) low traffic speed (estimated at around 40 km/h).

Quantified objectives:

- to provide a better service on a route carrying a daily average of 15 000 vehicles, of which 20 % are heavy goods vehicles,
- to reduce journey time by three minutes,
- to reduce the annual number of accidents by 8.

7. Work schedule

Date of commencement: 21 December 1991

Date of completion: 30 October 1993

8. Economic analysis

Assuming no speed reduction on the existing road, the internal rate of return is 20 %.

9. Contribution to trans-European networks

Adra is situated on the route between La Junquera and Cádiz which runs along the Mediterranean coastline. There is a daily traffic density of about 15 000 vehicles. In addition to being a tourist town, tourist traffic for the Costa del Sol must pass through it.

10. Cost

(ECU '000) (¹)

Total cost:	21 233,510
Expenditure prior to 1 January 1993:	7 155,122
Total eligible cost:	14 068,388
Total assistance applied for from the cohesion financial instrument:	11 958,129

(¹) ECU 1 = Pta 154,207.

ANNEX II

FINANCING PLAN

Project: 93/11/65/006

(ECU '000)

Year	Total cost (1)	Public expenditure									Private sector		Communit y loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central govern- ment	Other				
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13	
1993	14 068,388	14 068,388	100	11 958,129	85	2 110,259	15	2 110,259					
1994													
1995													
Total	14 068,388	14 068,388	100	11 958,129	85	2 110,259	15	2 110,259					

(¹) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
 15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 13 December 1993

concerning the granting of assistance from the cohesion financial instrument to the stage of project: Modernization of the Beira Alta railway line in Portugal

No CF: 93/10/65/010

(Only the Portuguese text is authentic)

(94/405/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾ as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 30 July 1993 Portugal submitted an application for assistance from the cohesion financial instrument for the project: Modernization of the Beira Alta railway line;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation

and satisfies the criteria set out in Article 8 (5) of the Regulation;

Whereas the project forms part of the master plan for a trans-European rail network;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 792/93, technically and financially discrete stages of the project have been identified for the purpose of granting assistance from the financial instrument;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93 and provision foreseen in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project Modernization of the Beira Alta railway line situated in Portugal as described in Annex I hereto is hereby approved for the period from 1 January 1993 to December 1994.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 9 096 000.
2. The rate of Community assistance granted to the project shall be fixed at 80%.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 7 276 800.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 2 420 660.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Portugal and for which the requisite finance has been specifically allocated to works to be completed not later than 31 December 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Portugal.

Done at Brussels, 13 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Modernization of the Beira Alta railway line

2. Authority making the application

2.1. Name: Direcção-Geral do Desenvolvimento Regional

2.2. Address: Avenida D. Carlos I, 126 — 7º, 1200 Lisboa

3. Authority responsible for implementation

3.1. Name: Caminhos de Ferro Portugueses, EP

3.2. Address: Calçada do Duque, 20 — 1200 Lisboa

4. Location

4.1. Member State: Portugal

4.2. Administrative districts: Dão-Lafões and Beira Interior Norte

5. Brief description

Upgrading of Oliveirinha, Canas and Cerdeira stations. Modernization of signalling (phase 2): supply and installation of an automated signalling system and additional equipment on the Carregal-Nelas section.

6. Principal objectives

The project seeks to achieve an increase in capacity and improve the quality of transport to reduce the journey time between Lisbon, Oporto and Vilar Formoso and to improve traffic safety and systems reliability on the principal rail link between Portugal and the centre of Europe.

7. Work schedule

	Date of Commencement	Date of Completion
Design	1989	June 1993
Land purchase		
Principal works	November 1993	December 1994
Operational phase	1995	

8. Economic analysis

The IRR for the project is calculated at 12 %.

9. Cost

(ECU '000)

Total cost of the project:	Expenditure prior to the eligibility date ⁽¹⁾ :	Total eligible cost:
9 096	—	9 096

⁽¹⁾ Expenditure incurred after 1 January 1993 is eligible.

ANNEX II

FINANCING PLAN

Project: 93/10/65/010

(ECU '000)

Year	Total cost (1)	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	% 12=11/1	13	
1993	4 539	4 539	100	3 631	80	908	20		908				
1994	4 557	4 557	100	3 646	80	911	20		911				
1995													
Total	9 096	9 096	100	7 277	80	1 819	20		1 819				

(1) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
 15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Portugal shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Portugal.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80%. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 13 December 1993

concerning the granting of assistance from the cohesion financial instrument for a preparatory study concerning a container terminal and multi-function platform in the port of Setúbal in Portugal

No CF: 93/10/65/014

(Only the Portuguese text is authentic)

(94/406/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 31 August 1993 Portugal submitted an application for assistance from the cohesion financial instrument for a preparatory study concerning a container terminal and multi-function platform in the port of Setúbal;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (5) of the Regulation;

Whereas the preparatory study seeks to further the interconnecting and interoperating capacity of the national networks; together with access to those networks;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93 and provision foreseen in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The preparatory study concerning a container terminal and multi-function platform in the port of Setúbal situated in Portugal as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 30 September 1994.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 980 200.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 833 170.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 111 917.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Portugal and for which the requisite finance has been specifically allocated to works to be completed not later than 30 September 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Portugal.

Done at Brussels, 13 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Container terminal and multi-function platform in the port of Setúbal

2. Authority making the application

2.1. Name: Direcção Geral do Desenvolvimento Regional

2.2. Address: Avenida D. Carlos I, 126-7º — 1200 Lisboa

3. Authority responsible for implementation

3.1. Name: APSS — Administração dos Portos de Setúbal e Sessimbra

3.2. Address: Praça da República, 2900 Setúbal

4. Location

4.1. Member State: Portugal

4.2. Administrative district: Lisboa and Vale do Tejo

5. Brief description

Study of the technical and economic feasibility and environmental impact of the project and of the technical sub-projects relating to construction of the infrastructure for a container terminal and multi-function platform.

6. Principal objectives

The study will determine the feasibility of the project to build a container terminal and multi-function platform which, when built, will largely offset the current shortage of specialized container-handling facilities by providing sufficient capacity to match demand. The servicing of import and export traffic will also be greatly improved, particularly as regards combined transport, where waiting times and transit costs, which constitute a major factor affecting competitiveness, will be reduced.

7. Work schedule

Date of commencement: 15 September 1993

Date of completion: 30 September 1994

8. Environmental impact assessment

The terms of reference should include an assessment of the impact on special protection area no 19 (Sado estuary), since this area is in very close proximity to the project area.

9. Cost

Total cost of the project: ECU 980 200

Expenditure prior to the eligibility date ⁽¹⁾: —

Total eligible expenditure: ECU 980 200

⁽¹⁾ Expenditure incurred after 1 January 1993 is eligible.

ANNEX II

FINANCING PLAN

Project: 93/10/65/014

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
	1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	12=11/1	13
1993	197,5	197,5	100	167,875	85	29,625	15		29,625				
1994	765,1	765,1	100	650,335	85	114,765	15		114,765				
1995	17,6	17,6	100	14,960	85	2,640	15		2,640				
Total	980,2	980,2	100	833,170	85	147,030	15		147,030				

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
 15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Portugal shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Portugal.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
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ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85%. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 13 December 1993

concerning the granting of assistance from the cohesion financial instrument for a preparatory study concerning the general reorganization and development plan for the port of Leixões in Portugal

No CF: 93/10/65/015

(Only the Portuguese text is authentic)

(94/407/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 31 August 1993 Portugal submitted an application for assistance from the cohesion financial instrument for a preparatory study concerning the general reorganization and development plan for the port of Leixões;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (5) of the Regulation;

Whereas the preparatory study seeks to further the interconnecting and interoperating capacity of the national networks, together with access to those networks;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93 and provision foreseen in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The preparatory study concerning the general reorganization and development plan for the port of Leixões situated in Portugal as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 30 April 1995.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 453 810.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 385 739.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 53 488.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Portugal and for which the requisite finance has been specifically allocated to works to be completed not later than 30 April 1995.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Portugal.

Done at Brussels, 13 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Preparatory study concerning the general reorganization and development plan for the port of Leixões

2. Authority making the application

2.1. Name: Direcção-Geral do Desenvolvimento Regional

2.2. Address: Avenida D. Carlos I, 126-7º — 1200 Lisboa

3. Authority responsible for implementation

3.1. Name: APDL — Administração dos Portos do Douro e Leixões

3.2. Address: Avenida da Liberdade, Leça da Palmeira — 4450 Matosinhos

4. Location

4.1. Member State: Portugal

4.2. Administrative district: Greater Oporto

5. Brief description

Diagnostic study with a view to preparation of the general reorganization and development plan for the port of Leixões (over 5 to 10 years), involving:

- preparation of the selection process,
- examination of the present situation,
- traffic forecast,
- establishment of spatial use hypotheses and their comparison by multiple-criteria analysis,
- general reorganization and development plan for the port of Leixões,
- assistance for the APDL in monitoring implementation of the provisional plan.

6. Principal objectives

The plan will meet the integrated physical planning requirements of the port of Leixões over the medium term and will make an important contribution to management of the port's activity.

As a result of the plan, the Douro ports and Leixões will become better integrated into the trans-European transport networks, which will provide the opportunity for improved quality of service.

7. Work schedule

Date of commencement: June 1993

Date of completion: April 1995

8. Cost

(ECU '000)

Total cost of the project	Expenditure prior to the eligibility date ⁽¹⁾	Total eligible expenditure
453,810	0	453,810

⁽¹⁾ Expenditure incurred after 1 January 1993 is eligible.

ANNEX II

FINANCING PLAN

Project: 93/10/65/015

(ECU '000)

Year	Total cost (1)	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
			%		%	Total	%	Central government	Other			%	
	1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	12=11/1	13
1993	94,390	94,390	100	80,232	85	14,158	15		14,158				
1994	269,560	269,560	100	229,126	85	40,434	15		40,434				
1995	89,860	89,860	100	76,381	85	13,479	15		13,479				
Total	453,810	453,810	100	385,739	85	68,071	15		68,071				

(1) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Portugal shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Portugal.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 13 December 1993

concerning the granting of assistance from the cohesion financial instrument for a preparatory study concerning the development of the area between the south jetty and quay No 3 in the port of Leixões in Portugal

No CF: 93/10/65/017

(Only the Portuguese text is authentic)

(94/408/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 31 August 1993 Portugal submitted an application for assistance from the cohesion financial instrument for a preparatory study concerning the development of the area between the south jetty and quay No 3 in the port of Leixões;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (5) of the Regulation;

Whereas the preparatory study seeks to further the interconnecting and interoperating capacity of the national networks, together with access to those networks;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93 and provision foreseen in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The preparatory study concerning the development of the area between the south jetty and quay No 3 in the port of Leixões situated in Portugal as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 30 November 1994.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 259 580.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 220 643.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 26 078.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Portugal and for which the requisite finance has been specifically allocated to works to be completed not later than 30 November 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Portugal.

Done at Brussels, 13 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Development of the area between the south jetty and quay No 3 in the port of Leixões

2. Authority making the application

2.1. Name: Direcção-Geral do Desenvolvimento Regional

2.2. Address: Avenida D. Carlos I, 126-7º — 1200 Lisboa

3. Authority responsible for implementation

3.1. Name: APDL — Administração dos Portos do Douro e Leixões

3.2. Address: Avenida da Liberdade, Leça da Palmeira — 4450 Matosinhos

4. Location

4.1. Member State: Portugal

4.2. Administrative district: Greater Oporto

5. Brief description

The study analyses the development potential of the area between the south jetty and quay No 3 with a view to a large-scale hydraulic fill operation to create approximately 8 ha of quay-level and 500 m of shipping berths with foundations descending to 7 m. The project is divided into two phases: a preliminary study and individual sub-projects for each sphere of technical implementation.

6. Principal objectives

The study and technical sub-projects are concerned with reorganization and layout improvements to the port area as part of a general scheme for the improvement not only of land links with the trans-European road and rail networks but also for upgrading the quality of the services provided and of the port facilities.

7. Work schedule

Date of commencement: December 1992

Date of completion: November 1994

8. Cost

(ECU '000)

Total cost of the project	Expenditure prior to the eligibility date ⁽¹⁾	Total eligible expenditure
259,58	—	259,58

⁽¹⁾ Expenditure incurred after 1 January 1993 is eligible.

ANNEX II

FINANCING PLAN

Project: 93/10/65/017

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13	
1993	46,02	46,02	100	39,12	85	6,9	15		6,9				
1994	213,56	213,56	100	181,52	85	32,04	15		32,04				
1995													
Total	259,58	259,58	100	220,64	85	38,94	15		38,94				

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Portugal shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Portugal.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
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ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 14 December 1993

concerning the grant of assistance from the cohesion financial instrument to a project
concerning the N III highway (Requena-Chiva section) in Spain

No CF: 93/11/65/009

(Only the Spanish text is authentic)

(94/409/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 13 May 1993 Spain submitted an application for assistance from the cohesion financial instrument for a project concerning the N III highway (Requena-Chiva section);

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas the project forms part of the master plan for a trans-European network concerning roads;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The N III highway (Requena-Chiva section) project situated in Spain as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 1 April 1994.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 76 121 369.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 64 703 163.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 42 925 572.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 1 April 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 14 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Project title

N III, Requena—Chiva section

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Dirección General de Carreteras

3.2. Address: Paseo de la Castellana, 67 — 28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Autonomous Community of Valencia

5. Brief description

The purpose of this project is to convert the section of the N III highway between Chiva and Requena into a motorway.

The length of the section in question is 29 300 m. All along the route are sections of dual carriageway and other sections where both carriageways are being built (bypasses). Junctions are planned at El Rebollar, Siete Aguas, Fuente Umbria, Venta Quemada and Buñol.

The standard motorway section consists of two carriageways of 7 m in width with 2,5 m-wide outside verges and 1 m-wide inside verges and a 12 m central reserve. There are sections with an extra lane for slow vehicles.

41 structures of various types are planned, including two mixed bridges (metal caissons with slabs of reinforced concrete), the first of which is 1,5 km long and the second 300 m.

The project includes drainage works, signposting, resurfacing, occupational safety and hygiene measures.

6. Principal objectives

Quantified objectives:

- to provide a better service on a route carrying a daily average of 18 000 vehicles, of which 30 % are heavy goods vehicles,
- to reduce journey time by eight minutes,
- to reduce the annual number of accidents by 62.

7. Work schedule

Date of commencement: 1 May 1991

Date of completion: 1 April 1994

8. Economic analysis

Assuming no speed reduction on the existing road, the internal rate of return is 14,90 %.

Once the work is completed, it will be managed without tolls.

9. Contribution to trans-European network

Forms part of a route to be included in the trans-European network to link the first and third most populated cities in Spain.

10. Costs

(ECU '000) ⁽¹⁾

Total cost:	132 839,092
Expenditure prior to 1 January 1993:	56 717,723
Total eligible cost:	76 121,369
Total assistance applied for from the cohesion financial instrument:	64 703,163

⁽¹⁾ ECU 1 = Pta 154,207.

ANNEX II

FINANCING PLAN

Project: 93/11/65/009

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Communit y loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
			%		%	Total	%	Central government	Other			%	
	1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	12=11/1	13
1993	75 751,010	75 751,010	100	64 388,358	85	11 362,652	15	11 362,652					
1994	370,359	370,359	100	314,805	85	55,554	15	55,554					
1995													
Total	76 121,369	76 121,369	100	64 703,163	85	11 418,206	15	11 418,206					

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the granting of assistance from the cohesion financial instrument for a set of stages of the sewage disposal project for Greater Oporto (Leça subsystem) in Portugal

No CF: 93/10/61/022-023

(Only the Portuguese text is authentic)

(94/410/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 30 June 1993 Portugal submitted an application for assistance from the cohesion financial instrument for the sewage disposal project for Greater Oporto (Leça subsystem);

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (5) of the Regulation;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 792/93, technically and financially discrete stages of the project have been identified for the purpose of granting assistance from the financial instrument;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93 and provision foreseen in Annex VI;

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The set of stages of the sewage disposal project for Greater Oporto (Leça subsystem) situated in Portugal as described in Annex I hereto is hereby approved for the period from 1 January 1993 to December 1994.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 14 370 000.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 12 214 500.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 2 659 366.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Portugal and for which the requisite finance has been specifically allocated to works to be completed not later than 31 December 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Portugal.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Sewage disposal for Greater Oporto (Leça subsystem)

2. Authority making the application

2.1. Name: Direcção-Geral do Desenvolvimento Regional

2.2. Address: Avenida D. Carlos I, 126-7º — 1200 Lisboa

3. Authority responsible for implementation

3.1. Name: Câmara Municipal de Matosinhos

3.2. Address: Avenida Alfonso Henriques 4450 Matosinhos

4. Location

4.1. Member State: Portugal

4.2. Administrative district: Oporto metropolitan area

5. Brief description

This project forms part of a bigger project aimed at providing an appropriate solution for the draining, treatment and disposal of sewage and waste water from the Leça Basin.

The Leça subsystem comprises various elements, this phase relating to the entire realization of element C (coastal outlet pipes) and the conclusion of element F (regulating and cleaning up streams).

The 'coastal outlet pipes' component comprises three pipes consisting of 9 354 metres of pressurized pipeline, 6 294 metres of gravity pipeline and 5 pumping stations.

The 'regulating and cleaning up of streams' component aims to regulate the course of the Picoutos and Joane streams and the construction of outlet pipes along their routes.

The project specifications must comply with the provisions of Council Directive 91/271/EEC ⁽¹⁾.

6. Principal objectives

The entire Leça subsystem will cover the heavily industrialized municipality of Matosinhos (400 installed industrial units) whose current population (160 000 inhabitants) is expected to double by the completion of the project (2 030).

Urban and industrial development has caused serious pollution of the Leça and adversely affected the quality of the water throughout nearly all the coastal area of the region.

The project is to remedy the situation, in particular by means of treating all the waste water, both domestic and industrial, and ensuring the appropriate treatment of effluents released into the sea so as to bring the quality of bathing water into line with the requirements of Council Directive 76/160/EEC ⁽²⁾.

⁽¹⁾ OJ No L 135, 30. 5. 1991, p. 40.

⁽²⁾ OJ No L 31, 5. 2. 1976, p. 1.

7. Work schedule

	Date of commencement	Date of completion
Design		
Land purchase	December 1992	October 1993
Principal work	November 1992	December 1994
Operational phase	January 1995	

8. Economic analysis

The cost-benefit study for the entire project and for a period of 20 years shows an internal rate of return of 4,7%.

Investment is justified given the nature of the project and taking into account its qualitative benefits.

9. Environmental impact study

An environmental impact study was conducted on the project and its various component parts to evaluate the effect of the construction and operation of the system on the environment. Particular attention was paid in the study to the circumstances in which final effluent was discharged into the sea.

Conclusions indicated that the construction phase would entail temporary adverse effects such as noise pollution and dust but no adverse effects for the flora and fauna of the region.

The operational phase will have a clearly positive effect on regulating the water courses and the quality of bathing water and public health. A negative aspect will be the (moderate) release of odours near the treatment plant.

The study already identifies measures to be taken to reduce adverse effects in both phases of the project.

With regard to the discharge of final effluent, the solution proposed for waste water is considered to be entirely compatible with Community norms and the primary treatment will be sufficient, since the design of the off-shore sewage pipe allows for the necessary dilution and dispersion.

The need for more sophisticated treatment has not been excluded and the study proposes a monitoring programme which will make it possible to evaluate the situation throughout the operational phase.

10. Cost

(ECU '000)

Total cost	Expenditure prior to 1 January 1993 ⁽¹⁾	Total eligible cost
15 032	662	14 370

⁽¹⁾ Expenditure incurred after 1 January 1993 is eligible.

ANNEX II

FINANCING PLAN

Project: 93/10/61/022-023

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
			%		%	Total	%	Central government	Other			%	
	1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	12=11/1	13
1993	4 693	4 693	100	3 989	85	704	15		704				
1994	9 677	9 677	100	8 225	85	1 452	15		1 452				
1995													
Insgesamt	14 370	14 370	100	12 214	85	2 156	15		2 156				

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Portugal shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Portugal.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.
3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the granting of assistance from the cohesion financial instrument to the project: Construction of a twin-track railway line over the section Evangelismos—Leptokarya in Greece

No CF: 93/09/65/009

(Only the Greek text is authentic)

(94/411/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood to mean also 'stage of project';

Whereas on 2 July 1993 Greece submitted an application for assistance from the cohesion financial instrument for the project: Construction of a twin-track railway line over the section Evangelismos—Leptokarya;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas the project forms part of the master plan for a trans-European standard railway network;

Whereas the project is a transport infrastructure project of common interest which will also help to achieve the objectives of Article 130r of the Treaty concerning the environment;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 792/93, technically and financially discrete stages of the project have been identified for the purpose of granting assistance from the financial instrument;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93;

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Whereas all the other conditions laid down, have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project: Construction of a twin-track railway line over the section Evangelismos—Leptokarya situated in Greece as described in Annex I hereto is hereby approved for the period from 1 January 1993 to March 1994.

2. References to 'project' in the present Decision and Annexes shall be understood to mean also 'stage of project'.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 11 400 000.

2. The rate of Community assistance granted to the project shall be fixed at 85 %.

3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 9 690 000.

4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.

2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.

3. The amount of the first advance payment shall be fixed at ECU 3 286 666.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Greece and for which the requisite finance has been specifically allocated to works to be completed not later than 31 March 1994.

2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.

3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Construction of a twin-track railway line over the section Evangelismos-Leptokarya

2. Authority making the application

2.1. Name: Ministry of Economic Affairs

2.2. Address: Syntagma Sq., 101 80 Athens

3. Authority responsible for implementation

3.1. Name: Greek Railways Organization

3.2. Address: Karolou 1—3, 104 37 Athens

4. Location

4.1. Member State: Greece

4.2. Regions: Larisa, Pieria

5. Brief description

The project involves the construction of a new twin-track railway line over the section Evangelismos-Leptokarya (35 km), which forms part of the Athens—Thessaloniki line. The track is designed to cater for speeds of up to 200 km/h.

The stage of project in question involves the implementation of a proportion of the following works:

(a) Studies

Section between KP 399 and KP 410 (Platamonas region): A proportion of the studies costing a total of ECU 250 000 will be carried out;

(b) Infrastructure

Section between KP 375 and KP 381,4 and between KP 393 and KP 398,9;

(i) In the context of the temporary cohesion instrument, a proportion of the earthworks and structures will be implemented at a total cost of ECU 1 650 000;

(ii) Section between KP 381,4 and KP 387 (Tempi region)

Implementation of a proportion of the earthworks, structures and works concerning the Tempi tunnel at a total cost of ECU 7 000 000.

6. Objectives

The project forms an integral part of a large programme of modernization of the Athens—Thessaloniki railway line, certain sections of which have already been built or are under construction. The programme will make it possible to achieve speeds of 200 km/h and reduce by 2 to 3 hours (according to the type of train) the journey time between Athens and Thessaloniki. The project also provides for the installation of automatic signalling, electrification of the line and provision of telecommunications infrastructure. With the modernization of the line, the number of users, which stood at 4 500 per day at the beginning of the programme, should increase to 18 000 in the long term.

7. Work schedule

	Commencement	Completion
Design	1. 1. 1994	31. 3. 1994
Land purchase	(Covered by the CSF 1989 to 1993)	
Principal works	1. 7. 1993	31. 3. 1994
Operational phase	(The whole of the programme will be operational as from 1998)	

8. Cost/benefit analysis

An analysis of traffic statistics and an estimate of the effects of the project show that the cost/benefit ratio will exceed 1 and that the project will therefore be viable (the socio-economic effects of the project — time and energy savings, reduced foreign exchange expenditure — were also taken into account in the calculations).

The IRR (internal rate of return) is estimated at 7,5 % for the period 1993 to 2033 and the NPV (net present value) at Dr 2,5 billion.

9. Environmental impact assessment

The project has no major adverse effects on the environment.

The project's objectives as set out meet the environmental conditions laid down in Ministerial Decision No 91336 of 19 November 1993. The works will be restricted to the section Evangelismos-Rapsani.

10. Cost

(ECU '000)

Total cost	Expenditure prior to the eligibility date	Total eligible cost
11 400	—	11 400

ANNEX II

FINANCING PLAN

Project: 93/09/65/009

(ECU '000)

Year	Total cost (1)	Public expenditure									Other	Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities			Other	10		11	13	
						Total		Central government						
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9		% 12=11/1				
1993	8 400	8 400	100	7 140	85	1 260	15	1 260						
1994	5 600	5 600	100	4 760	85	840	15	840						
1995														
Total	14 000	14 000	100	11 900	85	2 100	15	2 100						

(1) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
 15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Greece shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Greece.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
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ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the granting of assistance from the cohesion financial instrument to the stage of project: Upgrading to motorway status of the 'PATHE' (Patras—Athens—Thessaloniki—Evzoni) national highway (Iliki—Agios Konstantinos section) in Greece

No CF: 93/09/65/012

(Only the Greek text is authentic)

(94/412/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood to mean also 'stage of project';

Whereas on 2 July 1993 Greece submitted an application for assistance from the cohesion financial instrument for the project: Upgrading to motorway status of the 'PATHE' (Patras—Athens—Thessaloniki—Evzoni) national highway (Iliki—Agios Konstantinos section);

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas the project forms part of the master plan for a trans-European road network;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 792/93, technically and financially discrete stages of the project have been identified for the purpose of granting assistance from the financial instrument;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93;

Whereas all the other conditions laid down, have been complied with,

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project: Upgrading to motorway status of the 'PATHE' (Patras—Athens—Thessaloniki—Evzoni) national highway (Iliki—Agios Konstantinos section) situated in Greece as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 31 March 1994.

2. References to 'project' in the present Decision and Annexes shall be understood to mean also 'stage of project'.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 26 303 000.

2. The rate of Community assistance granted to the project shall be fixed at 85%.

3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 22 357 550.

4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.

2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.

3. The amount of the first advance payment shall be fixed at ECU 11 526 000.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Greece and for which the requisite finance has been specifically allocated to works to be completed not later than 31 March 1994.

2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.

3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Upgrading to motorway status of the 'PATHE' (Patras—Athens—Thessaloniki—Evzoni) national highway (Iliki—Agios Konstantinos section)

2. Authority making the application

2.1. Name: Ministry of Economic Affairs

2.2. Address: Syntagma Sq., 101 80 Athens

3. Authority responsible for implementation

3.1. Name: Ministry of the Environment, Land Use Planning and Public Works

3.2. Address: Charilaou Trikoupi 182, Athens

4. Location

4.1. Member State: Greece

4.2. Region: Prefectures of Viotia and Fthiotida

5. Brief description

Construction of a 68 km motorway section consisting of two 2-lane carriageways complete with all functional and geometric features specific to a motorway (feeder roads, interchanges, etc.).

The stage of project includes rock-breaking (1 400 000 m³), other excavation work (1 200 000 m³), construction of embankments (2 600 000 m³) as well as small infrastructures and other earthworks.

6. Objectives

The section in question is part of Greece's principal national highway, the 'PATHE' (Patras—Athens—Thessaloniki—Evzoni).

The project seeks principally to meet the high demand expected in the transport sector, to link Greece with the EC, promote development in the areas linked by the road section and improve transport safety.

7. Work schedule

	Date of commencement	Date of completion
Design	Completed	
Land purchase	August 1993	October 1993
Principal works	October 1993	31. 3. 1994
Operational phase		

8. Feasibility study

A feasibility study, in which time savings, operating costs, the increase in the number of travellers and the number of accidents were estimated over a period of 29 years (1999 to 2027), shows that the project is viable overall.

C/B (*) = 2,15 IRR (*) = 11,5 % NPV (*) = Dr + 52,3 billion

(*) C/B = cost/benefit ratio
IRR = internal rate of return
NPV = net present value

9. Environmental impact assessment

The project will have no appreciable environmental impact since it involves the upgrading of an existing road.

10. Cost

(ECU '000)

Total cost	Expenditure prior to eligibility date	Total eligible cost
26 303	—	26 303

11. Management consultant

A management consultant will be appointed by joint agreement between the Commission and the Member State.

ANNEX II**FINANCING PLAN**

Project: 93/09/65/012

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities			Other	Other			
						Total		Central government					
	1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13
1993	20 340	20 340	100	17 289	85	3 051	15	3 051					
1994	5 963	5 963	100	5 069	85	894	15	894					
1995													
Total	26 303	26 303	100	22 358	85	3 945	15	3 945					

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
 15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Greece shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Greece.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the granting of assistance from the cohesion financial instrument for the project stage 'Upgrading of Patras—Athens—Thessaloniki—Evzoni national road to motorway, Rakhes—Pelasgia section' in Greece

No CF: 93/09/65/013

(Only the Greek text is authentic)

(94/413/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood as being also to the project stage in question;

Whereas on 2 July 1993 Greece submitted an application for assistance from the cohesion financial instrument for the project 'Upgrading of the Patras—Athens—

Thessaloniki—Evzoni national road, Rakhes—Pelasgia section, to motorway';

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas the project forms part of the master plan for the trans-European road network;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 792/93, technically and financially discrete stages of the project have been identified for the purpose of granting assistance from the financial instrument;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93;

Whereas all the other conditions laid down, have been complied with,

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

1. The project stage 'Upgrading of the Patras—Athens—Thessaloniki—Evzoni national road, Rakhes—Pelasgia section, to motorway' situated in Greece as described in Annex I hereto is hereby approved for the period 1 January 1993 to 31 March 1994.

2. References to 'project' in the present Decision and Annexes shall be understood to mean also 'stage of project'.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 10 521 000.

2. The rate of Community assistance granted to the project shall be fixed at 85%.

3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 8 942 850.

4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.

2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.

3. The amount of the first advance payment shall be fixed at ECU 4 610 666.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Greece and for which the requisite finance has been specifically allocated to works to be completed not later than 31 March 1994.

2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.

3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 16 December 1993.

For the Commission
Peter SCHMIDHUBER
Member of the Commission

ANNEX I

SUMMARY PRESENTATION

1. Project title

Upgrading of Patras—Athens—Thessaloniki—Evzoni national road to motorway, Rakhes—Pelagias section

2. Authority making the application

2.1. Name: Ministry for the National Economy

2.2. Address: Platia Sintagmatos, 101 80 Athens

3. Authority responsible for implementation

3.1. Name: Ministry for the Environment, Regional Planning and Public Works

3.2. Address: Khav. Trikoupi 182, Athens

4. Location

4.1. Member State: Greece

4.2. Region: Fthiotida

5. Project description

Construction of motorway section, length 21 km, 2×2 traffic lanes and all standard features (slip roads, double level interchanges etc.)

The project stage involves excavation of rock 600 000 m³, other excavation work 400 000 m³, backfilling 500 000 m³, minor technical work and other earthworks.

6. Objectives

The section forms part of the most important road axis in Greece: Patras—Athens—Thessaloniki—Evzoni.

The main objectives are furtherance of the great demand of transport services for a proper link-up of Greece with the EEC and also promotion of development of the area traversed by the section. Another aim of upgrading of the section is to improve road safety.

7. Timetable

	Date of commencement	Date of completion
Planning work	Completed	
Land acquisition	August 1993	October 1993
Main work	October 1993	31. 3. 1994
Operational stage		

8. Cost-benefit analysis

Cost benefit analysis for the section, which has taken account of savings in transport time, operating expenditure, consumption and accidents over 29 years, has demonstrated the project's utility.

C/B = 1,03 Internal rate of return = 6 % NVA = Dr 8,1 billion

9. Environmental impact assessment

The project has so significant environmental effect, being the upgrading of an existing axis.

10. Total cost

(ECU '000)

Total cost	Expenditure before eligible date	Total eligible expenditure
10 521	—	10 521

11. Management adviser

One will be appointed by joint agreement between the Commission and Greece.

ANNEX II

FINANCING PLAN

Project: 93/09/65/013

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13	
1993	8 136	8 136	100	6 916	85	1 220	15	1 220					
1994	2 385	2 385	100	2 027	85	358	15	358					
1995													
Total	10 521	10 521	100	8 943	85	1 578	15	1 578					

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
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ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Greece shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Greece.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the granting of assistance from the cohesion financial instrument for the project stage 'Completion of Thessaloniki—Nea Moudania motorway, Kardias—Nea Kallikratia section' in Greece

No CF: 93/09/65/024

(Only the Greek text is authentic)

(94/414/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood as being also to the project stage in question;

Whereas on 2 July 1993 Greece submitted an application for assistance from the cohesion financial instrument for the project 'Completion of Thessaloniki—Nea Moudania motorway, Kardias—Nea Kallikratia section';

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 792/93, technically and financially discrete stages of the project have been identified for the purpose of granting assistance from the financial instrument;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93;

Whereas all the other conditions laid down, have been complied with,

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

1. The project stage 'Completion of Thessaloniki—Nea Moudania motorway, Kardia—Nea Kallikratia section' situated in Greece as described in Annex I hereto is hereby approved for the period 1 January 1993 to 31 March 1994.

2. References to 'project' in the present Decision and Annexes shall be understood to mean also 'stage of project'.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 1 128 000.

2. The rate of Community assistance granted to the project shall be fixed at 85 %.

3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 958 800.

4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.

2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.

3. The amount of the first advance payment shall be fixed at ECU 494 433.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Greece and for which the requisite finance has been specifically allocated to works to be completed not later than 31 March 1994.

2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.

3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY DESCRIPTION

1. Project title

Completion of Thessaloniki—Nea Moudania motorway, Kardias—Nea Kallikratia section

2. Authority making the application

2.1. Name: Ministry for the National Economy

2.2. Address: Platia Sintagmatos, 101 80 Athens

3. Authority responsible for implementation

3.1. Name: Ministry of Public Works

3.2. Address: Khar. Trikoupi 182, Athens

4. Location

4.1. Member State: Greece

4.2. Region: Thessaloniki, Khalkidiki

5. Brief description

Construction of motorway on Kardias to Nea Kallikratia section, length 16,4 km, two lanes in each direction, with standard features (double level interchanges, slip roads, etc.).

The project stage involves excavation 90 000 m³, backfilling 90 000 m³, minor technical work, surfacing 10 000 m³ and other earthworks.

6. Objectives

Completion of the Thessaloniki—Nea Moudania motorway by upgrading of the remaining section between Kardias and Nea Kallikratia. This motorway, which carries a substantial volume of traffic, is an access road to the trans-European network.

7. Timetable

	Date of commencement	Date of completion
Planning work	Completed	
Land acquisition	August 1993	October 1993
Main work	October 1993	31 March 1994
Operational phase		

8. Cost-benefit analysis

The project has a high utility ranking, estimated C/B = 2,15, IRR = 11,5% and NAV = Dr 11 billion.

9. Environmental impact assessment

No significant environmental impact is expected.

10. Total cost

(ECU '000)

Total cost	Expenditure before eligible date	Total eligible cost
1 128	—	1 128

11. A management adviser will be appointed by joint agreement between the Commission and Greece.

ANNEX II

FINANCING PLAN

Project: 93/09/65/024

(ECU '000)

Year	Total cost (1)	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13	
1993	872	872	100	741	85	131	15	131					
1994	256	256	100	218	85	38	15	38					
1995													
Total	1 128	1 128	100	959	85	169	15	169					

(1) Total eligible cost of project.

ANNEX III**FINANCIAL IMPLEMENTING PROVISIONS**

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Greece shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Greece.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

- Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the granting of assistance from the cohesion financial instrument to the stage of project concerning the upgrading into motorway of the 'Pathe' national highway (Patras—Athens—Thessaloniki—Evzoni) (Skotina—Katerini section) in Greece

No CF: 93/09/65/028

(Only the Greek text is authentic)

(94/415/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood to mean also 'stage of project';

Whereas on 2 July 1993 Greece submitted an application for assistance from the cohesion financial instrument for the project concerning the upgrading into motorway of

the 'Pathe' national highway (Patras—Athens—Thessaloniki—Evzoni) (Skotina—Katerini section);

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas the project forms part of the master plan for a trans-European road network;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 792/93, technically and financially discrete stages of the project have been identified for the purpose of granting assistance from the financial instrument;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93;

Whereas all the other conditions laid down, have been complied with,

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project concerning the upgrading into motorway of the 'Pathe' national highway (Patras—Athens—Thessaloniki—Evzoni) (Skotina—Katerini section) situated in Greece as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 31 March 1994.

2. References to 'project' in the present Decision and Annexes shall be understood to mean also 'stage of project'.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 7 515 000.

2. The rate of Community assistance granted to the project shall be fixed at 85 %.

3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 6 387 750.

4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.

2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.

3. The amount of the first advance payment shall be fixed at ECU 3 292 666.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Greece and for which the requisite finance has been specifically allocated to works to be completed not later than 31 March 1994.

2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.

3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Upgrading into motorway of the 'Pathe' national highway (Patras—Athens—Thessaloniki—Evzoni) (Skotina—Katerini section)

2. Authority making the application

2.1. Name: Ministry of the National Economy

2.2. Address: Platia Syntagmatos, 101 80 Athens

3. Authority responsible for implementation

3.1. Name: Ministry of the Environment, Regional Planning and Public Works

3.2. Address: 182 H. Trikoupi St., Athens

4. Location

4.1. Member State: Greece

4.2. Region: Pieria

5. Brief description

Construction of a section of motorway with a total length of 25 km, dual carriageway in both directions and all the technical and functional features of a motorway (secondary roads, interchanges, etc.).

The stage of project will involve excavations (590 000 m³), construction of embankments (530 000 m³), archaeological excavations, small works of art, road surfacing (50 000 m²) and other earthworks.

6. Principal objectives

The section concerned is part of Greece's most important road axis (Patras—Athens—Thessaloniki—Evzoni).

The main purpose of the work is to meet the strong demand expected in the transport sector, to join Greece to the Community, to facilitate the development of the areas linked by the section in question and to improve transport safety.

7. Work schedule

	Date of commencement	Date of completion
Design	Completed	
Land purchase	August 1993	October 1993
Main works	October 1993	31 March 1994
Operational		

8. Cost-benefit analysis

The cost-benefit analysis, which takes account of time savings, operating costs, the increase in the number of travellers and the number of accidents over a period of 29 years (1999 to 2027), show that the project is feasible.

Cost-benefit = 0,91

Internal rate of return = 4 %

Net present value = -Dr 2,1 billion

9. Environmental impact assessment

The project has no discernible impact on the environment, since it involves upgrading an existing road.

10. Cost

(ECU '000)

Total cost	Expenditure prior to 1 January 1993	Total eligible cost
7 515	—	7 515

11. Management adviser

A management adviser will be appointed by joint agreement of the Commission and the Member State.

ANNEX II

FINANCING PLAN

Project: 93/09/65/028

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13	
1993	5 811	5 811	100	4 939	85	872	15	872					
1994	1 704	1 704	100	1 448	85	256	15	256					
1995													
Total	7 515	7 515	100	6 387	85	1 128	15	1 128					

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Greece shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Greece.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85%. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the granting of assistance from the cohesion financial instrument to the stage of project concerning the upgrading of the national highway from Thessaloniki via Serres to Promakhonas in Greece

No CF: 93/09/65/022

(Only the Greek text is authentic)

(94/416/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood to mean also 'stage of project';

Whereas on 2 July 1993 Greece submitted an application for assistance from the cohesion financial instrument for the project concerning the upgrading of the national highway from Thessaloniki via Serres to Promakhonas;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas the project forms part of the master plan for a trans-European road network;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 792/93, technically and financially discrete stages of the project have been identified for the purpose of granting assistance from the financial instrument;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation EEC No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of that Regulation No 792/93;

Whereas all the other conditions laid down, have been complied with,

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project concerning the upgrading of the national highway from Thessaloniki via Serres to Promakhonas situated in Greece as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 31 March 1994.

2. References to 'project' in the present Decision and Annexes shall be understood to mean also 'stage of project'.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 4 133 000.

2. The rate of Community assistance granted to the project shall be fixed at 85 %.

3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 3 513 050.

4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.

2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.

3. The amount of the first advance payment shall be fixed at ECU 1 811 066.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Greece and for which the requisite finance has been specifically allocated to works to be completed not later than 31 March 1994.

2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.

3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Upgrading of the national highway from Thessaloniki via Serres to Promakhonas

2. Authority making the application

2.1. Name: Ministry of the National Economy

2.2. Address: Platia Syntagmatos, 101 80 Athens

3. Authority responsible for implementation

3.1. Name: Ministry of Public Works

3.2. Address: 182 H. Trikoupi St., Athens

4. Location

4.1. Member State: Greece

4.2. Region: Thessaloniki-Serres

5. Brief description

The highway will be upgraded, with dual carriageway in both directions and all the functional and technical characteristics of a motorway (roadway of 12 to 15 m in width, etc.).

The stage of project will involve excavations (300 000 m³), construction of embankments (300 000 m³), small works of art, road surfacing (50 000 m²) and other earthworks.

6. Principal objectives

The motorway will link Thessaloniki to the Bulgarian border (Promakhonas) via Serres and will improve links between Greece and the Community via Bulgaria.

7. Work schedule

	Date of commencement	Date of completion
Design	Completed	
Land purchase	August 1993	October 1993
Main works	October 1993	31 March 1994
Operational		

8. Cost-benefit analysis

The project is very worthwhile, with an estimated cost-benefit ratio of 2,95, an internal rate of return of 20% and a net present value of Dr 15 billion.

9. Environmental impact study

The project is not expected to have a substantial environmental impact. The conditions laid down in Ministerial decree No 69160 of 16 November 1993 are included among the objectives of the project.

10. Cost

		(ECU '000)
Total cost	Expenditure prior to 1 January 1993	Total eligible cost
4 133	—	4 133

ANNEX II

FINANCING PLAN

Project: 93/09/65/022

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
	1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13
1993	3 196	3 196	100	2 717	85	479	15	479					
1994	937	937	100	796	85	141	15	141					
1995													
Total	4 133	4 133	100	3 513	85	620	15	620					

(1) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Greece shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Greece.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the grant of assistance from the cohesion financial instrument to a set of projects concerning the treatment of waste water (Caudal, Lena and Nalón rivers) in Spain

No CF: 93/11/61/002/029

(Only the Spanish text is authentic)

(94/417/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood to mean also 'set of projects';

Whereas on 12 and 17 May 1993 the Spanish Government submitted an application for assistance from the cohesion financial instrument for a set of projects concerning the treatment of waste water (Caudal, Lena and Nalón rivers);

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project will help achieve the objectives of Article 130 r of the Treaty concerning the environment;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The set of projects concerning the treatment of waste water (Caudal, Lena and Nalón rivers) situated in Spain as described in Annex I hereto is hereby approved for the period from 1 April 1993 to 31 October 1994.

2. References to 'project' in the present Decision and Annexes shall be understood to mean also 'set of projects'.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 3 698 276.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 3 143 534.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 1 761 291.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 31 December 1994.
2. Expenditure incurred before 1 October 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7,

30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project shall take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Spain.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Treatment of waste water — Caudal, Lena and Nalón rivers

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Dirección General de Calidad de las Aguas

3.2. Address: Paseo de la Castellana, 67 — 28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Asturias

5. Brief description

The work consists of:

Caudal and Lena rivers:

- laying of 1 110 m of pipeline between Ujo and Sovilla,
- laying of 4 700 m of pipeline between Sovilla and Pola de Lena,
- 1 000 m of subsidiary drain to transport waste water from Villallana and Pola de Lena to the contour channel,
- ancillary work needed for the proper functioning and use of the system.

Nalón river:

- laying of 1 750 m of pipeline between Barredos and Pola de Laviana,
- 1 580 m of subsidiary drain to transport waste water from Barredos and Pola de Laviana to the contour channel,
- ancillary work.

6. Principal objectives

To complete the installation of the pipeline from the Caudal river to the community of Sovilla, contaminated by industrial and domestic waste.

To complete the contour channel for the Lena river, the section in question being seriously contaminated by industrial and domestic waste.

To complete the installation of the pipeline from the Nalón to the community of Pola de Laviana.

7. Work schedule

Date of commencement: 1 April 1993

Date of completion: 31 October 1994

8. Socio-economic analysis

The benefits of the projects are:

- a cleaner environment by collecting the waste water of 30 000 inhabitants and transporting it to treatment plants,
- recovery of fish life, particularly salmonids,
- exploitation of the rivers for sports and recreation,
- improved value of the surrounding land,
- development of tourism as a result of improved environmental conditions.

9. Contribution to environmental policy

Compliance with Council Directive 91/271/EEC ⁽¹⁾ urban waste water.

10. Cost

(ECU '000) ⁽¹⁾

Total cost:	3 698,28
Total eligible cost:	3 698,28
Total assistance applied for from the cohesion financial instrument:	3 143,53

⁽¹⁾ ECU 1 = Pta 154,207.

ANNEX II

FINANCING PLAN

Project: 93/11/61/002/029

(ECU '000)

Year	Total cost (1)	Public expenditure									Private sector		Communit y loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
					%		%		%				
	1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	12=11/1	13
1993	3 108,160	3 108,160	100	2 641,936	85	466,224	15						
1994	590,116	590,116	100	501,599	85	88,517	15						
1995													
Total	3 698,276	3 698,276	100	3 143,535	85	554,741	15						

⁽¹⁾ Total eligible cost of project.

⁽¹⁾ OJ No L 135, 30. 5. 1991, p. 40.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of the Decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Regulation (EEC) No 4253/88. If the authority does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) Amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) In the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change of the financing plan and the schedule of expenditure.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned,
 - reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audio-visual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure that there is transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months after the adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the grant of assistance from the cohesion financial instrument to a project
concerning the treatment of waste water (Rentería) in Spain

No CF: 93/11/61/024

(Only the Spanish text is authentic)

(94/418/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 17 May 1993 the Spanish Government submitted an application for assistance from the cohesion financial instrument for a project concerning the treatment of waste water (Rentería);

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project will help achieve the objectives of Article 130 r of the Treaty concerning the environment;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The project concerning the treatment of waste water (Rentería) situated in Spain as described in Annex I hereto is hereby approved for the period from 1 May 1993 to 30 November 1994.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 2 457 735.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 2 089 075.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 290 302.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 30 November 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7,

30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project shall take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Spain.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Sanitation of the Agustinas district and the Vial Pablo Iglesias in Rentería

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Dirección General de Calidad de las Aguas

3.2. Address: Paseo de la Castellana, 67 — 28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Basque Country

5. Brief description

The project includes the following work:

- a single collector (310 m long) to replace septic tanks,
- a collector for faecal water (133 m long),
- a collector for rain water (131 m long),
- relaying of all the utilities affected,
- additional work needed to ensure the smooth functioning of the system (wells, overflows, etc.).

The project specifications must comply with Council Directive 91/271/EEC⁽¹⁾.

6. Principal objectives

The main objective is the treatment of waste water in Rentería.

7. Work schedule

Date of commencement: 1 May 1993

Date of completion: 30 November 1994

⁽¹⁾ OJ No L 135, 30. 5. 1991, p. 40.

8. Socio-economic analysis

The most important benefits are:

- a cleaner environment by collecting the waste water of 3 300 inhabitants and transporting it to the treatment plant. This will prevent many illnesses, some of which are serious and can be infectious, with unforeseeable consequences,
- improved quality of life, since the project is intended to complete the water cycle (supply, treatment, discharge) without waste water contaminating drinking water and affecting public health or leaching into the soil of cultivated land and affecting both crops and consumers,
- prevention of environmental deterioration of areas affected by untreated water,
- an increase in public awareness of the need to protect the environment and improve the quality of life.

9. Contribution to environmental policy

Compliance with Directive 91/271/EEC on urban waste water.

10. Cost

	(ECU '000 ⁽¹⁾)
Total cost:	2 457,74
Total assistance applied for from the cohesion financial instrument:	2 089,08

(¹) ECU 1 = Pta 154,207.

ANNEX II

FINANCING PLAN

Project: 93/11/61/024

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure										Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other	11	%		
						Total		Central government	Other					
1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	12=11/1	13			
1993	512,298	512,298	100	435,453	85	76,845	15							
1994	1 945,437	1 945,437	100	1 653,621	85	291,816	15							
1995														
Total	2 457,735	2 457,735	100	2 089,075	85	368,660	15							

(¹) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of the Decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Regulation (EEC) No 4253/88. If the authority does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) Amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) In the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change of the financing plan and the schedule of expenditure.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
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ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned,
 - reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audio-visual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure that there is transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months after the adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the grant of assistance from the cohesion financial instrument to a set of projects concerning the treatment of waste water (Ceuta and Melilla) in Spain

No CF: 93/11/61/025—028

(Only the Spanish text is authentic)

(94/419/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood to mean also 'set of projects';

Whereas on 17 May 1993 the Spanish Government submitted an application for assistance from the cohesion financial instrument for a set of projects concerning the treatment of waste water (Ceuta and Melilla);

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project will help achieve the objectives of Article 130 r of the Treaty concerning the environment;

Whereas the project is the result of measures taken in accordance with Article 130 s of the Treaty;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The set of projects concerning the treatment of waste water (Ceuta and Melilla) situated in Spain as described in Annex I hereto is hereby approved for the period from 1 September 1993 to 31 August 1994.

2. References to 'project' in the present Decision and Annexes shall be understood to mean also 'set of projects'.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 5 058 136.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 4 299 416.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 973 799.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 31 August 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7,

30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project shall take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Spain.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Improvements to and extension of waste-water treatment in Ceuta and Melilla

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Dirección General de Calidad de las Aguas

3.2. Address: Paseo de la Castellana, 67 — 28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Ceuta and Melilla

5. Brief description

The project involves the following work:

Ceuta

- two collectors composed of concrete pipeline (8 m length over 2 328 m),
- vaulting of a 275 m section,
- additional work (wells, settling tank, access points).

Melilla, Sea port

- contour channel in two sections of 516 m and 346 m in length respectively,
- outlet channel for rainwater, 109 m long.

Río Oro

- drainage pipes (2 collectors, 3 culverts and one secondary duct),
- pumping station,
- overflow and outlet channel for rainwater,
- relaying of utilities.

Ataque Seco district

- main collector and a culvert with secondary ducts (2 858 m long),
- 114 inspection chambers, 21 discharge chambers, 116 cesspools, 3 overflows and 233 domestic connections.

The project specifications must comply with Council Directive 91/271/EEC ⁽¹⁾.

6. Principal objectives

The objective of the project is to carry out the work needed to improve the treatment of waste water in Ceuta and Melilla and rectify existing anomalies. The project will make it possible to meet the deadlines laid down in Directive 91/271/EEC for cities with more than 15 000 inhabitants (2 000), since Ceuta (68 000 inhabitants) and Melilla (62 000) will have the infrastructure needed for the proper treatment of waste water by that date.

7. Work schedule

Date of commencement: September 1993

Date of completion: July/August 1994

⁽¹⁾ OJ No L 135, 30. 5. 1991, p. 40.

8. Socio-economic analysis

The main social and economic benefits of the project are:

- a cleaner environment by collecting the waste water of 130 000 inhabitants and transporting it to the treatment plant. This will prevent many illnesses, some of which are serious and can be infectious, with unforeseeable consequences,
- recovery of fish life and productive activity (such as aquaculture), which have been reduced or destroyed by poor water quality,
- better exploitation of beaches for sports and recreation, helping to preserve tourism by providing optimal environmental and health conditions,
- improved value of the surrounding land as a result of a better quality environment,
- improved quality of life, since the project is intended to complete the water cycle (supply, treatment, discharge) without waste water contaminating drinking water and affecting public health or leaching into the soil of cultivated land and affecting both crops and consumers,
- prevention of environmental deterioration of areas affected by untreated water,
- an increase in public awareness of the need to protect the environment and improve the quality of life.

9. Contribution to environmental policy

Compliance with Directive 91/271/EEC on urban waste water.

10. Cost

	(ECU '000) ⁽¹⁾
Total cost:	5 058,14
Total eligible cost:	5 058,14
Total assistance applied for from the cohesion financial instrument:	4 299,42

(¹) ECU 1 = Pta 154,207.

ANNEX II

FINANCING PLAN

Project: 93/11/61/025—028

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Other	Private sector		Communit y loans
		Total public expenditure		Cohesion instrument		National authorities				10		11	%	
		2=4+6+10	3=2/1	4	5=4/2	Total	7=6/2	Central government	Other					
	1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	12=11/1	13	
1993	1 718,469	1 718,469	100	1 460,699	85	257,770	15							
1994	3 339,667	3 339,667	100	2 838,717	85	500,950	15							
1995														
Total	5 058,136	5 058,136	100	4 299,416	85	758,720	15							

(¹) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of the Decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Regulation (EEC) No 4253/88. If the authority does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) Amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) In the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change of the financing plan and the schedule of expenditure.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
 15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned,
 - reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85%. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audio-visual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure that there is transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months after the adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the grant of assistance from the cohesion financial instrument to a project
concerning the supply of water to Madrid in Spain

No CF: 93/11/61/063

(Only the Spanish text is authentic)

(94/420/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 28 July 1993 the Spanish Government submitted an application for assistance from the cohesion financial instrument for a project concerning the supply of water to Madrid;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project will help achieve the objectives of Article 130 r of the Treaty concerning the environment;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The project concerning the supply of water to Madrid situated in Spain as described in Annex I hereto is hereby approved for the period from 15 January 1993 to 30 November 1993.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 51 878 319.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 44 096 571.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 23 397 714.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 30 November 1993.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7,

30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project shall take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Spain.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Channelling of water from the Picadas reservoir to the Valmayor reservoir for the supply of Madrid

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Dirección General de Obras Hidráulicas

3.2. Address: Paseo de la Castellana, 67 — 28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Autonomous Community of Madrid

5. Brief description

- 2 pumping stations with a total installed capacity of 30 MVA,
- 31 km of sheet-lined reinforced concrete pipeline with a diameter of 2 000 mm (pressure: 6 to 14 atmospheres),
- 1 500 m of metal pipeline with a diameter of 2 000 mm (8 to 30 atmospheres),
- 2 800 m of tunnel with a diameter of 2 800 mm,
- 7 surge shafts of between 30 and 70 m high.

Project specifications must comply with Council Directive 80/778/EEC ⁽¹⁾.

6. Principal objectives

The main objectives are:

1. To guarantee the water supply to the population of Madrid (approx. 5 million inhabitants).
2. To supply 100 million m³ of water per year.
3. To lay 32,5 km of pipeline.

These works are included in the Water Plan of the Cuenca del Tajo. Because of exceptional weather conditions the work has had to be brought forward and must be carried out urgently.

⁽¹⁾ OJ No L 229, 30. 8. 1980, p. 11.

The current situation of the reservoirs supplying water to Madrid requires the immediate implementation of the project. If this is not done, Madrid will be subject to immediate water rationing.

7. Work schedule

Date of commencement (main work): 15 January 1993

Estimated date of completion: 30 November 1993

8. Socio-economic benefits

The Picadas-Valdemayor pipeline is being built to guarantee the supply of drinking water to Madrid even during periods of drought. Such periods are becoming increasingly frequent and unless medium-term measures are taken the supply of water to Madrid will be subject to intolerable economic and social pressure.

During the summer of 1992, as a result of the scant rainfall in the previous autumn and spring, a critical point was reached in Madrid with regard to water supplies, resulting in a hosepipe ban for both parks and gardens and a ban on the filling of swimming-pools and street cleaning. The situation had serious consequences:

- an increase in respiratory ailments,
- a substantial increase in allergies,
- a deterioration in hygiene conditions,
- a deterioration in the urban landscape,
- a loss of many trees, bushes and expanses of grass,
- fewer recreational possibilities for the population,
- a deterioration in the quality of life.

All of these problems could have been solved with a sufficient supply of good-quality water through a project such as this one.

The following types of benefit have been quantified in the cost-benefit analysis:

- greater availability of water,
- increase in the welfare of the population through improved quality of life,

The cost-benefit analysis shows a positive internal rate of return.

9. Contribution to environmental policy

The project will help improve the quality of life of the population and contribute to the sustainable development of the area concerned in accordance with the guidelines of the Fifth Programme in relation to the Environment and Sustainable Development.

10. Cost

(ECU '000 (¹))

Total eligible cost:

51 878,32

Total assistance applied for from the cohesion financial instrument:

44 096,57

(¹) ECU 1 = Pta 154,207

ANNEX II

FINANCING PLAN

Project: 93/11/61/063

(ECU '000)

Year	Total cost (1)	Public expenditure								Other	Private sector		Communit y loans
		Total public expenditure		Cohesion instrument		National authorities							
						Total		Central government	Other				
	1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13
1993	51 878,319	51 878,319	100	44 096,571	85	7 781,748							
1994													
1995													
Total	51 878,319	51 878,319	100	44 096,571	85	7 781,748							

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of the Decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.

6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Regulation (EEC) No 4253/88. If the authority does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) Amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) In the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change of the financing plan and the schedule of expenditure.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned,
 - reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audio-visual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure that there is transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months after the adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the grant of assistance from the cohesion financial instrument to a set of projects concerning the improvement of water resource management in the Autonomous Communities of Andalusia, Castile-La Mancha, Madrid and Navarre in Spain

No CF: 93/11/61/064—068, 076

(Only the Spanish text is authentic)

(94/421/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood to mean also 'set of projects';

Whereas on 6 and 10 August 1993 the Spanish Government submitted an application for assistance from the cohesion financial instrument for a set of projects concerning the improvement of water resource management in the Autonomous Communities of Andalusia, Castile-La Mancha, Madrid and Navarre;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project will help achieve the objectives of Article 130 r of the Treaty concerning the environment;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The set of projects concerning the improvement of water resource management in the Autonomous Communities of Andalusia, Castile-La Mancha, Madrid and Navarre, situated in Spain as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 31 May 1994.

2. References to 'project' in the present Decision and Annexes shall be understood to mean also 'set of projects'.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 30 863 022.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 26 233 568.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 14 761 063.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 31 May 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7,

30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project shall take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Spain.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Measures to increase the water supply in the Autonomous Communities of Madrid, Andalusia, Castile-La Mancha and Navarre

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Dirección General de Obras Hidráulicas

3.2. Address: Paseo de la Castellana, 67 — 28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Autonomous Communities of Andalusia, Castile-La Mancha, Madrid and Navarre

5. Brief description

The project consists of various measures to increase the water supply.

The measures include:

Castile-La Mancha and Madrid:

- increasing the supply capacity of the district water utility of El Sorbe,
- laying pipelines between the reservoirs of Torre de Abraham and Gasset. Water supply to Ciudad Real.

Andalusia:

- connecting the Viñuela reservoir to the supply networks of the eastern coast of Malaga. Urgent work,
- soundings of the aquifer at Sierra Blanca and construction of a radial well. Increasing the supply of drinking water to the western part of the Costa del Sol,
- work needed to divert and exploit the water controlled by the J. Toran dam. Supply of Lora del Río.

Navarre:

- water purification plant at Eguillor to supply the Pamplona region.

The specifications of the project will comply with Council Directive 80/778/EEC ⁽¹⁾.

6. Principal objectives

To increase and improve the supply of drinking water to various highly-populated areas (some of which are currently supplied from wells).

⁽¹⁾ OJ No L 229, 30. 8. 1980, p. 11.

7. Work schedule

Date of commencement: 1 January 1993

Date of completion: 31 May 1994

8. Socio-economic analysis

The socio-economic benefits cannot be directly quantified. However, the benefits of implementing this project are twofold:

- the improvement of water resource management in the areas concerned,
- increasing the water supply to users (1 000 000 people). Supplying water to communities not covered by the existing supply arrangements.

The scant rainfall during last spring and autumn has demonstrated the inadequacy of existing supply arrangements. This has caused a number of problems:

- an increase in respiratory illnesses,
- a substantial increase in allergies,
- a deterioration in hygiene conditions,
- a deterioration in the urban landscape,
- a loss of many trees, bushes and expanses of grass,
- fewer recreational possibilities for the community,
- deterioration in the quality of life.

All of these problems can be solved with a sufficient supply of good-quality water through a project such as this one. The project will also prevent bottlenecks from forming in the industrial activity of the regions in question.

The following types of benefit have been quantified in the cost-benefit analysis:

- greater availability of water,
- increase in the welfare of the population through improved quality of life.

The cost-benefit analysis shows a positive internal rate of return.

9. Contribution to environmental policy

The project will help improve the quality of life of the population and contribute to the sustainable development of the area concerned in accordance with the guidelines of the fifth programme in relation to the environment and sustainable development.

10. Cost

	(ECU '000)
Total cost:	30 899,343
Expenditure prior to 1 January 1993:	36,321
Total eligible cost:	30 863,022
Total assistance applied for from the cohesion financial instrument:	26 233,568

Breakdown of the aid

(ECU '000)

Increasing the supply capacity of the district water utility of El Sorbe	3 351,339
Laying pipelines between the reservoirs of Torre de Abraham and Gasset	3 858,450
Connecting the Viñuela reservoir to the supply networks of Malaga	4 409,657
Soundings of the aquifer at Sierra Blanca and radial well	4 823,063
Work needed to divert and exploit the water controlled by the J. Toran dam	8 619,744
Water purification plant at Eguillor	1 171,315

ANNEX II

FINANCING PLAN

Project: 93/11/61/064-068, 076

(ECU '000)

Year	Total cost (1)	Public expenditure										Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities					Other	11	% 12=11/1	
						Total		Central government	Other					
	1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10			13	
1993	26 048,934	26 048,934	100	22 141,594	85	3 907,340								
1994	4 814,088	4 814,088	100	4 091,974	85	722,113								
1995														
Total	30 863,022	30 863,022	100	26 233,568	85	4 629,453								

(1) Total eligible cost of project.

*ANNEX III***FINANCIAL IMPLEMENTING PROVISIONS**

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of the Decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

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11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Regulation (EEC) No 4253/88. If the authority does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

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12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) Amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) In the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change of the financing plan and the schedule of expenditure.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned,
 - reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85%. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audio-visual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure that there is transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months after the adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the grant of assistance from the cohesion financial instrument to the project
concerning the water supply in Seville in Spain

No CF: 93/11/61/079—080

(Only the Spanish text is authentic)

(94/422/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood to mean also 'set of projects';

Whereas on 10 August 1993 the Spanish Government submitted an application for assistance from the cohesion financial instrument for the project concerning the water supply in Seville;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project will help achieve the objectives of Article 130 r of the Treaty concerning the environment;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The project concerning the water supply in Seville in Spain as described in Annex I hereto is hereby approved for the period from 1 February 1993 to 31 May 1993.

2. References to 'project' in the present Decision and Annexes shall be understood to mean also 'set of projects'.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 18 157 412.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 15 433 800.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 10 289 200.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 31 May 1993.
2. Expenditure incurred before 7 September 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7,

30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project shall take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Spain.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Project title

Water supply in Seville

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Dirección General de Obras Hidráulicas

3.2. Address: Paseo de la Castellana, 67 — 28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Andalusia

5. Brief description

The project is made up of two parts. Part one involves connecting the Viar river to Seville's water-supply network in order to increase water resources. Part two involves connecting the Seville network, by means of pumping stations and pipelines, with the connecting works for the Pintado reservoir.

The work consists of:

- taking water from the Guadalquivir river at the Alcalá dam; laying concrete pipelines; building a surge shaft and connections with the pumping station and Seville's water-supply pipelines,
- improving two delivery pipelines with sheet lining via two pumping stations; building two surge shafts; fitting electronic installations with transformer units and HT transportation line.

The specifications of the project must comply with Directive 80/778/EEC ⁽¹⁾.

6. Principal objectives

The main objective of the project is to increase the supply of drinking water to Seville and its environs (1 200 000 inhabitants).

7. Work schedule

Date of commencement: 1 February 1993

Date of completion: 31 May 1993

⁽¹⁾ OJ No L 229, 30. 8. 1980, p. 11.

8. Economic and social benefits

This work is urgent in view of the current situation of the reservoirs supplying water to Seville and its environs. The project will make it possible to supply water to new communities not covered by the old supply arrangements. In addition, there will be sufficient water to meet other industrial and environmental requirements, etc.

The following types of benefit have been quantified in the cost-benefit analysis:

- greater availability of water,
- increase in the welfare of the population through improved quality of life.

The cost-benefit analysis shows a positive internal rate of return.

9. Contribution to environmental policy

The project will help improve the quality of life of the population and contribute to the sustainable development of the area concerned in accordance with the guidelines of the Fifth Programme in relation to the environment and sustainable development.

10. Cost

	(ECU '000) ⁽¹⁾
Total cost	18 157,41
Total eligible cost	18 157,41
Total assistance applied for from the cohesion financial instrument	15 433,80

⁽¹⁾ ECU 1 = Pta 154,207

ANNEX II

FINANCING PLAN

Project: 93/11/61/079—080

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans	
		Total public expenditure			Cohesion instrument		National authorities				Other			
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13		
1993	18 157,412	18 157,412	100	15 433,800	85	2 723,612	15							
1994														
1995														
Total	18 157,412	18 157,412	100	15 433,800	85	2 723,612	15							

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of the Decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Regulation (EEC) No 4253/88. If the authority does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) Amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) In the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change of the financing plan and the schedule of expenditure.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
 15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
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ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned,
 - reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85%. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audio-visual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure that there is transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months after the adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the grant of assistance from the cohesion financial instrument to the project
concerning the supply of water to Oviedo (Aramo tunnel) in Spain

No CF: 93/11/61/081

(Only the Spanish text is authentic)

(94/423/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measure for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken;

Whereas on 10 August 1993 the Spanish Government submitted an application for assistance from the cohesion financial instrument for the project concerning the supply of water to Oviedo (Aramo tunnel);

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of the Regulation;

Whereas the project will help achieve the objectives of Article 130 r of the Treaty concerning the environment;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision; whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93 and the provisions contained in Annex VI;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The project concerning the supply of water to Oviedo (Aramo tunnel) situated in Spain as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 30 April 1994.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 4 191 081.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 3 562 419.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 2 080 969.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Spain and for which the requisite finance has been specifically allocated to works to be completed not later than 30 April 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7,

30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project shall take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision may entail a reduction or suspension of assistance in, accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Spain.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Project title

Aramo tunnel — project to improve the supply of water to Oviedo

2. Authority making the application

2.1. Name: Dirección General de Planificación

2.2. Address: Paseo de la Castellana, 162 — 28071 Madrid

3. Authority responsible for implementation

3.1. Name: Dirección General de Obras Hidráulicas (MOPT)

3.2. Address: Paseo de la Castellana, 67 — 28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Asturias

5. Brief description

The project involves building a 3 745 m long tunnel with a diameter of 3 m and a 30 cm thick reinforced concrete lining. The entrance and exit to the tunnel must be connected to the general pipelines and access paths must be built at both ends.

The project specifications must comply with Directive 80/778/EEC ⁽¹⁾.

6. Principal objectives

The main objective is to improve the supply of water to the city of Oviedo. This involves transporting water of adequate quality for human consumption and industrial use.

7. Work schedule

	Date of commencement (main works):	Estimated date of completion
	December 1990	April 1994

⁽¹⁾ OJ No L 229, 30. 8. 1980, p. 11.

8. Socio-economic benefits

The objective is to improve the supply of water to Oviedo, a city with 189 000 inhabitants. The current supply network is in poor condition, with a serious danger of broken pipes and consequent harm to the population.

The following types of benefit have been quantified in the cost-benefit analysis:

- greater availability of water,
- increase in the welfare of the population through improved quality of life.

The cost-benefit analysis shows a positive internal rate of return.

9. Contribution to environmental policy

The project will help improve the quality of life of the population concerned and contribute to the sustainable development of the area in accordance with the guidelines of the Fifth Programme in relation to the environment and sustainable development.

10. Cost

(ECU '000) ⁽¹⁾

Total cost	10 827,63
Expenditure prior to 1 January 1993	6 636,55
Total eligible cost	4 191,08
Total assistance applied for from the cohesion financial instrument	3 562,42

⁽¹⁾ ECU 1 = Pta 154,207.

ANNEX II

FINANCING PLAN

Project: 93/11/61/081

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13	
1993	3 672,298	3 672,298	100	3 121,453	85	550,845	15						
1994	518,783	518,783	100	440,966	85	77,817	15						
1995													
Total	4 191,081	4 191,081	100	3 562,419	85	628,662	15						

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of the Decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Regulation (EEC) No 4253/88. If the authority does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project Decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) Amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) In the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change of the financing plan and the schedule of expenditure.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
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ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned,
 - reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Spain shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Spain.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audio-visual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure that there is transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months after the adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within a specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.
3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: Dublin Airport air freight terminal

No CF: 93/07/65/011

(Only the English text is authentic)

(94/424/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measures for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that measures which are described in Annex V to this Decision are undertaken;

Whereas on 10 August 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the Dublin Airport air freight terminal project;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of that Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas the project will generate revenues and this should be taken into account in determining the proportion of the costs eligible for Community assistance;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision;

Whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The stage of the Dublin Airport air freight terminal project situated in Ireland as described in Annex I hereto is hereby approved for the period 1 January 1993 to 31 December 1994.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 3 824 000.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 3 250 400.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 1 813 333.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Ireland and for which the requisite finance has been specifically allocated to works to be completed not later than 31 December 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Ireland.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

Dublin Airport cargo terminal

2. Organization responsible for the application

2.1. Name: Department of Transport, Energy and Communications

2.2. Address: Kildare Street, Dublin 2, Ireland

3. Organization responsible for project implementation

3.1. Name: Aer Rianta

3.2. Address: Dublin Airport, Cloghran, County Dublin

4. Location of project

4.1. Member State: Ireland

4.2. County: Co. Dublin

5. Description of project

Construction of apron, warehouse and offices at Dublin Airport to provide expanded air freight facilities

6. Objectives

- to expand air freight facilities at Dublin Airport to provide a fast and cost efficient service for exporters and importers,
- to increase the volume of freight handled,
- to attract international freight handling companies,
- to allow for the use of larger aircraft, thus reducing charges through economies of scale.

7. Timetable

	Start date	Completion date
Design studies	March 1992	June 1992
Land acquisition	—	—
Main works	1993	1994
Operational phase	1994	

8. Cost-benefit analysis

The cost-benefit analysis shows that the main benefits will come from greater operational efficiency, such as time saved on transporting air freight by road and sea to UK airports and cost savings to cargo operators because of economies of scale, as well as the benefits of increased employment at the terminal.

9. Environmental impact assessment

A formal environmental impact assessment is not required for this project. However, the project application states that the cargo terminal is within the existing airport grounds and the area has been professionally landscaped in recent years. New lighting and parking space will be provided to improve access and safety but no major impact on the environment is anticipated.

10. Total costs

(ECU '000)

Total costs	Expenditure before eligible date ⁽¹⁾	Total eligible costs
3 824	—	3 824

⁽¹⁾ Expenditure incurred after 1 January 1993 is eligible.

The project is revenue-generating and forecast net revenue has been taken into account before calculating the eligible cost.

ANNEX II

FINANCING PLAN

Project: 93/07/65/011

(ECU '000)

Year	Total cost (1)	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
	1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13
1993	3 200	3 200	100	2 720	85	480				480			
1994	624	624	100	530	85	94				94			
1995													
Total	3 824	3 824	100	3 250	85	574				574			

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Ireland shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Ireland.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
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ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 16 December 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: Cork container terminal (Stage 1)

No CF: 93/07/65/016

(Only the English text is authentic)

(94/425/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measures for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood to mean also 'stage of project';

Whereas on 28 July 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the Cork container terminal (Stage 1) project;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC)

No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of that Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas the project will generate revenues and this should be taken into account in determining the proportion of the costs eligible for Community assistance;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 792/93, technically and financially and financially discrete stages of the project have been identified for the purpose of granting assistance from the financial instrument;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision;

Whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of the Cork container terminal (Stage 1) project situated in Ireland as described in Annex I hereto is hereby approved for the period 1 January 1993 to 31 December 1994.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 2 466 000.

2. The rate of Community assistance granted to the project shall be fixed at 85 %.

3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 2 096 100.

4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.

2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.

3. The amount of the first advance payment shall be fixed at ECU 698 667.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Ireland and for which the requisite finance has been specifically allocated to works to be completed not later than 31 December 1994.

2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.

3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Ireland.

Done at Brussels, 16 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

Cork container terminal

2. Organization responsible for the application

2.1. Name: Department of the Marine

2.2. Address: Leeson Lane, Dublin 2, Ireland

3. Organization responsible for project implementation

3.1. Name: Cork Harbour Commissioners

3.2. Address: Customs House Street, Cork

4. Location of project

4.1. Member State: Ireland

4.2. County: Co. Cork

5. Description of project

The proposal is the first phase of the development of the container terminal at Tivoli in Cork. It will involve deepening the approach channel to the terminal from 5,2 m to 6,5 m.

6. Objectives

- to deepen the approach channel to the Tivoli container terminal to cater for larger container vessels now in service,
- to increase reliability of service,
- to reduce turn-around times for vessels.

7. Timetable

	Start date	Completion date
Design studies	April 1993	June 1993
Land acquisition	—	—
Main works	November 1993	December 1994
Operational phase	December 1994	

8. Cost-benefit analysis

A cost-benefit analysis of the separate phases of the project is impractical since all parts of the work are complementary. However, an analysis of the three phases of the project indicates that significant operational savings will result from the investment.

9. Environmental impact assessment

An EIA is not required for this project.

10. Total costs

(ECU '000)

Total costs	Expenditure before eligible date ⁽¹⁾	Total eligible costs
2 466	—	2 466

⁽¹⁾ Expenditure incurred after 1 January 1993 is eligible.

ANNEX II

FINANCING PLAN

Project: 93/07/65/016

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
	1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13
1993	1 233	1 233	100	1 048	85	185	15			185			
1994	1 233	1 233	100	1 048	85	185	15			185			
1995													
Total	2 466	2 466	100	2 096	85	370	15			370			

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
 15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Ireland shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Ireland.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 20 December 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: Ballymount waste facility

No CF: 93/07/61/039

(Only the English text is authentic)

(94/426/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measures for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that measures which are described in Annex V to this Decision are undertaken;

Whereas on 13 June 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the Ballymount waste facility project;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of that Regulation;

Whereas the project will help achieve the objectives of Article 130r of the Treaty concerning the environment;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision;

Whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The stage of the Ballymount waste facility project situated in Ireland as described in Annex I hereto is hereby approved for the period 1 January 1993 to 31 December 1993.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 7 713 000.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 6 556 050.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 3 933 800.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Ireland and for which the requisite finance has been specifically allocated to works to be completed not later than 30 June 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Ireland.

Done at Brussels, 20 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

Ballymount waste facility

2. Organization responsible for the application

2.1. Name: Department of the Environment

2.2. Address: Water and Sanitary Services Section, O'Connell Bridge House, Dublin 2, Ireland

3. Organization responsible for project implementation

3.1. Name: Dublin County Council

3.2. Address: 46/49 Upper O'Connell Street, Dublin 1

4. Location of project

4.1. Member State: Ireland

4.2. County: Co. Dublin

5. Description of project

The proposal is for a waste baling/transfer station incorporating recycling facilities with provision for a drop-off facility for recyclable materials — glass, cans, oil, metal, fridges — for CFC extraction. It will also provide accommodation for an extension to kerbside type collection facilities, and may also provide alternative facilities for private recycling projects. Municipal waste will be baled for transfer to a landfill site distant from the collecting area.

6. Objectives

Ireland's municipal waste landfill facilities are in need of considerable upgrading and extension to meet acceptable environmental standards and to provide for better materials segregation and recycling facilities. In the case of south County Dublin, the remaining landfill site is virtually exhausted and a replacement landfill is being sought which will meet the needs of the entire south county area. The Ballymount waste facility will fully integrate with Irish Government policy with regard to upgrading landfill facilities and improving waste segregation and recycling facilities.

7. Timetable

	Start date	Completion date
Design studies	1991	1992
Land acquisition	1976	1976
Main works	September 1993	June 1994
Operational phase	July 1994	

8. Cost-benefit analysis

A conventional cost-benefit analysis would require that all of the costs and benefits arising over the life of the project be quantified and compared. Due to the conceptual difficulties of estimating the benefits (public health and safety, nuisance and noise reduction, improvement in value of amenities, positive overall impact on flora and fauna from opening new site and closing previous site, etc.) it is not possible to value the benefits with confidence. However, a qualitative assessment of the benefits is provided with the proposal. The analysis also demonstrates that the present proposal is the most economically advantageous disposal option available.

9. Environmental impact assessment

In accordance with the provisions of the European Communities (environmental impact assessment) Regulations 1989, which transpose Council Directive 85/337/EEC⁽¹⁾ into Irish law, the Dublin County Council has carried out an environmental impact assessment. This assessment has been ratified by the Minister of the Environment.

10. Total costs

(ECU '000)

Total costs	Expenditure before eligible date ⁽¹⁾	Total eligible costs
8 125	412	7 713

⁽¹⁾ Expenditure after 1 January 1993 is eligible.

ANNEX II

FINANCING PLAN

Project: 93/07/61/039

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13	
1993	6 942	6 942	100	5 901	85	1 041	15		1 041				
1994	771	771	100	655	85	116	15		116				
1995													
Total	7 713	7 713	100	6 556	85	1 157	15		1 157				

⁽¹⁾ Total eligible cost of project.

⁽¹⁾ OJ No L 175, 5. 7. 1985, p. 40.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Ireland shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Ireland.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
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ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 20 December 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: Tralee landfill site

No CF: 93/07/61/040

(Only the English text is authentic)

(94/427/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measures for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that measures which are described in Annex V to this Decision are undertaken;

Whereas on 13 July 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the Tralee landfill site project;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of that Regulation;

Whereas the project will help achieve the objectives of Article 130r of the Treaty concerning the environment;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision;

Whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The stage of the Tralee landfill site project situated in Ireland as described in Annex I hereto is hereby approved for the period 1 February 1993 to 31 December 1993.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 1 250 000.
2. The rate of Community assistance granted to the project shall be fixed at 85%.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 1 062 500.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 708 333.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Ireland and for which the requisite finance has been specifically allocated to works to be completed not later than 31 December 1993.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Ireland.

Done at Brussels, 20 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

Tralee landfill site

2. Organization responsible for the application

2.1. Name: Department of the Environment, Water and Sanitary Services Section

2.2. Address: O'Connell Bridge House, Dublin 2, Ireland

3. Organization responsible for project implementation

3.1. Name: Kerry County Council

3.2. Address: County Buildings, Tralee, Co. Kerry

4. Location of project

4.1. Member State: Ireland

4.2. County: Co. Kerry

5. Description of project

A modern contained waste disposal site with a capacity of 20 000 tonnes per annum, including facilities for the segregation of materials for recycling. The site will serve the town of Tralee and areas adjoining (population covered 62 000) for 20 years.

6. Objectives

The facility will serve the waste disposal needs of the area while guaranteeing a high level of protection for the environment and public health.

7. Timetable

	Start date	Completion date
Design studies	February 1993	June 1993
Land acquisition	—	—
Main works	July 1993	October 1993
Operational phase	November 1993	

8. Cost-benefit analysis

A conventional cost-benefit analysis would require that all of the costs and benefits arising over the life of the project be quantified and compared. Due to the conceptual difficulties of estimating the benefits (public health and safety, nuisance and noise reduction, improvement in value of amenities, positive overall impact on flora and fauna from opening new site and closing previous site, etc.) it is not possible to value them with confidence. However, a qualitative assessment of the benefits is provided with the proposal. This analysis also demonstrates that the present proposal is the most economically advantageous disposal option available.

9. Environmental impact assessment

An environmental impact assessment for the project has been carried out and approved by the Minister for the Environment.

10. Total costs

(ECU '000)

Total costs	Expenditure before eligible date ⁽¹⁾	Total eligible costs
1 250	—	1 250

⁽¹⁾ Expenditure incurred after 1 January 1993 is eligible.

ANNEX II

FINANCING PLAN

Project: 93/07/61/040

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Other	Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities			Other	10		11	12=11/1	
						Total		Central government						
	1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9			%	13	
1993	1 250	1 250	100	1 062	85	188	15	188						
1994														
1995														
Total	1 250	1 250	100	1 062	85	188	15	188						

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Ireland shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Ireland.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 20 December 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: Ballyjamesduff regional water supply scheme (stage 1)

No CF: 93/07/61/041

(Only the English text is authentic)

(94/428/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measures for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood to mean also 'stage of project';

Whereas on 2 September 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the Ballyjamesduff regional water supply scheme (stage 1) project;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of that Regulation;

Whereas the project will help achieve the objectives of Article 130r of the Treaty concerning the environment;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision;

Whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of the Ballyjamesduff regional water supply scheme (stage 1) project situated in Ireland as described in Annex I hereto is hereby approved for the period 1 January 1993 to 31 March 1994.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 1 230 000.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 1 045 500.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 60 775.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Ireland and for which the requisite finance has been specifically allocated to works to be completed not later than 31 March 1994.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Ireland.

Done at Brussels, 20 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

Ballyjamesduff regional water supply scheme (stage 1)

2. Organization responsible for the application

2.1. Name: Department of the Environment

2.2. Address: Water and Sanitary Services Section, O'Connell Bridge House, Dublin 2, Ireland

3. Organization responsible for project implementation

3.1. Name: Cavan County Council

3.2. Address: Courthouse, Cavan, Co. Cavan

4. Location of project

4.1. Member State: Ireland

4.2. County: Co. Cavan

5. Description of project

The project involves the abstraction and treatment of water and its supply to the villages of Ballyjamesduff, Ballinagh, Kilnaleck and Mountnugent. The scheme will provide sufficient quantities of good quality water to meet the present and future needs of these villages where present supplies are limited and of poor quality. The funding sought covers the first phase of the project. The surface water quality of the proposed source of the new supply — Lough Nadrageel west — meets the standards of Council Directive 74/440/EEC ⁽¹⁾ for drinking water supply sources.

6. Objectives

— compliance with Council Directive 80/778/EEC ⁽²⁾ on drinking water,

— provision of adequate supply of high quality drinking water,

— remove constraints on development of tourism and commercial development in this part of County Cavan.

7. Timetable

	Start date	Completion date
Design studies	16. 5. 1990	21. 9. 1990
Land acquisition	17. 7. 1990	2. 11. 1990
Main works	1994	1996
Operational phase	1996	

8. Cost-benefit analysis

The cost-benefit analysis shows an internal rate of return estimated at 8,8 %.

⁽¹⁾ OJ No L 194, 25. 7. 1975, p. 34.

⁽²⁾ OJ No L 229, 30. 8. 1980, p. 11.

9. Environmental impact assessment

In accordance with the provisions of the European Communities (environment impact assessment) Regulations 1989, which transpose Council Directive 85/377/EEC ⁽¹⁾ into Irish law, an environmental impact assessment is not required for this project. The project application states, however, that the preliminary report and investigations took account of all relevant environmental considerations.

10. Total costs

(ECU '000)

Total costs	Expenditure before eligible date ⁽¹⁾	Total eligible costs
1 393	163	1 230

⁽¹⁾ Expenditure after 1 January 1993 is eligible.

ANNEX II

FINANCING PLAN

Project: 93/07/61/041

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13	
1993	143	143	100	122	85	21	15	21					
1994	1 087	1 087	100	924	85	163	15	163					
1995													
Total	1 230	1 230	100	1 046	85	184	15	184					

⁽¹⁾ Total eligible cost of project.

⁽¹⁾ OJ No L 175, 5. 7. 1985, p. 40.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
 15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Ireland shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Ireland.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 20 December 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: rail network improvement

No CF: 93/07/65/019
93/07/65/023
93/07/65/024
93/07/65/025

(Only the English text is authentic)

(94/429/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measures for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that measures which are described in Annex V to this Decision are undertaken;

Whereas references to 'project' shall be understood to mean also 'set of projects';

Whereas on 28 July 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the rail network improvement project;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of that Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas the project forms part of the master plan for a trans-European rail network;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision;

Whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93;

Whereas all the other conditions laid down have been complied with,

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of the rail network improvement project situated in Ireland as described in Annex I hereto is hereby approved for the period 1 January 1993 to 31 March 1994.

2. References to 'project' in the following Articles and Annexes shall be understood to mean also 'stage of project'.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 18 124 000.

2. The rate of Community assistance granted to the project shall be fixed at 85 %.

3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 15 405 400.

4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.

2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.

3. The amount of the first advance payment shall be fixed at ECU 3 400 000.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Ireland and for which the requisite finance has been specifically allocated to works to be completed not later than 31 March 1994.

2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.

3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30, 52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Ireland.

Done at Brussels, 20 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

Rail network improvement I

2. Organization responsible for the application

2.1. Name: Department of Transport, Energy and Communications

2.2. Address: Kildare Street, Dublin 2, Ireland

3. Organization responsible for project implementation

3.1. Name: Iarnrod Eireann

3.2. Address: Connolly Station, Dublin 1

4. Location of project

4.1. Member State: Ireland

4.2. County:

5. Description of project

The proposal consists of four separate related projects to upgrade the rail network by the replacing of life-expired jointed rails on timber sleepers with continuous welded rail on concrete sleepers. Supporting work is also included, in particular, improvement and strengthening of bridges and fencing and automation and improvement of level crossings. The four separate lines included are the following:

- Dublin to Belfast,
- Dublin to Cork,
- Dublin to Waterford,
- Limerick Junction to Limerick City.

6. Objectives

- to improve the safety and efficiency of rail travel,
- to enhance the competitive position of rail travel relative to road transport,
- to complement investments already undertaken under the existing operational programme 1989 to 1993 assisted by the ERDF.

7. Timetable

	Start date	Completion date
Design studies	—	—
Land acquisition	—	—
Main works	1993	1994
Operational phase	1994	

8. Cost-benefit analysis

The four related projects included in this decision form part of a wider process of modernizing the rail lines which are part of the trans-European rail network. Individual cost-benefit analyses of work on small parts of these lines are not appropriate. However, preliminary CBAs of the entire routes have been carried out and show significant time savings, lower vehicle operating costs and a reduced possibility of accidents.

9. Environmental impact assessment

There is no requirement to carry out an environmental impact assessment for these projects. However, the proposal states that there will be no adverse impact on the environment. To the extent that car users are encouraged to use train travel, there should be a positive environmental benefit.

10. Total costs

(ECU '000)

Total costs	Expenditure before eligible date ⁽¹⁾	Total eligible costs
18 124	—	18 124

⁽¹⁾ Expenditure incurred after 1 January 1993 is eligible.

ANNEX II

FINANCING PLAN

Project: 93/07/65/019
93/07/65/023
93/07/65/024
93/07/65/025

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
					%		%		%				
	1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	12=11/1	13
1993	6 000	6 000	100	5 100	85					900			
1994	12 124	12 124	100	10 305	85					1 819			
1995													
Total	18 124	18 124	100	15 405	85					2 719			

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Ireland shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Ireland.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 20 December 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: Dublin to Galway railway link upgrade

No CF: 93/07/65/022

(Only the English text is authentic)

(94/430/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measures for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that measures which are described in Annex V to this Decision are undertaken;

Whereas on 28 July 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the Dublin to Galway railway link upgrade project;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of that Regulation;

Whereas the project is a transport infrastructure project of common interest;

Whereas the project forms part of the master plan for a trans-European rail network;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision;

Whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The stage of the Dublin to Galway railway link upgrade project situated in Ireland as described in Annex I hereto is hereby approved for the period 1 December 1993 to 31 March 1993.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 1 875 000.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 1 593 750.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 1 062 500.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Ireland and for which the requisite finance has been specifically allocated to works to be completed not later than 31 March 1993.
2. Expenditure incurred before 1 January 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Ireland.

Done at Brussels, 20 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

Dublin to Galway railway link upgrade

2. Organization responsible for the application

2.1. Name: Department of Transport, Energy and Communications

2.2. Address: Kildare Street, Dublin 2, Ireland

3. Organization responsible for project implementation

3.1. Name: Iarnrod Eireann

3.2. Address: Connolly Station, Dublin 1

4. Location of project

4.1. Member State: Ireland

4.2. County: Counties Dublin, Meath, Westmeath, Galway

5. Description of project

The project involves upgrading the basic infrastructure of the Dublin to Galway railway line. The work involves the replacement of life-expired jointed rails on timber sleepers with modern continuous welded rail on concrete sleepers.

6. Objectives

- to achieve safer and more efficient passenger and freight services,
- to enhance the competitive position of the rail route relative to the road link.

7. Timetable

	Start date	Completion date
Design studies	—	—
Land acquisition	—	—
Main works	December 1993	March 1994
Operational phase	—	—

8. Cost-benefit analysis

This project is part of a wider process of modernizing the Dublin to Galway railway line and a cost-benefit analysis of this small section alone would not be appropriate. However, a CBA for the improvement of the whole line shows a net present value of ECU 7,01 million. The principal benefits are the reduction of vehicle operating costs, possible accident costs and time savings.

9. Environmental impact assessment

All of the proposed work will be confined to the existing railway line and will have no impact outside of this either in the construction or post-construction phases.

10. Total costs

(ECU '000)

Total costs	Expenditure before eligible date	Total eligible costs
1 875	—	1 875

ANNEX II

FINANCING PLAN

Project: 93/07/65/022

(ECU '000)

Year	Total cost (1)	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
	1=2+11	2=4+6+10	% 3=2/1	4	% 5=4/2	6=8+9	% 7=6/2	8	9	10	11	% 12=11/1	13
1993	1 875	1 875	100	1 594	85					281			
1994													
1995													
Total	1 875	1 875	100	1 594	85					281			

(1) Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
 - (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10 % of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
 15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Ireland shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Ireland.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 20 December 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: Muinebheag sewerage scheme

No CF: 93/07/61/022

(Only the English text is authentic)

(94/431/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽¹⁾, and in particular Article 8 (6) thereof,

Whereas Article 1 of Regulation (EEC) No 792/93 establishes a cohesion financial instrument to provide Community support for projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93 certain provisions of Titles VI and VII of Council Regulation (EEC) No 4253/88 of 19 December 1988 concerning the provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EEC) No 2082/93 ⁽³⁾, are to apply, *mutatis mutandis*;

Whereas Article 2 of Regulation (EEC) No 792/93 defines the types of measures for which the cohesion financial instrument may provide assistance;

Whereas Article 10 of Regulation (EEC) No 792/93 requires the Member States to ensure that adequate publicity is given to the operations of the financial instrument and that measures which are described in Annex V to this Decision are undertaken;

Whereas on 24 June 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the Muinebheag sewerage scheme project;

Whereas that application concerns a project which is eligible under the terms of Article 2 of Regulation (EEC) No 792/93;

Whereas the application for assistance contains all the information required by Article 8 (4) of Regulation (EEC) No 792/93 and satisfies the criteria set out in Article 8 (3) and (5) of that Regulation;

Whereas the project will help achieve the objectives of Article 130r of the Treaty concerning the environment;

Whereas the project is the result of measures taken in accordance with Article 130s of the Treaty;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁵⁾, states that the legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas pursuant to Article 9 of Regulation (EEC) No 792/93, the Commission and the Member State will ensure that there is evaluation and systematic monitoring of the project;

Whereas the financial implementation provisions, monitoring and assessment are specified in Annexes III and IV to this Decision;

Whereas failure to comply with those provisions may result in suspension or reduction of the assistance granted pursuant to Article 9 (3) of Regulation (EEC) No 792/93;

Whereas all the other conditions laid down have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The stage of the Muinebheag sewerage scheme project situated in Ireland as described in Annex I hereto is hereby approved for the period 1 January 1993 to 31 March 1994.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 193, 31. 7. 1993, p. 20.

⁽⁴⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁵⁾ OJ No L 70, 16. 3. 1990, p. 1.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 3 258 000.
2. The rate of Community assistance granted to the project shall be fixed at 85 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 2 769 300.
4. The contribution is committed from the 1993 budget.

Article 3

1. Community assistance shall be based on the financial plan for the project set out in Annex II.
2. Commitments and payments of Community assistance granted to the project shall be made in accordance with Article 9 of Regulation (EEC) No 792/93 and as specified in Annex III.
3. The amount of the first advance payment shall be fixed at ECU 1 133 333.

Article 4

1. Community assistance shall cover expenditure on the project for which legally binding arrangements have been made in Ireland and for which the requisite finance has been specifically allocated to works to be completed not later than 31 March 1994.
2. Expenditure incurred before 24 June 1993 shall not be eligible for assistance.
3. The closing date for the completion of national payments on the project is fixed not later than 12 months after the date mentioned in subparagraph 1.

Article 5

1. The project shall be carried out in accordance with Community policies, and in particular with Articles 7, 30,

52 and 59 of the Treaty, as well as with Community law, in particular with the Directives coordinating public procurement procedures.

2. This Decision shall not prejudice the right of the Commission to commence infringement proceedings pursuant to Article 169 of the Treaty.

Article 6

Systematic monitoring and assessment of the project take place in accordance with the provisions set out in Annex IV hereto.

Article 7

The Member State concerned shall ensure adequate publicity for the project as specified in Annex V.

Article 8

Each Annex to this Decision shall form an integral part of it.

Article 9

Failure to comply with the provisions of this Decision or its Annexes may entail a reduction or suspension of assistance in accordance with the provisions set out in Annex VI.

Article 10

This Decision is addressed to Ireland.

Done at Brussels, 20 December 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

Muinebheag sewerage scheme

2. Organization responsible for the application

2.1. Name: Department of the Environment Water and Sanitary Services Section

2.2. Address: O'Connell Bridge House, Dublin 2, Ireland

3. Organization responsible for project implementation

3.1. Name: Carlow County Council

3.2. Address: County Offices, Carlow, Ireland

4. Location of project

4.1. Member State: Ireland

4.2. County: Co. Carlow

5. Description of project

This project is part of a wider network of treatment works, which will greatly improve water quality along the Barrow river.

The proposed project consists of a new secondary treatment works, pumping stations and an extension of the collecting system to meet the expanding needs of Muinebheag town. The treatment works are designed to serve a population equivalent of 4 000 in stage 1. Approximately 4 km of sewers, rising mains and pumping stations will be installed.

6. Objectives

The project will comply with Council Directive 91/271/EEC concerning urban waste water treatment⁽¹⁾ and has been given priority within the national programme of water treatment measures. It will greatly reduce pollution of the River Barrow and enhance water quality. The project will lead to elimination of odour and public health nuisances and of the periodic flooding of streets in both business and residential areas.

7. Timetable

	Start date	Completion date
Design studies	3. 2. 1978	24. 4. 1990
Land acquisition		
Main works	1. 3. 1993	31. 3. 1994
Operational phase	1. 4. 1994	

8. Economic analysis

The principal beneficial impacts of the proposed plant on the environment include a major improvement in the water quality of River Barrow downstream of Muinebheag. Other benefits will derive from increased tourism and industrial and commercial growth in the area. The cost-benefit analysis shows an internal rate of return on this project of 6,3 %.

⁽¹⁾ OJ No L 135, 30. 5. 1991, p. 40.

9. Environmental impact assessment

An EIA is not required for this project.

10. Total costs

(ECU '000)

Total costs	Expenditure before eligible date ⁽¹⁾	Total eligible costs
3 258	100	3 258

⁽¹⁾ Expenditure incurred after 1 January 1993 is eligible.

ANNEX II

FINANCING PLAN

Project: 93/07/61/022

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other			
						Total		Central government	Other				
					%		%		%				
	1=2+11	2=4+6+10	3=2/1	4	5=4/2	6=8+9	7=6/2	8	9	10	11	12=11/1	13
1993	2 000	2 000	100	1 700	85	300	15	300					
1994	1 258	1 258	100	1 069	85	189	15	189					
1995													
Total	3 258	3 258	100	2 769	85	489	15	489					

⁽¹⁾ Total eligible cost of project.

ANNEX III

FINANCIAL IMPLEMENTING PROVISIONS

1. The financial provisions referred to in Article 9 of Regulation (EEC) No 792/93 shall be implemented as follows:

Community assistance

2. Community assistance shall be expressed as a percentage of eligible expenditure. If the actual expenditure incurred differs from the expenditure initially planned, the Community assistance granted shall be varied to take account of this but may not exceed the maximum amount stated in the Decision. A change of the rate of Community assistance or of the maximum amount of the grant will require a modification of decision according to the procedures described in point 12.

Commitments and payments

3. The Member State shall undertake to ensure that, for the project to which this Decision relates, all public or private bodies involved in the management and implementation of these operations maintain either a separate accounting system or an adequate accounting codification of all transactions concerned which will facilitate the verification of expenditure by the Community and national control authorities.
4. Budgetary commitments and payments shall be made in accordance with Article 9 (4), (5) and (6) of Regulation (EEC) No 792/93.
5. All payments of aid granted by the Commission under this Decision shall be made to the authority designated by the Member State, which shall also be responsible for refunding any overpaid amounts to the Commission. Payments shall be made to a single bank account designated by the Member State. As a general rule, the Commission shall make payments no later than two months after receipt of a valid application.
6. The Member State shall ensure that applications for payment and statements of expenditure actually incurred comply with the financing plan, including the schedule of expenditure, annexed to this Decision, as amended where appropriate, following the procedures laid down in points 12 and 13.
7. In accordance with Article 22 of Council Regulation (EEC) No 4253/88, all commitments and payments shall be in ecus.
8. Statements of expenditure in support of applications for payment shall be denominated in ecus or in national currency.
9. Member States which submit statements of expenditure in ecus shall convert the amounts of expenditure incurred in national currency into ecus using the rate for the month during which the expenditure was booked in the accounts of the authorities responsible for the financial management of projects. Each month the Commission shall inform the Member States of the rate to be used for that purpose.
10. Statements of expenditure in national currency shall be converted into ecus at the rate for the month when they were received by the Commission.

Recovery of undue payments

11. Any sum wrongly paid shall be repaid to the Commission by the authority designated in point 5. Interest on account of late payments shall be charged on sums not repaid in accordance with Article 24 (3) of Council Regulation (EEC) No 4253/88. If the authority designated under point 5 does not repay the amount due to the Community, the Member State shall refund this amount to the Commission.

Procedure for amending the project decision

12. Any amendments to the Decision shall be made in accordance with the following procedures:
- (a) amendments which entail a substantial change in the objectives or characteristics of the project, an increase or reduction in the rate of financing applied or the maximum amount of assistance or a substantial change in the financing plan or schedule of expenditure shall be made by means of a Commission decision taken in response to a request by the Member State or on the initiative of the Commission, after consultation with the Member State;
 - (b) in the case of other amendments, the Member State shall send the Commission a proposal for amendment. The Commission shall make its comments or signify its agreement within 20 working days of receipt of the proposal. The amendments shall be adopted when the Commission has given its agreement.
13. Any change in annual expenditure of less than 10% of the total expenditure planned for the project shall not be regarded as a substantial change.

Procedure for closing a project

14. The time limits for complying with the legal obligations contracted under this Decision shall be complied with and payments made in accordance with Article 4 of the Decision. These may be amended before they expire in accordance with the procedure in point 12 (b) provided that the extension does not exceed one year. For that purpose, the Member State shall send the Commission a proposal for amendment together with information justifying the amendment. Where the extension exceeds one year, the procedure in point 12 (a) shall apply.
15. If the time limit is not extended, any expenditure incurred after the dates indicated in Article 4 of the Decision shall not be eligible for assistance from the financial instrument.
-

ANNEX IV

MONITORING AND ASSESSMENT

1. The national body responsible for implementation shall be fully involved in the monitoring and assessment of projects. In order to carry out these obligations, the Member States may request a Community contribution from the Commission as technical support.

A. Monitoring

2. Monitoring means a system of information on the progress made in implementing the project. Monitoring shall use financial and, where appropriate, physical indicators which enable actual progress on completion of the project to be compared with the financing plan in Annex II and the schedule for implementation in Annex I.
3. The implementation of projects shall be monitored by means of:
 - the Monitoring Committee set up by each Member State concerned reports,
 - sample checks.

Monitoring Committee

4. The Monitoring Committee set up to monitor projects financed by the cohesion financial instrument in Ireland shall be responsible for monitoring the project which is the subject of this Decision. The Committee shall review its implementation at regular intervals and, where necessary, propose any adjustments required.

The composition of the Monitoring Committee, including appointment of its chairman, its operation and frequency of meetings, shall be adopted by joint agreement between the Member State and the Commission, not later than three months after the approval of the first project in Ireland.

5. The Committee shall:
 - (a) monitor the proper implementation of the project and ensure that it achieves the objectives laid down for it in accordance with the plan originally adopted;
 - (b) give its opinion on the draft annual reports on implementation referred to in point 6;
 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
 - (d) ensure publicity for the project;
 - (e) ensure that Community policies are respected, especially environment policy;
 - (f) decide by agreement between the Commission and the Member State any additional responsibilities of the Committee.

In general, the documents required for meetings of the Committee shall be available three weeks in advance.

Reports

6. In accordance with Article 25 (4) of Regulation (EEC) No 4253/88, annual reports for each complete year of implementation and a final report shall be drawn up for the project which is the subject of this Decision.

The first annual report on this project shall be submitted to the Commission by the authority responsible no later than 15 months after adoption of the Decision approving the project. The report shall contain the following information:

- progress of the project,
- details of any divergence from the implementation plan originally laid down,
- an outline of the main problems encountered and the measures taken to solve them.

On the basis of the information in the annual reports, the Commission and the Member State may, where necessary, revise the financing plan for the project and make adjustments to it.

The final report, to be submitted six months after physical completion of the project, shall report on the work carried out and its conformity with the Decision approving the project and give an initial appraisal of the chances of achieving the results sought.

Payment of the balance of Community assistance shall be subject to approval of the final report.

Checks

7. Checks may be carried out in accordance with Article 23 (2) of Regulation (EEC) No 4253/88 by both the Member State and the Commission. The Member State and the Commission shall immediately exchange any relevant information concerning the results.
8. For a period of three years following the last payment in respect of the project, the authority responsible for implementation shall keep available for the Commission all the supporting documents regarding expenditure.
9. The Member State shall keep available for the Commission all appropriate national reports concerning the checks carried out.

B. Assessment

10. An assessment of the project may be carried out during its implementation at the request of the Member State or on the initiative of the Commission in order to assess whether the project is progressing in accordance with the objectives originally laid down and to propose adjustments to take account of problems encountered during implementation. The Monitoring Committee shall take into account this evaluation.
 11. An *ex-post* assessment of the impact of the project may be carried out by an assessor appointed by joint agreement between the Member State and the Commission once the project has been completed.
-

ANNEX V

INFORMATION AND PUBLICITY

The Member State concerned should ensure that the general public are aware of the role played by the Community in financing the project. The following measures, *inter alia*, should be undertaken with this end in view:

- panels of an appropriate size, to be agreed between the Member State and the Commission, shall mark the project. These panels should indicate that the project in question has been funded by the Cohesion Fund of the European Community at a rate of 80 to 85 %. Appropriate European Community identity symbols should be used on every panel,
- the Member State concerned shall publicize the project using appropriate means, especially audiovisual means. Such publicity shall refer to the objectives and actions and to the benefits to the general public which will derive from the project,
- the Member State concerned shall provide the public with brochures, leaflets and other types of information. They may use Community channels for the distribution of these brochures and leaflets,
- from the outset, the Member State concerned shall ensure transparent and open access to appropriate information requested by the public. With regard to environmental projects the provisions of Council Directive 90/313/EEC ⁽¹⁾ have to be respected.

The Member State concerned shall consult the Commission on what initiatives it proposes to take in this respect within two months of adoption of the Decision. It shall also report annually to the Commission on the information and publicity measures undertaken.

ANNEX VI

OBSERVANCE OF THE TERMS AND CONDITIONS OF THE DECISION AND OF OTHER
COMMUNITY POLICIES

1. The Member State and the beneficiaries shall ensure that Community finance is used for the purposes intended.
2. Where the Commission considers that for a given project, this requirement or other provisions of the Decision or of Community policies have not been or are not being complied with, it shall conduct suitable examination of the case in particular requesting that the Member State or other authorities designated by it to implement the project submit their comments within specified period of time.

Following this examination, the Commission may suspend payments of Community funds. In this case, it will notify the authority in the Member State responsible for implementation of the project. This letter of notification shall also state the action to be taken in respect of Community funds already paid out for the project.

3. For projects in respect of which the above steps have been taken, the current and the remaining payments shall be considered suspended totally or in part until the Commission is satisfied that the necessary remedial measures have been taken.
4. If this examination reveals finally that the proper terms and conditions of the Decision and of Community policy have not been complied with, and that corrective measures have not been taken by the Member State, the assistance shall be reduced or cancelled. Provisions concerning the recovery of funds unduly paid are set out in point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.