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II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: Robertstown sewerage

No CF: 93/07/61/003

(Only the English text is authentic)

(93/631/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⁾ 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 2 June 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the Robertstown sewerage 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 Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁴⁾, 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;

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁴⁾ OJ No L 70, 16. 3. 1990, p. 1.

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 Robertstown sewerage project situated in Ireland as described in Annex I hereto is hereby approved for the period 1 January 1993 to the end of December 1994.

Article 2

1. The maximum eligible expenditure to be taken as the basis for this Decision shall be ECU 1 560 000.
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 1 326 000.
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 527 333.

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 the end of 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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

Robertstown sewerage

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: Kildare County Council

3.2. Address: St Mary's, Naas, County Kildare

4. Location of project

4.1. Member State: Ireland

4.2. County: County Kildare

5. Description of project

Robertstown is a small town about 40 km west of Dublin, situated on the Grand Canal, which runs from Dublin to the River Shannon. The canal is no longer used for freight but is considered a major amenity which has significant tourism potential as a centre for leisure cruising and water sports. The canal has been designated by the local authority as a high amenity area and it attracts a considerable number of visitors during the summer months.

There is no existing public drainage system in Robertstown. Domestic sewage is treated by individual or commercial septic tanks functioning to varying degrees of effectiveness. There is considerable infiltration of sewage into the Grand Canal, which makes the waterway unsightly and a potential health hazard.

The proposal includes the provision of a piped drainage system to convey sewage to a waste water treatment works providing secondary treatment. This will eliminate the dependence on individual septic and commercial septic tanks and abate the pollution of the canal.

6. Objectives

- to comply with Council Directive 91/271/EEC ⁽¹⁾ concerning urban waste water treatment,
- to prevent and abate pollution and to safeguard public health, protect and enhance the environment of the area,
- to prevent public nuisance and improve the appearance of the area,
- to enhance the amenity value of the Grand Canal for angling, boating and canal walks,
- to increase the potential for tourist business in the area,
- to provide the necessary infrastructure to allow for commercial and other development of this area of County Kildare and thus improve employment prospects.

⁽¹⁾ OJ No L 135, 30. 5. 1991, p. 40.

7. Timetable

	Start date	Completion date
Design studies	October 1985	June 1990
Land acquisition	July 1986	June 1990
Main works	1993	1994
Operational phase	1994	

8. Cost-benefit analysis

The benefits which the cost-benefit analysis identifies as being significant come from increased tourism and commercial development in addition to benefits at the design and construction stage. The cost-benefit analysis shows an internal rate of return of 5,73 %.

9. Environmental impact assessment

While an environmental impact assessment is not required, the general standards applied in the planning and design of this scheme will ensure that there is no adverse effect on the environment.

10. Total costs

(ECU million)

Total costs	Expenditure before eligible date ⁽¹⁾	Total eligible costs
1,879	0,319	1,560

⁽¹⁾ Expenditure after 1 January 1993 is eligible.

ANNEX II

FINANCING PLAN

Project: 93/07/61/003

(ECU '000)

Year	Total cost (1)	Public expenditure										Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other	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	931	931	100	791	85	140	15	140					93	
1994	629	629	100	535	85	94	15	94					18	
1995														
Total	1 560	1 560	100	1 326	85	234	15	234					111	

⁽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 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: N 4 Longford town by-pass

No CF: 93/07/65/001

(Only the English text is authentic)

(93/632/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⁾ 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 2 June 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the N 4 Longford town by-pass 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 road network;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁴⁾, 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 N 4 Longford town by-pass project situated in Ireland as described in Annex I hereto is hereby approved for the period 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 8 410 000.
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 7 148 500.
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 2 476 000.

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 the end of 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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

N 4 Longford town by-pass

2. Organization responsible for the application

2.1. Name: Department of the Environment

2.2. Address: O'Connell Bridge House
Dublin 2
Ireland

3. Organization responsible for the project implementation

3.1. Name: Longford County Council

3.2. Address: County Offices, Church Street, Longford

4. Location of project

4.1. Member State: Ireland

4.2. County: County Longford

5. Description of project

Provision of 5,4 km of single carriageway by-pass of Longford town on the Dublin to Sligo road.

6. Objectives

The project is on the N 4 (Dublin-Sligo) route which is part of the national primary road network, the improvement of which is of key importance to reduce the peripherality of the Irish economy.

The construction of the by-pass will:

- relieve Longford town of a significant portion of through traffic from the present level of approximately 9 000 ADT,
- reduce pollution from vehicle emissions, visual intrusion, noise and thereby improving the attractiveness of Longford as an environment within which to live and work,
- provide significant time savings to the users of the Dublin-Sligo national primary road and contribute to a reduction in journey time variance.

7. Timetable

	Start date	Completion date
Design studies	2. 6. 1982	23. 6. 1992
Land acquisition	16. 11. 1990	4. 12. 1992
Main works	18. 1. 1993	30. 4. 1994
Operational phase	2. 5. 1994	

8. Cost-benefit analysis

A cost-benefit analysis of the proposal shows an internal rate of return of 14%.

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 for road projects other than motorways, an environmental impact assessment was not required for this project. However, the proposal states that environmental considerations have been taken into account and the scheme has been designed to minimize the impact on flora and fauna. In addition, in the course of the design of the project an archaeological survey was carried out. In order to obviate any potential impact during construction an archaeologist has been retained by the local authority for the duration of the contract.

10. Total costs

(ECU million)

Total costs	Expenditure before eligible date ⁽¹⁾	Total eligible costs
9,27	0,86	8,41

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

ANNEX II

FINANCING PLAN

Project: 93/07/65/001

(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	4 370	4 370	100	3 714	85	656	15	656					219
1994	4 040	4 040	100	3 434	85	606	15	606					202
1995													
Total	8 410	8 410	100	7 148	85	1 262	15	1 262					421

⁽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 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: N 8 downstream crossing of the River Lee

No CF: 93/07/65/010

(Only the English text is authentic)

(93/633/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⁾ 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 2 June 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the N 8 Downstream crossing of the River Lee 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 road network;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁴⁾, 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 N 8 downstream crossing of the River Lee project situated in Ireland as described in Annex I hereto is hereby approved for the period 1 January 1993 to 31 December 1993.

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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 3 125 000.
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 2 656 250.
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 1 416 667.

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 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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

N 8 downstream crossing of the River Lee planning/pre-construct design stage and site preparation.

2. Organization for the application

2.1. Name: Department of the Environment

2.2. Address: O'Connell Bridge House
Dublin 2
Ireland

3. Organization responsible for execution of the project

3.1. Name: Cork Corporation;

3.2. Address: City Hall
County Cork

4. Location of project

4.1. Member State: Ireland

4.2. District: NUTS II, County Cork

5. Description of project

The planned project will form an essential link between the Glanmire by-pass and the realigned Midleton/Waterford road on the north side of the River Lee, and the southern ring road on the south.

Access at the north side would be gained from the new roundabout near Little Island which will soon connect the Glanmire by-pass and the Waterford/Cork roads travelling southwards down a 5 % gradient the tunnel would enter an open approach (open cut) with retaining structures involving the use of diaphragm walls. The deepest section of the open cut approaches would be covered and back-filled for approximately the final 30 metres before it reaches a 20-metre long transition structure which would be built to form a support and abutment to the end immersed tube tunnel element.

The immersed tube would consist of five large reinforced concrete units, each 92 metres long, 23,3 metres wide, 9,1 metres high and having a displacement of over 20 000 tonnes. The overall tunnel length would be 560 metres. The overall length from the new Dunkettle roundabout to ground level on the south side is approximately 1 100 metres.

6. Objectives

The construction of the tunnel will provide a new link from the improved road network north of the River Lee (N 8, N 25, North Ring Road) to the improved network south of the river. This will relieve Cork city centre of a significant portion of through traffic and provide significant time savings to users of the N 8.

Regional economic development in sub regions served by this route will be assisted through improved access and reduced journey times.

7. Timetable

	Start date	Completion date
Design studies	1. 1. 1980	1. 12. 1993
Land acquisition		
Main works		
Operational phase		

8. Cost-benefit analysis

The internal rate of return on this project has been calculated at 6%.

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, an environmental impact assessment was not required for this project. Nevertheless the local authority were requested to carry out an environmental impact assessment of this project. Following the examination of this study, the Minister of the Environment certified the project as acceptable on environmental grounds subject to some conditions.

10. Total costs

(ECU million)		
Total costs	Expenditure before eligible date	Total eligible costs
7,395	4,270	3,125

ANNEX II**FINANCING PLAN**

Project: 93/07/65/010

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities			Other	Other			
		2=4+6+10	3=2/1	4	5=4/2	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	2 500	2 500	100	2 125	85	375	15	375					125
1994	625	625	100	531	85	94	15	94					31
1995													
Total	3 125	3 125	100	2 656	85	469	15	469					156

⁽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 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: N 11 Enniscorthy-Wexford road

No CF: 93/07/65/003

(Only the English text is authentic)

(93/634/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⁾ 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 2 June 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the N 11 Enniscorthy-Wexford road 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 road network;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁴⁾, 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 N 11 Enniscorthy-Wexford road project situated in Ireland as described in Annex I hereto is hereby approved for the period from 1 January 1993 to end of 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 6 400 000.
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 5 440 000.
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 1 416 667.

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 the end of 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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

N 11 Enniscorthy Wexford road

2. Organization responsible for the application

2.1. Name: Department of the Environment

2.2. Address: O'Connell Bridge House
Dublin 2
Ireland

3. Organization responsible for project implementation

3.1. Name: Wexford County Council

3.2. Address: Spawell Road, Wexford

4. Location of project

4.1. Member State: Ireland

4.2. County: County Wexford

5. Description of project

Realignment of 7 km of single carriageway and the reconstruction of a further 1,3 km of road pavement on the N 11 (Dublin-Rosslare) road between Oilgate and Kitestown, County Wexford.

6. Objectives

The realignment of 7 km of the existing national primary route N 11 will not only improve access between Enniscorthy and Wexford, but will have a significant impact on through traffic using the N 11 which is the main route linking Dublin City and Wexford and forms part of the Euroroute which links the major ports of Rosslare, Dublin and Larne.

The improvement of this stretch of road will provide significant time savings to the users of the N 11 national primary road and contribute to a reduction in journey time variance (journey time factors have been identified as an important component in the transport disadvantages faced by Irish economic operators).

7. Timetable

	Start date	Completion date
Design studies	2. 1. 1992	.. 10. 1992
Land acquisition	2. 1. 1993	3. 1993
Main works	10. 5. 1993	10. 11. 1994
Operational phase	10. 12. 1994	

8. Cost-benefit analysis

A cost-benefit analysis of the project shows an internal rate of return of 8%.

9. Environmental impact assessment

An environmental impact assessment was not required for this project 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 for road projects other than motorways.

However, the proposal points out that the road has been designed to blend in with the existing landscape and a landscaping and planting programme will be undertaken along the realigned route. The impact on flora and fauna will be minimal.

10. Total costs

(ECU million)		
Total costs	Expenditure before eligible date ⁽¹⁾	Total eligible costs
6,4	—	6,4

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

ANNEX II

FINANCING PLAN

Project: 93/07/65/003

(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	2 500	2 500	100	2 125	85	375	15	375					125
1994	3 900	3 900	100	3 315	85	585	15	585					195
1995													
Total	6 400	6 400	100	5 440	85	960	15	960					320

⁽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.
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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 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 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: N 11 Killarney road interchange

No CF: 93/07/65/002

(Only the English text is authentic)

(93/635/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 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⁾ 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 2 June 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the N 11 Killarney road interchange 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 road network;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁴⁾, 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 N 11 Killarney road interchange project situated in Ireland 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 4 190 000.
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 3 561 500.
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 1 768 000.

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 the end of 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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

N 11 Killarney road interchange

2. Organization responsible for the application

2.1. Name: Department of the Environment

2.2. Address: O'Connell Bridge House
Dublin 2
Ireland

3. Organisation responsible for project implementation

3.1. Name: Wicklow County Council

3.2. Address: Council Offices, Wicklow

4. Location of project

4.1. Member State: Ireland

4.2. County: County Wicklow

5. Description of project

Provision of interchange and associated access roads on N 11 (Dublin-Rosslare) road at south entry to Bray, 20 km south of Dublin city.

6. Objectives

The project (together with other improvements on the N 11 route) will provide for economic development by improving the major Dublin-Rosslare road and will remove a major accident hazard on the route.

7. Timetable

	Start date	Completion date
Design studies	1. 6. 1990	28. 2. 1993
Land acquisition	1. 12. 1991	30. 4. 1994
Main works	1. 6. 1993	30. 4. 1994
Operational phase	1. 5. 1994	

8. Economic analysis

The cost-benefit analysis usually carried out by the authorities is not appropriate to this type of project since the main benefit from the project will be in the form of accident reductions and there is no firm basis for calculating benefits arising from this source.

However, the authorities estimate that employment equivalent to 60 man-years will be directly generated by the construction of the project and 46 man-years of employment will be indirectly generated during the implementation of the project.

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 for road projects other than motorways, an environmental impact assessment was not required for this project. However, the project proposal states that environmental considerations have been taken into account and the overbridge of the interchange has been carefully designed to have minimal impact on the local environment. The project proposal states that the project is consistent with the commitment of the Irish authorities to sustainable mobility, that is allowing the national primary road network develop its economic and social role while taking measures to prevent any significant adverse effects on the environment.

10. Total costs

(ECU million)

Total costs	Expenditure before eligible date ⁽¹⁾	Total eligible costs
4,62	0,43	4,19

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

ANNEX II

FINANCING PLAN

Project: 93/07/65/002

(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	3 120	3 120	100	2 652	85	468	15	468					156	
1994	1 070	1 070	100	909	85	161	15	161					54	
1995														
Total	4 190	4 190	100	3 561	85	629	15	629					210	

⁽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.
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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 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 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: N 1 Dunleer/Dundalk road

No CF: 93/07/65/009

(Only the English text is authentic)

(93/636/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⁾ 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 of this Decision are undertaken;

Whereas on 2 June 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the N 1 Dunleer/Dundalk road 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) to 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 road network;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁴⁾, 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 N 1 Dunleer/Dundalk road project situated in Ireland as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 31 June 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 3 125 000.
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 2 656 250.
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 1 062 667.

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 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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

N 1 Dunleer/Dundalk

2. Organization responsible for the application

2.1. Name: Department of the Environment

2.2. Address: O'Connell Bridge House
Dublin 2
Ireland

3. Organization responsible for project implementation

3.1. Name: Louth County Council

3.2. Address: County Offices
Crowe Street
Dundalk, County Louth

4. Location of project

4.1. Member State: Ireland

4.2. County: County Louth

5. Description of project

The project provides 15,6 km of dual two lane motorway from Dunleer by-pass (Mooremount) to South of Dundalk (Gibstown) — and 7,5 km single carriageway connection to N 2 at Ardee. The motorway section is an extension of the Dunleer by-pass, which is under construction, and by passes the town of Castlebellingham. The project includes a 2,3 km new single carriageway connection from Gibstown to N 1 south of Dundalk.

6. Objectives

The project will reduce travel times and will improve access between Dublin and Belfast. The road will form part of the planned motorway from Dublin to the border with Northern Ireland which is identified as an immediate priority for the development in the operational programme on peripherality. The existing route is deficient by reference to capacity and alignment. It will also help improve access to sub-regions (particularly the midlands east and south east) thereby enhancing their attractiveness as locations for investment and economic development.

7. Timetable

	Start date	Completion date
Design studies	1. 1. 1991	6. 1994
Land acquisition		
Main works		
Operational phase		

8. Economic analysis

The cost-benefit analysis shows an internal rate of return on this project of 2%. However, the expenditure on the new road has been held justified by the combination of traffic volumes involved and a value of time which reflects the overall schemes of economic importance in providing access to and from midlands east sub-region and in improving access on the Belfast/Dublin corridor.

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, an environmental impact assessment has been prepared by Louth County Council. This study shows that no significant impacts on flora and fauna are expected. Noise will not pose a problem and noise attenuation measures will be taken at a small number of critical locations. The new road will confer major environmental benefits for Castlebellingham with reductions in vehicle congestion, noise, vibration and air pollution.

10. Total costs

(ECU million)

Totals costs	Expenditure before eligible date	Total eligible costs
4,426	1,301	3,125

ANNEX II

FINANCING PLAN

Project: 93/07/65/009

(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	15	281					94
1994	1 250	1 250	100	1 062	85	188	15	188					62
1995													
Total	3 125	3 125	100	2 656	85	469	15	469					156

⁽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.
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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 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 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: N 25 Killongford-Dungarvan road

No CF: 93/07/65/005

(Only the English text is authentic)

(93/637/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⁾ 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 2 June 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the N 25 Killongford-Dungarvan road 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 road network;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁴⁾, 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 N 25 Killongford-Dungarvan road project situated in Ireland as described in Annex I hereto is hereby approved for the period from 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 2 915 000.
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 2 477 750.
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 1 062 000.

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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

N 25 Killongford/Dungarvan

2. Organization responsible for the application

2.1. Name: Department of the Environment

2.2. Address: O'Connell Bridge House
Dublin 2
Ireland

3. Organization responsible for project implementation

3.1. Name: Waterford County Council

3.2. Address: Arus Brugha
Dungarvan
County Waterford

4. Location of project

4.1. Member State: Ireland

4.2. County: County Waterford

5. Description of project

The project provides the realignment of 2,2 km of single carriageway on the N 25 connecting the completed sweep scheme with the Dungarvan by-pass and the construction of a roundabout at its junction with the Dungarvan by-pass.

6. Objectives

The realignment will result in improved capacity, safety and sight distances on the section in question.

The project will provide an essential link in accordance with Article 2 (a) of the proposal for a Council Decision on the establishment of a trans-European road network and together with other improvement works on the radial national routes will provide essential support for economic development. It will improve access via the N 25 from the important tourism region of Cork/Kerry and the south west to the port of Waterford and to the commercial seaport of Rosslare.

7. Timetable

	Start date	Completion date
Design studies	2. 1. 1993	28. 4. 1993
Land acquisition	16. 1. 1993	26. 3. 1993
Main works	5. 4. 1993	31. 12. 1993
Operational phase	31. 3. 1994	

8. Economic analysis

The cost-benefit analysis shows an internal rate of return on this project of 5%.

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, an environmental impact assessment was not required for this project.

10. Total costs

<i>(ECU million)</i>		
Total costs	Expenditure before eligible date	Total eligible costs
2,915	—	2,915

ANNEX II**FINANCING PLAN**

Project: 93/07/65/005

(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	1 593	85	282	15	282					94	
1994	1 040	1 040	100	884	85	156	15	156					52	
1995														
Total	2 915	2 915	100	2 477	85	438	15	438					146	

⁽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 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Ireland: Drogheda by-pass

No CF: 93/07/65/007

(Only the English text is authentic)

(93/638/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⁾ 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 2 June 1993 Ireland has submitted an application for assistance from the cohesion financial instrument for the Drogheda by-pass 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 road network;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁴⁾, 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 under 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 Drogheda by-pass project situated in Ireland as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 31 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 354 000.

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 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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

Drogheda by-pass

2. Organization responsible for the application

2.1. Name: Department of the Environment

2.2. Address: O'Connell Bridge House
Dublin 2
Ireland

3. Organization responsible for project implementation

3.1. Name: Meath County Council

3.2. Address: County Hall
Navan

4. Location of project

4.1. Member State: Ireland

4.2. County: County Meath

5. Description of project

The proposed project will provide 22,5 km roadway of which 7,5 km are in County Louth and the remaining 15 km in Meath with a high level crossing of the River Boyne approximately 3 km west of Drogheda dividing both sections of the project.

The route will traverse a line approximately 1 km west of Gormanston in a north-westerly direction by-passing the village of Julianstown approximately 4 km to the west in the townland of Kilsharvan and will continue in a northerly direction to the west of Drogheda linking into the Dunleer by-pass at Monasterboice.

6. Objectives

The project will reduce travel times and will improve access between Dublin and Belfast. The road will form part of the planned motorway from Dublin to the border with Northern Ireland which is identified as an immediate priority for the development in the operational programme on peripherality. It will also relieve the town of Drogheda of a significant amount of through traffic from the present level of approximately 10 000 what will improve the attractiveness of the urban centre of Drogheda as an environment within which to live and work.

7. Timetable

	Start date	Completion date
Design studies	January 1993	December 1994
Land acquisition		
Main works		
Operational phase		

8. Economic analysis

The cost-benefit analysis shows an internal rate of return on this project of 4%. The general conclusion of the analysis is that the capital expenditure on the new road is justified by the combination of traffic volumes involved and a value of time which reflects the overall schemes of economic importance in providing access to/from midlands east sub-region and in improving access on the Belfast/Dublin corridor.

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, an environmental impact assessment is required for this project.

Not yet available.

10. Total costs

(ECU million)

Total costs	Expenditure before eligible date	Total eligible costs
1,875	—	1,875

ANNEX II

FINANCING PLAN

Project: 93/07/65/007

(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	625	625	100	531	85	94	15	94					31	
1994	1 250	1 250	100	1 062	85	188	15	188					63	
1995														
Insgesamt	1 875	1 875	10	1 593	85	282	15	282					94	

⁽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 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following
project in Ireland: N 1 Balbriggan by-pass

No CF: 93/07/65/008

(Only the English text is authentic)

(93/639/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⁾ 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 2 June 1993 Ireland has submitted an
application for assistance from the cohesion financial
instrument for the N 1 Balbriggan by-pass 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 road network;

Whereas Article 1 of the Financial Regulation of
21 December 1977 applicable to the general budget of
the European Communities ⁽³⁾, as last amended by
Council Regulation (Euratom ECSC, EEC) No 610/90 ⁽⁴⁾,
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
under 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 N 1 Balbriggan by-pass project
situated in Ireland as described in Annex I hereto is
hereby approved for the period from 1 January 1993 to
31 December 1993.

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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 708 667.

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 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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

SUMMARY SHEET

1. Name of project

N 1 Balbriggan by-pass

2. Organization responsible for the application

2.1. Name: Department of the Environment

2.2. Address: 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: County Dublin

5. Description of project

The project provides 11,5 km of dual two-lane motorway by-pass of Balbriggan from Five Roads to Gormanstown. The application covers the planning and design stage of the project. This planned motorway is on the N 1, the main artery between Dublin and Belfast. The improved N 1 will link with the Dublin ring road, which when completed will link the seven national routes radiating from Dublin.

6. Objectives

The project will reduce travel times and will improve access between Dublin and Belfast. The road will form part of the planned motorway from Dublin to the border with Northern Ireland which is identified as an immediate priority for the development in the operational programme on peripherality. The existing route is deficient by reference to capacity and alignment. It will also help improve access to sub-regions (particularly the midlands east and south east) thereby enhancing their attractiveness as locations for investment and economic development.

7. Timetable

	Start date	Completion date
Design studies	April 1984	December 1993
Land acquisition		
Main works		
Operational phase		

8. Economic analysis

The cost-benefit analysis shows an internal rate of return on this project of 11%. The general conclusion of the analysis is that the capital expenditure on the new road is justified by the combination of traffic volumes involved and a value of time which reflects the overall schemes of economic importance in providing access to and from midlands east sub-region and in improving access on the Belfast/Dublin corridor.

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, an environmental impact assessment has been prepared by Dublin County Council. This study shows that no significant impacts on flora and fauna are expected. A survey was carried out with a view to minimizing tree loss with the result that very few trees will be affected and the loss will be more than offset by extensive roadside planting landscaping. Noise will not pose a problem and noise attenuation measures will be taken at a small number of critical locations. The new road will confer major environmental benefits for Castlebellingham with reductions in vehicle congestion, noise, vibration and air pollution.

10. Total costs

(ECU million)		
Total costs	Expenditure before eligible date	Total eligible costs
2 905	1 030	1 875

ANNEX II

FINANCING PLAN

Project: 93/07/65/008

(ECU '000)

Year	Total cost (1)	Public expenditure									Private sector		Community loans	
		Total public expenditure			Cohesion instrument		National authorities				Other	11	12=11/1	13
		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	1 250	1 250	100	1 063	85	187	15	187					63	
1994	625	625	100	531	85	94	15	94					31	
1995														
Total	1 875	1 875	100	1 594	85	281	15	281					94	

⁽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 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Spain: design, construction and installation of a network of early-warning stations

No CF: 93/11/61/003-011

(Only the Spanish text is authentic)

(93/640/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 ⁽²⁾ and the other existing financial instruments 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 operation 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 nine applications for assistance from the cohesion financial instrument for a project concerning Design, construction and installation of a network of early-warning stations;

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 Regulation (EEC) No 792/93;

Whereas the project will help achieve the objectives of Article 130r 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 ⁽³⁾ as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾ 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 design, construction and installation of a network of early-warning stations project situated in Spain as described in Annex I hereto is hereby approved for the period June 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 37 843 000.
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 32 166 550.
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 10 070 000.

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 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 EEC 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 EEC 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 Spain.

Done at Brussels, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

*ANNEX I***1. Project title**

Design, construction and installation of a network of early-warning stations

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 of project

3.1. Name: Dirección General de Calidad de las Aguas

3.2. Address: Pza. San Juan de la Cruz, s/n-28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Regions: Galicia, Asturias, Basque Country, Castile-Leon, Castile-La Mancha, Extremadura, Andalusia, Murcia, Autonomous Community of Valencia, Aragon, Cantabria, Rioja and Catalonia

5. Brief description

The aim of the project is to draw up specifications for, install and put into service a network of automatic early-warning stations which will be fully equipped to transmit certain parameters continuously in real time. A total of 14 early-warning stations will be installed to transmit data to the Dirección General de Calidad de las Aguas via satellite using the VSAT system. The parameters to be monitored will be pH, conductivity, dissolved oxygen, temperature, total organic carbon, ammonia, total chromium, lead and cadmium.

6. Principal objectives

- continuous monitoring of water quality on river sections, according to the uses made of each section,
- statistics, graphic presentations, drafting of reports on water quality,
- automatic early warnings for particular uses, essentially water supplies,
- control strategies, surveillance and action against pollutant discharges (river policing),
- simplification of procedures, computerization, authorization of discharges and action against offenders,
- drafting of reports in accordance with Community directives.

7. Work schedule

Date of commencement: June 1993

Date of completion: 31 December 1994

8. Contribution to environmental protection

- understanding of the state of water pollution and establishment of programmes of corrective action,
- control of discharges,
- administrative follow-up of discharge authorizations and action against unlawful discharges,
- continuous transmission of quality control information,
- possible connection with Brussels,
- compliance with the Community water directives.

9. Cost

(ECU '000 (!))

Total cost of project	37 843
Expenditure made before 1 January 1993	—
Total eligible cost	37 843
Total assistance applied for from the cohesion financial instrument	32 166

(!) ECU 1 = Pta 154,122.

Breakdown of assistance applied for by catchment area:

Catchment area	ECU '000 (!)
North	4 311,2
Duero	3 726,4
Tajo	4 437,2
Guadiana	4 415,8
Guadalquivir	4 399,5
South	2 743,8
Segura	2 037,7
Júcar	2 070,5
Ebro	4 024,3

(!) ECU 1 = Pta 154,122.

ANNEX II

FINANCING PLAN

Project: 93/11/61/003-011

(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	17 771	17 771	100	15 105	85	2 666	15	2 666					
1994	20 072	20 072	100	17 061	85	3 011	15	3 011					
1995													
Total	37 843	37 843	100	32 166	85	5 677	15	5 677					

(!) 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 at point 11 of Annex III.

⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

COMMISSION DECISION

of 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Spain: design, construction and installation of a network of early-warning stations

No CF: 93/11/65/019

(Only the Spanish text is authentic)

(93/641/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 ⁽²⁾ and the other existing financial instruments 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 operation of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken.

Whereas on 27 May 1993 Spain submitted on application for assistance from the cohesion financial instrument for a project concerning the Madrid-Valencia 200 kmh rail link (Fuente la Higuera-Silla section, first phase);

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 Regulation (EEC) No 792/93;

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

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾ as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾ 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 Madrid-Valencia 200 kmh rail link (Fuente la Higuera-Silla section, first phase) stage of project situated in Spain as described in Annex I hereto is hereby approved for the period 30 May 1993 to 30 March 1994.

2. References to 'projects' 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 1 298 000.
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 1 103 000.
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 404 666.

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 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 EEC 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 EEC 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 Spain.

Done at Brussels, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

1. Project title

Madrid-Valencia 200 kmh rail link (Fuente la Higuera-Silla section), first phase

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 of project

3.1. Name: Dirección General de Infraestructura del Transporte Ferroviario

3.2. Address: Pza. de los Sagrados Corazones, 7-28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Autonomous Community of Valencia

5. Brief description

Design work for the following engineering projects:

- track, electrification, safety systems and redesign of stations for laying a second double-track between Játiva and Alcira,
- upgrading to 200 kmh between kilometre 57 and kilometre 77 of the double-track section between Játiva and Alcira,
- upgrading to 200 kmh between kilometre 77 and kilometre 100 of the double-track section between Alcira and Silla.

6. Principal objectives

The aims are to reduce journey times, boost capacity and improve the quality of the service between Madrid and Valencia and with the rest of the Mediterranean coast.

Specific objectives are not given since the project relates to contracts for design work.

7. Work schedule

Date of commencement: 30 May 1993

Date of completion: 30 March 1994

8. Contribution to trans-European networks

Improving communications between the centre of the Peninsula and the Mediterranean coast and closing the Madrid-Barcelona-Valencia triangle with a high-speed link.

9. Cost

(ECU '000 (1))

Total cost of project	1 298
Expenditure made before 1 January 1993	—
Total eligible cost	1 298
Total assistance applied for from the cohesion financial instrument	1 103

(1) ECU 1 = Pta 154,122.

ANNEX II

FINANCING PLAN

Project: 93/11/65/019

(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	714	714	100	607	85	107	15	107					
1994	584	584	100	496	85	88	15	88					
1995													
Total	1 298	1 298	100	1 103	85	195	15	195					

(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 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.
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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 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Spain: axle-gauge change-over point at Majarabique (Seville)

No CF: 93/11/65/020

(Only the Spanish text is authentic)

(93/642/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 ⁽²⁾ and the other existing financial instruments 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 operation of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken.

Whereas on 27 May 1993 Spain submitted nine applications for assistance from the cohesion financial instrument for a project concerning the axle-gauge change-over point at Majarabique (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 the Regulation and satisfies the criteria set out in Article 8 (3) and (5) of Regulation (EEC) No 792/93;

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

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾ as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾ 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 axle-gauge change-over point at Majarabique (Seville) project situated in Spain as described in Annex I hereto is hereby approved for the period 11 March 1993 to 11 September 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 3 760 000.
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 3 196 000.
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 2 130 666.

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 11 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 EEC 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 EEC 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 Spain.

Done at Brussels, 29 July 1993.

For the Commission
Peter SCHMIDHUBER
Member of the Commission

ANNEX I**1. Project title**

Axle-gauge change-over point at Majarabique (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 of project

3.1. Name: Dirección General de Infraestructura del Transporte Ferroviario

3.2. Address: Pza. de los Sagrados Corazonas, 7-28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Andalusia

5. Brief description

Axle-gauge change-over point at Majarabique (Seville), including branches connecting with the lines to Huelva and Cadiz, so that Talgo-type trains can travel on international gauge up to the change-over point and continue on Renfe-gauge track to Huelva and Cadiz.

6. Principal objectives

To facilitate interoperability of the new high-speed line.

Specific objectives:

— to reduce the journey time to Cadiz and Huelva by two hours.

7. Work schedule

Date of commencement: 11 March 1993

Date of completion: 11 September 1993

8. Contribution to trans-European networks

Improvement of communications within Andalusia and between that region and the centre of the Peninsula.

9. Cost

	(ECU '000 ⁽¹⁾)
Total cost of project	3 823
Expenditure made before 1 January 1993	63
Total eligible cost	3 760
Total assistance applied for from the cohesion financial instrument	3 196

⁽¹⁾ ECU 1 = Pta 154,122.

ANNEX II

FINANCING PLAN

Project: 93/11/65/020

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other	11	13	
		2=4+6+10	%	4	%	Total	%	Central government	Other				
	1=2+11												
1993	3 760	3 760	100	3 196	85	564	15	564					
1994													
1995													
Total	3 760	3 760	100	3 196	85	564	15	564					

⁽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.
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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 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Spain: Valencia-Tarragona-Barcelona 200 kmh rail link (first phase)

No CF: 93/11/65/021

(Only the Spanish text is authentic)

(93/643/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 ⁽²⁾ and the other existing financial instruments 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 operation of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken.

Whereas on 27 May 1993 Spain submitted an application for assistance from the cohesion financial instrument for a project concerning the Valencia-Tarragona-Barcelona 200 kmh rail link (first phase);

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 Regulation (EEC) No 792/93;

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

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾ as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾ 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 Valencia-Tarragona-Barcelona 200 kmh rail link (first phase) stage of project situated in Spain as described in Annex I hereto is hereby approved for the period 1 January 1993 to 25 June 1994.

2. Reference to 'projects' 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 3 893 000.
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 3 309 050.
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 1 728 000.

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 25 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 EEC 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 EEC 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 Spain.

Done at Brussels, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

1. Project title

Valencia-Tarragona-Barcelona 200 kmh rail link (first phase)

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 of project

3.1. Name: Dirección General de Infraestructura del Transporte Ferroviario

3.2. Address: Pza. de los Sagrados Corazonas, 7-28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Autonomous Community of Valencia and Catalonia

5. Brief description

Design work for upgrading the Valencia-Tarragona-Barcelona line to 200 kmh.

Comprises design work for the following engineering projects:

- Valencia-Castellón section: upgrading to 200/220 kmh between kilometre 6 and kilometre 29,
- Valencia-Castellón section: upgrading to 200/220 kmh between kilometre 30 and kilometre 45,
- Valencia-Castellón section: upgrading to 200/220 kmh between kilometre 45 and kilometre 70,
- Oropesa-Alcanar section: upgrading of track II to 200/220 kmh,
- Alcanar-Camarles section: doubling of the track. Track, electrification and safety and communications systems,
- Tarragona-San Vicente de Calders section: track modernization and realignment for 200 kmh operation.

6. Principal objectives

This project forms part of the programme of structural improvements, which covers the measures deemed necessary to enable the rail network to provide a high-quality, high-speed service.

It will reduce the journey time on the Barcelona-Valencia route and consequently all along the Mediterranean corridor.

7. Work schedule

Date of commencement: 25 November 1992

Date of completion: 25 June 1994

8. Contribution to trans-European networks

The line is on the Port Bou-Valencia leg of the trans-European combined transport network. It will improve communications along the Mediterranean corridor, link up Barcelona and Valencia, and connect with the future high-speed line (Barcelona-French border).

9. Cost

	(ECU '000 ⁽¹⁾)
Total cost of project	3 893
1 January 1993	—
Total eligible cost	3 893
Total assistance applied for from the cohesion financial instrument	3 309

(¹) ECU 1 = Pta 154,122.

ANNEX II

FINANCING PLAN

Project: 93/11/65/021

(ECU '000)

Year	Total cost (1)	Public expenditure									Other	Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				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	11	12=11/1	13	
1993	3 050	3 050	100	2 592	85	458	15	458		.				
1994	843	843	100	717	85	126	15	126						
1995														
Total	3 893	3 893	100	3 309	85	584	15	584						

(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 29 July 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Spain: Madrid-Barcelona-French border high-speed rail link (Calatayud-Ricla and Zaragoza-Lérida sections, first phase)

No CF: 93/11/65/022

(Only the Spanish text is authentic)

(93/644/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 ⁽²⁾ and the other existing financial instruments 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 operation of the financial instrument and that the measures which are described in Annex V to this Decision are undertaken.

Whereas on 27 May 1993 Spain submitted an application for assistance from the cohesion financial instrument for a project concerning the Madrid-Barcelona-French border high-speed rail link (Calatayud-Ricla and Zaragoza-Lérida sections, first phase);

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 Regulation (EEC) No 792/93;

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

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾ as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾ 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 Madrid-Barcelona-French border high-speed rail link (Calatayud-Ricla and Zaragoza-Lérida sections, first phase) stage of project situated in Spain as described in Annex I hereto is hereby approved for the period 1 January 1993 to 25 June 1994.

2. References to 'projects' 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 9 441 000.
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 8 024 850.
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 3 162 000.

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 25 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 EEC 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 EEC 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 Spain.

Done at Brussels, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

1. Project title

Madrid-Barcelona-French border high-speed rail link (Calatayud-Ricla and Zaragoza-Lerida sections), first phase

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 of project

3.1. Name: Dirección General de Infraestructura del Transporte Ferroviario

3.2. Address: Pza. de los Sagrados Corazones, 7-28071 Madrid

4. Location

4.1. Member State: Spain

4.2. Region: Aragon and Catalonia

5. Brief description

Design work on this line, broken down as follows into studies of nine subsections of the Zaragoza-Lerida section and two subsections of the Calatayud-Ricla section:

- Zaragoza-Lerida section:
 - I (kilometre 0 to kilometre 15)
 - II (kilometre 15 to kilometre 34)
 - III (kilometre 34 to kilometre 55)
 - IV (kilometre 55 to kilometre 78)
 - V (kilometre 78 to kilometre 104)
 - VI (kilometre 104 to Lerida)
 - viaduct over the River Ebro
 - viaduct over the Rivers Alcanadre and Cinca
- Calatayud-Ricla section:
 - I
 - II

6. Principal objectives

To reduce journey times, boost capacity and improve the quality of the service between Madrid and Barcelona and with the French border.

7. Work schedule

Date of commencement: 25 November 1992

Date of completion: 25 June 1994

8. Contribution to trans-European networks

The project will help create a high-speed line linking the south of the Iberian Peninsula with the rest of Europe.

It extends the Madrid-Seville line, linking the south-west with the north-east of the Peninsula and forming one of the main arteries provided for in the national infrastructure plan.

9. Cost

(ECU '000 ⁽¹⁾)

Total cost of project	9 441
Expenditure made before 1 January 1993	—
Total eligible cost	9 441
Total assistance applied for from the cohesion financial instrument	8 024

⁽¹⁾ ECU 1 = Pta 154,122.

ANNEX II

FINANCING PLAN

Project: 93/11/65/022

(ECU '000)

Year	Total cost ⁽¹⁾	Public expenditure									Other	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	5 580	5 580	100	4 743	85	834	15	843						
1994	3 861	3 861	100	3 281	85	580	15	580						
1995														
Total	9 441	9 441	100	8 024	85	1 414	15	1 414						

⁽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 29 July 1993

concerning the granting of assistance from the cohesion financial instrument to the following project of modernization of the Northern Line in Portugal

No CF: 93/10/65/001

(Only the Portuguese text is authentic)

(93/645/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⁾ 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 modernization of the Northern 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 (3) and (5) of the Regulation;

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

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾, 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,

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 40 198 000.
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 32 158 400.
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 12 208 666.

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 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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Modernization of the Northern Line

2. Authority making the application

2.1. Name: Direcção-Geral do Desenvolvimento Regional

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

3. Authority responsible for implementation

3.1. Name: Caminhos de ferro portugueses, E.P.

3.2. Address: Calçada do Duque 20, 1200 Lisbon

4. Location

4.1. Member State: Portugal

4.2. Administrative unit(s): Greater Lisbon, Lezíria of Tejo, Médio Tejo, Baixo Vouga and Baixo Mondego

5. Brief description

Modernization and reinstatement of the Seica Bridge (at kilometre 132,001), the replacement of the platforms on the Alviela, Braço do Cortiço and Vale de Negra culverts and Cascalheira underpass (at kilometres 88,792, 95,965, 97,765 and 100,629) and replacement (new bridge on alternative route) of Canelas Bridge (at kilometre 282,944).

Modernization and improvement of present signalling installations between Sacavém and Setil (at kilometres 10 and 57 respectively).

Renovation and construction of new railway facilities at Alverca (between kilometres 20,300 and 22,600) and Azambuja (between kilometres 45,7 and 48,3) stations.

Supply and installation of cable containing 20 optic fibres between kilometre 106 (Entrocamento) and kilometre 218 (Coimbra B).

6. Principal objectives

Along with other improvements to be carried out in the short and medium term as part of the overall modernization of the Northern Line (main trunk line), the investments in question will permit commercial speeds of 150 km/h, eliminate existing load and speed restrictions, increase the traffic flow, improve safety conditions and permit long-distance and commuter passenger traffic alongside goods carriage on various sections.

7. Work schedule

Date of commencement: January 1993

Date of completion: December 1993

8. Viability study

The viability study undertaken with regard to the project to modernize the Northern Line was conducted at constant 1992 prices using 1993 as the reference year for assessment. The updating rate used was 7%, the evaluation period 25 years (1993 to 2018) and the infrastructures were expected to last 50 years and the rolling stock 30 years.

Given the main assumptions used in the viability study, the internal rate of return was found to be 11,8% and the net added value was Esc 38 804 million, with the modernization project being economically viable for a broad range of alternatives as regards updating rates, operating costs, capital costs and variations in GDP.

9. Cost

Total cost:	ECU 40 198 million
Expenditure prior to date of eligibility:	ECU 0 million
Total eligible cost:	ECU 40 198 million.

ANNEX II

FINANCING PLAN

Project: 93/10/65/001

(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	22 891	22 891	100	18 313	80	4 578	20		4 578				
1994	17 307	17 307	100	13 846	80	3 461	20		3 461				
1995													
Total	40 198	40 198	100	32 159	80	8 039	20		8 039				

(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 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 29 July 1993

concerning the granting of assistance from the cohesion financial instrument to the study
to assess the sensitivity of a coastal study in Portugal

No CF: 93/10/61/009

(Only the Portuguese text is authentic)

(93/646/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⁾ 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 study to assess the sensitivity of a
coastal study in Portugal;

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

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

Whereas the study 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 ⁽³⁾, as last amended by
Council Regulation (Euratom, ECSC, EEC)
No 610/90 ⁽⁴⁾, 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 the provisions 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 situated in Portugal as
described in Annex I hereto is hereby approved for the
period from 1 May 1993 to 31 May 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 674 000.
2. The rate of Community assistance granted to the project shall be fixed at 100 %.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 674 000.
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 134 800.

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 May 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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Study to assess the sensitivity of coastal areas and waters

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 da Qualidade do Ambiente

3.2. Address: Avenida Almirante Gago Coutinho, 30-5º, 1200 Lisbon

4. Location

4.1. Member State: Portugal

4.2. Administrative unit: Faixa Costeira Litoral (NUTS III)

5. Brief description

The body responsible for implementation of the project will be the Direcção-Geral da Qualidade do Ambiente (Directorate-General for the Quality of the Environment), Avenida Gago Coutinho 30, 1000 Lisbon (Tel. 8 47 10 22), which will entrust the Instituto de Hidraulica e Recursos Hidricos with carrying out the study.

The project will help to define the sensitive areas along the coast by assessing the absorption capacity of the sea.

Its overall cost is Esc 120 million, in three stages, the first in 1993, the second in 1994 and the third in 1995. That sum breaks down into Esc 36 million, Esc 48 million and Esc 36 million for the first, second and third stages respectively.

The objective of the study is to create a set of instruments for managing natural resources and the coast and provide a technical contribution towards recommendations relating to the degree of treatment for and the location of waste-water outfalls. This project provides backing for the water supply policy, in particular basic sanitation, takes account of the environment in the other policies and coordinates the environmental policy, the Plano Mar Limpo and the Portuguese coastal development plan and provides back-up for the Centro Temático Ambiente Costeiro (European Agency for the Environment).

In addition, the project will permit implementation of Directives 91/271/EEC ⁽¹⁾, 76/160/EEC ⁽²⁾ and 76/464/EEC ⁽³⁾, the Paris Convention and the Lisbon Agreement.

To monitor and manage the project, the implementing body will be required to provide progress reports and a final report consisting of a map of sensitive parts of the whole Portuguese coast.

⁽¹⁾ OJ No L 135, 30. 5. 1991, p. 40.

⁽²⁾ OJ No L 31, 5. 2. 1976, p. 1.

⁽³⁾ OJ No L 129, 18. 5. 1976, p. 23.

6. Principal objectives

To create instruments to help in the management of natural resources and utilization of the coastal area and provide a technical contribution towards recommendations concerning the degree of treatment for and the location of waste-water outfall points.

7. Work schedule

Date of commencement: May 1993

Date of completion: May 1995

In accordance with Directive 91/271/EEC, the map of sensitive areas must reach the Commission before 31 December 1993.

8. Cost (ECU '000)

Total eligible cost: 674

ANNEX II**FINANCING PLAN**

Project: 93/10/61/009

(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	202,2	202,2	100	202,2	100								
1994	269,6	269,6	100	269,6	100								
1995	202,2	202,2	100	202,2	100								
Total	674	674	100	674	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 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 study;
 - (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 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 29 July 1993

concerning the granting of assistance from the cohesion financial instrument to the project on control of pollution in the Alviela basin in Portugal

No CF: 93/10/61/005

(Only the Portuguese text is authentic)

(93/647/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⁾ 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 control of pollution in the Alviela basin;

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 Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾, 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 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 5 840 000.
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 4 964 000.
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 1 910 000.

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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Pollution control in the Alviela river basin

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. Administrative unit: Médio Tejo (NUTS III)

5. Brief description

System of main sewers for collection and disposal of industrial waste water. Improvements to secondary treatment system and construction of tertiary treatment system. Improvement of water quality in water courses in the Alviela river basin.

The Alcanena waste water system was designed to convey waste water from the industrial estates in the district (tanneries) and sewage from the townships of Alcanena, Vila Moreira, Monsanto, Gouxaria and Moitas Venda. The whole system has contributed, albeit only in part, to reducing pollution in the Alviela river.

The main works comprise the main sewer networks (first phase), to be completed with further phases (current phase: Gouxaria and Monsanto) and by three major outlet channels converging in a water treatment plant where the waste water undergoes biological treatment by activated sludge after initial physico-chemical treatment.

Before reaching the water treatment plant, the waste water undergoes preliminary settling to separate out most of the chrome carried.

After the biological treatment mentioned, the waste water in the water treatment plant is clarified by secondary decantation, and where necessary undergoes tertiary treatment, as a further stage to improve the final effluent reaching the Alviela.

In addition to mechanical dehydration of sludge and the sludge drying beds, there is also an ancillary building and relevant equipment, together with other facilities necessary for the whole plant to function.

This project aims on the one hand to supplement the existing system and improve its effectiveness and on the other hand to eliminate or lessen the present environmental impact.

6. Principal objectives

6.1. To provide a definitive contribution towards pollution control in the Alviela river basin, which is heavily polluted by industrial effluent discharges, mainly from tanneries, in the Alcanena region.

6.2. As regards the urban and industrial sewage along the Alviela river, this project will comply with the stipulations of Portuguese Decree Law No 74/90 and Council Directive 91/271/EEC ⁽¹⁾, concerning urban waste water treatment.

6.3. It meets the priority of improving the quality of the environment in major population centres (see strategy document).

⁽¹⁾ OJ No L 135, 30. 5. 1991, p. 40.

- 6.4. The project supplements the existing regional infrastructures, namely the basic network of main sewers, the preliminary treatment stations, the Alcanena water treatment plant, secondary treatment and sanitary landfilling for the disposal of the sludge. The proposed facilities are vital for the whole system to operate.

The Alcanena water treatment plant has the capacity to serve 400 000 people.

Landfill 150 000 m³ sludge.

7. Work schedule

Date of commencement: June 1991 (projected)

Date of completion: December 1994

8. Viability study

In view of:

- the very important objectives that the success of these measures may have as a model for the rest of the country,
 - the fact that the Alcanena plant is financially self-sufficient as regards operating and upkeep costs as from this year,
 - the fact that most of the benefits will be difficult to assess,
- as a whole the return will be clearly positive, in particular in view of the positive effects for future generations.

9. Assessment of environmental impact

The project has improved the quality of the environment around a major population centre.

Some of the planned works fall within a sensitive area (Serra de Aire e Candeeiros National Park – Corine Biotope No 3). The execution of the works (in accordance with Community legislation) may result in significant negative impact unless the relevant measures are taken to reduce the latter.

10. Cost (ECU '000)

Total cost: 6 785

Expenditure prior to date of eligibility: 945

Total eligible cost: 5 840

ANNEX II

FINANCING PLAN

Project: 93/10/61/005

(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	3 372	3 372	100	2 866	85	506	15	506					
1994	2 468	2 468	100	2 098	85	370	15	370					
1995													
Total	5 840	5 840	100	4 964	85	876	15	876					

(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 29 July 1993

concerning the granting of assistance from the cohesion financial instrument to a study of support for a policy of sustainable development of basic drainage in Portugal

No CF: 93/10/61/008

(Only the Portuguese text is authentic)

(93/648/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 studies 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⁾ 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 support for a policy of sustainable development of basic drainage in Portugal;

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

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

Whereas the study 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 ⁽³⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾, 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 the provisions 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 situated in Portugal as described in Annex I hereto is hereby approved for the period from 1 May 1993 to 31 May 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 1 123 300.
2. The rate of Community assistance granted to the project shall be fixed at 100%.
3. The maximum amount of the contribution from the cohesion financial instrument shall be fixed at ECU 1 123 300.
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 337 000.

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 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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Study: support for a policy of sustainable development of basic drainage

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 da Qualidade do Ambiente

3.2. Address: Avenida Almirante Gago Coutinho, 30-5º 1200 Lisbon

4. Location

4.1. Member State: Portugal

4.2. Administrative district: whole country
(NUTS III)

5. Brief description

The body responsible for implementation of the project will be the Direcção Geral da Qualidade do Ambiente in Avenida Almirante Gago Coutinho, 30 1000 Lisbon, tel.: 84 7 10 22, which will enter into a contract with the Laboratório nacional de engenharia civil.

The project is intended to analyse and provide technical and practical content for a series of institutional, financial, regulatory and publicity instruments required for the sustainable development of basic drainage.

The total cost will be Esc 200 million to cover three three-month phases costing respectively Esc 30 million, Esc 60 million and Esc 110 million. The 37 measures which make up the study are distributed over the three phases on the basis of their priority ranking.

The need for this type of study is confirmed by the objective for which it was set up. It is intended to introduce a series of conditions for the correct and effective application of Community funds to basic drainage projects so that the economies of scale of the works to be constructed can yield the most attractive cost/benefit ratio. This study therefore precedes the practical measures which will improve the quality and sustainability of infrastructure throughout Portugal. Basic drainage is also one of the government priorities in the environmental pact proposed by the Ministry of the Environment and Natural Resources to the local authorities through the Associação Nacional dos Municípios Portugueses (National association of Portuguese municipalities), which is designed to increase the levels of provision of water, drainage and waste services. In terms of environmental surveillance and prevention, the project will also help define how Community Council Directives 80/778/EEC ⁽¹⁾, 91/281/EEC ⁽²⁾ and 75/442/EEC ⁽³⁾ will be implemented and observed.

Monitoring and management of the project will be achieved through quarterly reports from the contractor, a detailed six-monthly report and a series of final reports (one per measure) with implementing proposals.

6. Principal objectives

To create conditions for the correct and effective application of funds to basic drainage projects.

⁽¹⁾ OJ No L 229, 30. 8. 1980, p. 11

⁽²⁾ OJ No L 135, 30. 5. 1991, p. 40

⁽³⁾ OJ No L 194, 25. 7. 1975, p. 47

7. Work schedule

Date of commencement: May 1993

Date of completion: May 1994

8. Cost (in ECU '000)

Total eligible cost of the project: 1 123,60

ANNEX II

FINANCING PLAN

Project: 93/10/61/008

(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	505,50	505,50	100	505,50	100								
1994	617,80	617,80	100	617,80	100								
1995													
Total	1 123,30	1 123,30	100	1 123,30	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 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 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 studies. 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 100 %. 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 29 July 1993

concerning the granting of assistance from the cohesion financial instrument to the following project of Alverca/Vila Franca de Xira subsection in Portugal

No CF: 93/10/65/008

(Only the Portuguese text is authentic)

(93/649/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⁾ 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 widening of the Alverca/Vila Franca de Xira subsection;

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 forms part of the master plan for a trans-European road network;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾, 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,

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project situated in Portugal as described in Annex I hereto is hereby approved for the period from 1 January 1993 to December 1996.

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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 40 466 000.
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 32 372 800.
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 14 048 666.

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 December 1996.
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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Widening of the Alverca/Vila Franca de Xira subsection

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: Brisa Autoestradas de Portugal, SA

3.2. Address: Av. Fontes Pereira de Melo 6º-3º 1000 Lisbon

4. Location

4.1. Member State: Portugal

4.2. Administrative district: Lisbon

5. Brief description

This project forms part of the IP1 Autoestrada do Norte. It involves the widening and redesign of a subsection of motorway about 9,1 km long between Alverca and Vila Franca. The purpose of the investment is to increase the capacity to two three-lane carriageways by widening the road from 24 m to 28 m with 2 m of paved right-hand shoulder, carriageways of 3,5 m, the left-hand shoulder widened from 0,5 m to 0,7 m and the central reservation reduced from 4 m to 0,6 m.

6. Principal objectives

Widening will significantly improve the service offered by the Sacavém/Vila Franca de Xira motorway in terms of traffic flow and safety. In 1992 average daily traffic flow was about 52 540 vehicles. It will also enable the closed system to be extended to the whole of the Autoestrada do Norte and prepare for the link between that motorway and the future A 9 CREL (Lisbon Regional Ring Road) through redesign of the Alverca junction.

7. Work schedule

Date of commencement: 1988

Date of completion: December 1996

8. Viability study

The widening from two to three lanes is required to cope with average traffic exceeding 30 000 vehicles per day. The planned investment will also raise the level of service from E to C, reflecting an increase in traffic speed from 50 kph to 90 kph, improved safety and lower operating costs.

9. Cost

Total cost of the project: ECU 40 533 million

Expenditure prior to the eligible date: ECU 4 067 million

Total eligible cost: ECU 40 466 million

ANNEX II

FINANCING PLAN

Project: 93/10/65/008

(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	26 342	26 342	100	21 073	80	5 268	20	0	0	5 268	0	0	
1994	10 664	10 664	100	8 531	80	2 133	20	0	0	2 133	0	0	
1995	2 958	2 958	100	2 367	80	592	20	0	0	592	0	0	
1996	501	501	100	401	80	100	20	0	0	100	0	0	
Total	40 466	40 466	100	32 373	80	8 093	20	0	0	8 093	0	0	

⁽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 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 under paragraph 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 at paragraph 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 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 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 29 July 1993

concerning the granting of assistance from the cohesion financial instrument to the following project of Vila Franca de Xira/Carregado section in Portugal

No CF: 93/10/65/009

(Only the Portuguese text is authentic)

(93/650/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⁾ 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 widening of the Vila Franca de Xira/Carregado 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 forms part of the master plan for a trans-European road network;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾, 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,

HAS ADOPTED THIS DECISION:

Article 1

1. The stage of project 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 7 871 000.
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 6 296 800.
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 856 000.

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 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 EEC 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 EEC 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, 29 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Vila Franca de Xiro/Carregado section

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: Brisa Autoestradas de Portugal, SA

3.2. Address: Av. Fontes Pereira de Melo 6º-3º 1000 Lisbon

4. Location

4.1. Member State: Portugal

4.2. Administrative district: Lisbon

5. Brief description

Widening, reconstruction and redesign of a subsection of the A 1 Autoestrada do Norte motorway about 6,2 km long between Vila Franca de Xira and Carregado on the IP 1.

6. Principal objectives

This project continues the widening of the section between Sacavém (Lisbon) and Alverca and will significantly increase the level of service in terms of traffic flow and safety on the subsection.

7. Work schedule

Date of commencement: 1992

Date of completion: December 1995

8. Viability study

The widening from two to three lanes is required to cope with average traffic exceeding 30 000 vehicles per day. The planned investment will also raise the level of service from E to C, reflecting an increase in traffic speed from 50 km/h to 90 km/h improved safety and lower operating costs.

9. Cost

Total cost of the project: ECU 7 871 million

Expenditure prior to the eligible date: 0

Total eligible cost: ECU 7 871 million

ANNEX II

FINANCING PLAN

Project: 93/10/65/009

(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	%	6=8+9	7=6/2	8	9	10	11	
											12=11/1	13	
1993	1 605	1 605	100	1 284	80	321	20	0	0	321	0	0	
1994	5 582	5 582	100	4 466	80	1 116	20	0	0	1 116	0	0	
1995	684	684	100	547	80	137	20	0	0	137	0	0	
Total	7 871	7 871	100	6 297	80	1 574	20	0	0	1 574	0	0	

⁽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 twenty 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 at 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 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 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 2 September 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Spain: Madrid orbital motorway: M 40 eastern distributor (from the N 5 to the N 6)

No CF: 93/11/65/010

(Only the Spanish text is authentic)

(93/651/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⁾ 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 Madrid orbital motorway: M 40 eastern distributor (from the N 5 to the N 6);

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 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 ⁽³⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾, 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 Madrid orbital motorway: M 40 eastern distributor (from the N 5 to the N 6) project situated in Spain as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 24 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 96 154 118.
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 81 731 000.
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 54 205 333.

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 24 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 EEC 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 EEC 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, 2 September 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I**1. Project title**

Madrid orbital motorway: M 40 eastern distributor (from the N 5 to the N 6)

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 of project

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: Madrid

5. Brief description

The project consists in the building of a section of urban motorway around Madrid linking the sections running from the southern distributor to the El Barrial interchange and, hence, to the A 6.

In addition to the two interchanges at the extremities of the section, four other interchanges are planned, for the intersections with the N 5 from Extremadura and Portugal, the N 511 at Boadilla, the N 513 from Boadilla to Pozuelo and the N 503 from Majadahonda to Pozuelo; there is also another link with the future Eje Pinar and two new access roads at Pozuelo de Alarcón.

The section of motorway will have a cross-section with two 10,5 m carriageways, outer shoulders of 2,50 m plus verges of 0,50 m, two inner shoulders of 1 m and a 10 m central reservation between the inside verges of the carriageway.

Clearances of five metres have been established at road crossings, and of seven metres at railway crossings.

The project's geometrical characteristics are as follows: radii greater than 450 m and gradients less than 4 %.

In principle, the pavement of the core section will consist of a sub-base of 20 cm of soil-cement, a base of 20 cm of bituminous mix, a 6 cm intermediate layer of bituminous mix and a wearing course of 4 cm pervious bituminous mix.

Slightly oblique overpasses with rectangular horizontal sections are planned, with continuous-edge beams supported on load-bearing walls and the middle of the central reservation.

Very oblique overpasses with curved horizontal sections will use a caisson-sectioned lintel and single circular pillars.

6. Principal objectives

The general aim is to improve road safety and to achieve standard traffic conditions along the whole length of particular routes, while at the same time reducing the impact of through traffic on population centres.

The aim is to ease traffic flows between regions, improving the main trunk routes and improving access to those areas with the worst infrastructure problems.

In general, such measures can overcome the following problems:

- (a) physical obstacles to traffic flow;
- (b) serious noise, vibration and air pollution;
- (c) low levels of safety;
- (d) low traffic speed (estimated at around 35 km/h).

Specific objectives:

- to provide a better service on a route carrying a daily average of some 44 500 vehicles, 20 % of which are heavy goods vehicles,
- to reduce journey time by eight minutes,
- to reduce the annual number of accidents by 12.

7. Work schedule

Date of commencement: 24 March 1992

Date of completion: 24 March 1994

8. Socio-economic cost benefit study

Taking the most unfavourable conditions and assuming no speed reduction either now or in the future on the existing road, the internal rate of return is 20 %.

The road is to be toll-free.

9. Contribution to trans-European networks

In the specific case of Madrid, which is a city of 4 million inhabitants and has major traffic-congestion and pollution problems, this type of project is essential. The average traffic speed in the Madrid urban area is 21 km/h.

Since Spain has a radial road infrastructure with Madrid as the hub, orbital schemes provide the necessary links between the major arterial roads (N I, N II, N IV, N V, N VI) as well as improving the traffic within the city and significantly reducing pollution.

10. Costs

	(ECU '000 ⁽¹⁾)
Total cost of project	104 443
Expenditure made before 1 January 1993	8 289
Total eligible cost	96 154
Total assistance applied for from the cohesion financial instrument	81 731

⁽¹⁾ ECU 1 = Pta 154,122.

ANNEX II

FINANCING PLAN

Project: 93/11/65/010

(ECU '000)

Year	Total cost (1)	Public expenditure										Private sector		Community loans
		Total public expenditure		Cohesion instrument		National authorities				Other	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					
1993	95 657	95 657	100	81 308	85	14 349	15	14 349						
1994	497	497	100	423	85	74	15	74						
1995														
Total	96 154	96 154	100	81 731	85	14 423	15	14 423						

(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 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.
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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 2 September 1993

concerning the grant of assistance from the cohesion financial instrument to the following project in Spain: Madrid orbital motorway: M 40 northern distributor section 3

No CF: 93/11/65/011

(Only the Spanish text is authentic)

(93/652/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⁾ 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 Madrid orbital motorway: M 40 northern distributor section 3;

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 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 ⁽³⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾, 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 Madrid orbital motorway: M 40 northern distributor section 3 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 74 170 588.
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 63 045 000.
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 41 846 000.

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 EEC 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 EEC 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, 2 September 1993.

For the Commission
Peter SCHMIDHUBER
Member of the Commission

ANNEX I

1. Project title

Madrid orbital motorway: M 40 northern distributor, section 3

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 of project

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: Madrid

5. Brief description

This section of the orbital motorway starts as an extension of section 2 before the interchange with the C 607 at Colmenar and after crossing the Madrid-Burgos railway line, the N I and the Madrid-Barcelona railway line; it links up with the Via Borde de Hortaleza. The section is 7 715 m long.

The proposed geometrical characteristics are as follows: minimum radius of curvature: 800 m; maximum gradient: 4,14 %.

The clearance required for grade-change crossings is 5,5 m for roads and 7 m for railways.

The proposed cross-section for this section of motorway will consist of two 10,50 m carriageways, with outer shoulders of 2,50 m and verges of 0,50 m, and inner shoulders of 1 m; the central reservation will be 10 m wide.

The pavement will consist of a soil-cement sub-base of 20 cm, a gravel-cement base of 25 cm, a 7 cm course of bituminous mix, a 6 cm intermediate course of bituminous mix and a wearing course of 4 cm of pervious bituminous mix.

The project requires a total of 49 engineering structures and eight underpasses. Of the structures, 21 are of the slab type and 25 of the beam type; there are two metal footbridges and one concrete.

The eight underpasses are needed to carry the motorway under existing roads.

6. Principal objectives

The general aim is to improve road safety and to achieve standard traffic conditions along the whole length of particular routes, while at the same time reducing the impact of through traffic on population centres.

The aim is to ease traffic flows between regions, improving the main trunk routes and improving access to those areas with the worst infrastructure problems.

In general, such measures can overcome the following problems:

- (a) physical obstacles to traffic flow;
- (b) serious noise, vibration and air pollution;
- (c) low levels of safety;
- (d) low traffic speed (estimated at around 35 km/h).

Specific objectives:

- to provide a better service on a route carrying a daily average of some 58 000 vehicles, 15 % of which are heavy goods vehicles,
- to reduce journey time by seven minutes,
- to reduce the annual number of accidents by 30.

7. Work schedule

Date of commencement: 17 Dezember 1991

Date of completion: 1 April 1994

8. Socio-economic cost benefit study

Taking the most unfavourable conditions and assuming no speed reduction either now or in the future on the existing road, the internal rate of return is 20 %.

The road is to be toll-free.

9. Contribution to trans-European networks

In the specific case of Madrid, which is a city of four million inhabitants and has major traffic-congestion and pollution problems, this type of project is essential. The average traffic speed in the Madrid urban area is 21 km/h.

Since Spain has a radial road infrastructure with Madrid as the hub, orbital schemes provide the necessary links between the major arterial roads (N I, N II, N IV, N V, N VI) as well as improving the traffic within the city and significantly reducing pollution.

10. Costs

	(ECU '000 ⁽¹⁾)
Total cost of project:	79 220
Expenditure made before 1 January 1993:	5 049
Total eligible cost:	74 171
Total assistance applied for from the cohesion financial instrument:	63 045

⁽¹⁾ ECU 1 = Pta 154,122.

ANNEX II

FINANCING PLAN

Project: 93/11/65/011

(1 000 ecus)

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	73 846	73 846	100	62 769	85	11 077	15	11 077					
1994	325	325	100	276	85	49	15	49					
1995													
Total	74 171	74 171	100	63 045	85	11 126	15	11 126					

⁽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 6 October 1993

concerning the grant of assistance from the cohesion financial instrument to the project
concerning the Valencia motorway
(first stage) in Spain

No CF: 93/11/65/001

(Only the Spanish text is authentic)

(93/653/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⁾ 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 Valencia motorway (first
stage);

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 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 ⁽³⁾, as last amended by
Council Regulation (Euratom, ECSC, EEC)
No 610/90 ⁽⁴⁾, 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 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 the project Valencia motorway (first
stage) situated in Spain as described in Annex I hereto is
hereby approved for the period from 1 January to
31 December 1993.

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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 5 835 876.
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 4 960 494.
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 3 306 996.

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 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 EEC 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 EEC 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, 6 October 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Valencia motorway (first stage)

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 Communities of Castile-La Mancha and Valencia

5. Brief description

Studies to construct a high capacity motorway connecting Valencia to the Levante motorway and, consequently, Madrid.

6. Principal objectives

Connect by means of a high capacity, high quality motorway two cities of the size of Valencia and Madrid providing important services in the following respects:

- business,
- industry,
- agriculture,
- tourism,
- holidays and recreation.

Finish the motorway network.

Cannot be quantified since it is the study for a project.

7. Work schedule

Date of commencement: 1 January 1993

Date of completion: 31 December 1993

8. Contribution to trans-European networks

The Valencia motorway will be part of the trans-European transport networks connecting two big cities, Madrid and Valencia, and will constitute a main communications axis within the peninsula.

9. Cost

(ECU '000 (1))

Total cost:	23 436 199
Total eligible cost:	23 436 199
Total assistance applied for from the cohesion financial instrument	19 920 769

(1) ECU 1 = Pta 158,588.

ANNEX II

FINANCING PLAN

Project: 93/11/65/001

(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	
1993	5 835,876	5 835,876	100	4 960,494	85	875,382	15	875,382					
1994													
1995													
Total	5 835,876	5 835,876	100	4 960,494	85	875,382	15	875,382					

(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. It 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 6 October 1993

concerning the grant of assistance from the cohesion financial instrument to the project
concerning the Rias Bajas motorway
(first stage) in Spain

No CF: 93/11/65/002

(Only the Spanish text is authentic)

(93/654/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⁾ 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 Rias Bajas motorway (first stage);

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

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾, 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 stage of the project Rias Bajas motorway (first stage) situated in Spain as described in Annex I hereto is hereby approved for the period from 1 January 1993 to 31 December 1993.

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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 23 436 199.
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 19 920 769.
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 13 280 512.

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 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 law, and in particular with Articles 7, 30,

52 and 59 of the EEC Treaty, as well as with Community policies, 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 EEC 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, 6 October 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Rías Bajas motorway — (first stage)

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 Communities of Galicia and Castile-Leon

5. Brief description

Study for a high capacity motorway linking Galicia and northern Portugal with the future trans-European network.

6. Principal objectives

1. Open up a particularly remote area to which access is difficult.
2. Improve communications within Galicia.
3. Finish the motorway network.

7. Work schedule

Date of commencement: 1 January 1993;

Date of completion: 31 December 1993.

8. Contribution to trans-European networks

The project's intended route is part of the trans-European transport network acting as a balance to the domestic road network and linking Galicia and northern Portugal to the trans-European network Irún-Fuentes de Oñoro.

9. Cost

(ECU '000 (!))

Total cost:	23 436 199
Total eligible cost:	23 436 199
Total assistance applied for from the cohesion financial instrument:	19 920 769

(!) ECU 1 = Pta 158,588.

ANNEX II

FINANCING PLAN

Project: 93/11/65/002

(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	23 436,199	23 436,199	100	19 920,769	85	3 515,430	15	3 515,430					
1994													
1995													
Total	23 436,199	23 436,199	100	19 920,769	85	3 515,430	15	3 515,430					

⁽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 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 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. It 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 6 October 1993

concerning the grant of assistance from the cohesion financial instrument to the project
concerning the Bailén-Granada motorway
(first stage) in Spain

No CF: 93/11/65/003

(Only the Spanish text is authentic)

(93/655/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⁾ 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 Bailén-Granada motorway (first stage);

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

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom, ECSC, EEC,) No 610/90 ⁽⁴⁾, 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

1. The project Bailén-Granada motorway (first stage) situated in Spain as described in Annex I hereto is hereby approved for the period from 11 November 1992 to 30 September 1993.

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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 7 919 262.
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 6 731 372.
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 4 487 581.

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 September 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 law, and in particular with Articles 7, 30,

52 and 59 of the EEC Treaty, as well as with Community policies, 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 EEC 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, 6 October 1993.

For the Commission

Peter SCHMIDHÜBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Bailén—Granada motorway (first stage)

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 Andalusia

5. Brief description

Studies for the construction of the Bailén-Granada motorway. The construction of this high capacity motorway will improve the link between eastern Andalusia and the Madrid-Seville motorway.

6. Principal objectives

Improve communications between the south-east of the peninsula and the rest of Spain.

Continue the Madrid-Bailén-Granada-Málaga axis.

Facilitate access to areas of important touristic development (Granada, Sierra Nevada and the Costa del Sol).

7. Work schedule

Date of commencement: 11 November 1992

Date of completion: 30 September 1993

8. Contribution to trans-European networks

The route intended for this project is part of the trans-European transport network improving the operability of the domestic network and access for Andalusia to high-capacity roads.

9. Cost

(ECU '000 (!))

Total cost:	7 919 262
Total eligible cost:	7 919 262
Total assistance applied for from the cohesion financial instrument:	6 731 372

(!) ECU 1 = Pta 158,588.

ANNEX II

FINANCING PLAN

Project: 93/11/65/003

(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	7 919,262	7 919,262	100	6 731,372	85	1 187,890	15	1 187,890					
1994													
1995													
Total	7 919,262	7 919,262	100	6 731,372	85	1 187,890	15	1 187,890					

⁽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 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.
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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. It 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 6 October 1993

concerning the grant of assistance from the cohesion financial instrument to the project
concerning the Zaragoza-Huesca motorway
(first stage) in Spain

No CF: 93/11/65/008

(Only the Spanish text is authentic)

(93/656/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⁾ 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 Zaragoza-Huesca motorway (first stage);

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

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾, 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

1. The stage of the project 'Zaragoza-Huesca motorway (first stage)' situated in Spain as described in Annex I hereto is hereby approved for the period from 23 February 1993 to 23 February 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 3 783 388.
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 3 215 878.
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 1 071 959.

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 23 February 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 law, and in particular with Articles 7, 30,

52 and 59 of the EEC Treaty, as well as with Community policies, 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 EEC 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, 6 October 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Zaragoza—Huesca motorway (first stage)

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 Aragon

5. Brief description

Studies making it possible to construct a high capacity and high quality motorway linking the cities of Huesca and Zaragoza. The above motorway forms part of a whole route which runs from Sagunto in the Autonomous Community of Valencia to Somport on the French border, constituting a third access road from Spain to northern Europe.

6. Principal objectives

Improve internal communications within the Autonomous Community of Aragon, connecting two important hubs of industrial development.

Provide a link in the future between the Levante region and France.

Constitute a third access road from the central, eastern and southern parts of the peninsula to the rest of Europe.

Facilitate access to areas of important touristic development, mainly for winter sports, in the Pyrenees.

7. Work schedule

Date of commencement: 23 February 1993

Date of completion: 23 February 1994

8. Contribution to trans-European networks

The project's intended route is part of the trans-European transport network constituting a new access road from Spain to northern Europe.

9. Cost

(ECU '000 ⁽¹⁾)

Total cost:	3 783 388
Total eligible cost:	3 783 388
Total assistance applied for from the cohesion financial instrument:	3 215 878

⁽¹⁾ ECU 1 = Pta 158,588.

ANNEX II

FINANCING PLAN

Project: 93/11/65/008

(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	1 891,694	1 891,694	100	1 607,939	85	283,755	15	283,755						
1994	1 891,694	1 891,694	100	1 607,939	85	283,755	15	283,755						
1995														
Total	3 783,388	3 783,388	100	3 215,878	85	567,510	15	567,510						

(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 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 6 October 1993

concerning the grant of assistance from the cohesion financial instrument to the project
concerning the Trinidad-Montgat
(Conreria-Montgat section) in Spain

No CF: 93/11/65/018

(Only the Spanish text is authentic)

(93/657/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⁾ 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 27 May 1993 Spain submitted an application for assistance from the cohesion financial instrument for a project concerning the Trinidad-Montgat (Conreria-Montgat 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 forms part of the master plan for a trans-European network;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾, 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 Trinidad-Montgat (Conreria-Montgat section) situated in Spain as described in Annex I hereto is hereby approved for the period from 1 April 1993 to 1 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 37 183 216.
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 31 605 733.
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 13 111 078.

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 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 law, and in particular with Articles 7, 30,

52 and 59 of the EEC Treaty, as well as with Community policies, 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 EEC 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, 6 October 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Trinidad-Montgat motorway (Conreria-Montgat 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 Catalonia

5. Brief description

This scheme will form part of the second Barcelona ringroad, extending the second section of the Barcelona-Montgat motorway in the Conreria-Montgat section by 4,4 km.

The cross-section of the motorway consists of two carriageways each measuring 10,5 m, with external shoulders of 2,5 m, internal shoulders of 1 m, transition strips of 0,5 m and a central reservation of 4 m.

The structural sections of the pavement are as follows:

- on the main section of the motorway and link road with the N 11: a 27 cm layer of warm-laid bituminous mixture consisting of three layers: 4 cm porous layer, 6 cm intermediate layer and 17 cm base on a sub-base of cement-stabilized soil 20 cm thick,
- the cross-section of the main slip roads is as follows: a 22 cm layer of bituminous mixture consisting of three layers: a 6 cm wearing surface, a 6 cm intermediate layer and a 10 cm base on a sub-base of cement stabilized soil 20 cm thick,
- there are plans for five link roads: Conreria, Tiana, Montgat, a link with the A 19 and a link with the N 11,
- the works to be carried out consist of five underpasses, four overpasses, a viaduct over the bank of the Tiana and a pergola-type bridge.

In addition, an artificial tunnel will be built between Tiana and Montgat, 678 m in length and with an overall width of 29,4 m, for two carriageways of three lanes separated by a central barrier.

6. Principal objectives

The general objectives are to improve road safety and standardize traffic conditions by completing motorways, while at the same time reducing the environmental impact of through traffic on urban centres.

With regard to Spain as a whole, the scheme aims to make communications between regions smoother by improving the principal long distance routes and increasing access to those areas where the lack of infrastructure is greatest.

In general, this type of measure prevents the following problems:

- (a) physical obstacles to road traffic;
- (b) significant noise, vibrations and air pollution;
- (c) highly dangerous situations;
- (d) reduced speed estimated at some 40 km per hour.

Quantified objectives:

- provide a better service for a route with a daily average traffic density of 72 000 vehicles, including 11 % heavy vehicles,
- reduce travelling time by 1,5 minutes.

7. Work schedule

Date of commencement: 1 April 1993

Date of completion: 1 November 1994

8. Viability study

The normal assumption is that the existing motorway has not suffered nor is at present suffering from loss of speed (at annual peak periods) nor will do so in future (through overall increases in traffic and an increase in the number of hours of congestion). The internal rate of return is 20 %.

No tolls will be introduced once the motorway is operational.

9. Contribution to trans-European networks

This scheme will be sited to the north of Barcelona and will form part of the second ring road which is of considerable importance to provide continuity in an area of a traffic density of more than 70 000 vehicles per day and considerable summer traffic.

10. Cost

(ECU '000 (¹))

Total cost:	37 183 216
Total eligible cost:	37 183 216
Total assistance applied for from the cohesion financial instrument:	31 605 733

(¹) ECU 1 = Pta 158,588.

ANNEX II

FINANCING PLAN

Project: 93/11/65/018

(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	23 137,198	23 137,198	100	19 666,618	85	3 470,580	15	3 470,580					
1994	14 046,018	14 046,018	100	11 939,115	85	2 106,902	15	2 106,902					
1995													
Total	37 183,216	37 183,216	100	31 605,733	85	5 577,483	15	5 577,483					

(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 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.
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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. It 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 8 October 1993

concerning the grant of assistance from the cohesion financial instrument to the project
concerning the Madrid ringroad M 40,
(northern distributor road, section 2, Zarzuela to C 607 link) in Spain

No CF: 93/11/65/017

(Only the Spanish text is authentic)

(93/658/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⁾ 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 27 May 1993 Spain submitted an application for assistance from the cohesion financial instrument for a project concerning the Madrid ringroad M 40, (northern distributor road, section 2, Zarzuela to C 607 link);

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

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽³⁾, as last amended by Council Regulation (Euratom, ECSC, EEC) No 610/90 ⁽⁴⁾, 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 for the Madrid ringroad M 40, (northern distributor road, section 2, Zarzuela to C 607 link) situated in Spain as described in Annex I hereto is hereby approved for the period from 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 356, 31. 12. 1977, p. 1.

⁽⁴⁾ 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 93 322 577.
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 79 324 190.
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 20 723 992.

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 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 law, and in particular with Articles 7, 30,

52 and 59 of the EEC Treaty, as well as with Community policies, 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 EEC 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, 8 October 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission

ANNEX I

COHESION FINANCIAL INSTRUMENT

1. Project title

Madrid ringroad M 40 (northern distributor road, section 2, Zarzuela to C 607 link)

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: Madrid

5. Brief description

The section referred to in this project is the middle section of the northern loop of the M 40 between the N VI and the Via Borde de Hortaleza, providing a connection with the eastern area of the city and passing for its whole length through the northern metropolitan area of Madrid.

The route begins at the Zarzuela link, beside the Hipódromo de la Zarzuela, and crosses the river Manzanares and the present El Pardo main road by means of a viaduct. Further on it runs into a tunnel near the Monte de El Pardo area.

The overall length of the section is 7 100 m.

For the geometric characteristics, curve radii of over 700 m have been used and gradients which do not exceed 4 %.

The cross-section planned for this section of the motorway will consist of two carriageways each measuring 10,5 m (three lanes), with external shoulders of 2,5 m, transition strips of 0,5 m and internal shoulders of 1 m. The central reservation will vary between 10 m for normal sections and 26 m in the tunnels.

The cross-section of carriageway pavement will be made from a sub-base of cement stabilized soil of 20 cm, a 25 cm cemented gravel base, a base of warm-laid bituminous mixture 7 cm thick, an intermediate layer of warm-laid bituminous mixture of 6 cm and a porous wearing surface of warm-laid bituminous mixture of 4 cm.

The section will contain 16 structures including viaducts, underpasses and overpasses.

The viaducts (two) will be constructed with continuous slabs and the overpasses (three) will be made of pre-stressed concrete in two spans with a support on the central reservation. The underpasses (11) are made of reinforced box structures where the span is less than 15 m and prefabricated beams elsewhere.

Two parallel tunnels each 1 000 m long are being built which will have an unobstructed width of 16,7 m and a clearance of 5,25 m.

6. Principal objectives

The general objectives are to improve road safety and standardize traffic conditions by completing motorways, while at the same time reducing the environmental impact of through traffic on urban centres.

With regard to Spain as a whole, the scheme aims to make communications between regions smoother by improving the principal long distance routes and increasing access to those areas where the lack of infrastructures is greatest.

In general, this type of measure prevents the following problems:

- (a) physical obstacles to road traffic;
- (b) significant noise, vibrations and air pollution;
- (c) highly dangerous situations;
- (d) reduced speed estimated at some 35 km per hour.

Quantified objectives:

- provide a better service for a route with a daily average traffic density of 32 000 vehicles, including 20 % heavy vehicles,
- reduce travelling time by 17 minutes,
- reduce the number of accidents by 18 annually.

7. Work schedule

Date of commencement: 1 January 1993

Date of completion: 31 December 1994

8. Viability study

The assumption taken as normal is that with the existing road there is at present no loss of speed (at annual peak periods) nor will there be in future (through overall increases in traffic and in the number of hours of congestion). The internal rate of return is 20 %.

No tolls will be introduced once the motorway is operational.

9. Contribution to trans-European networks

This type of work is essential in the particular case of Madrid, given that it is a city with a population of four million and severe traffic congestion and pollution problems. The average speed of traffic in the centre of Madrid, about 21 km per hour, gives some indication of the need for it.

Since the Spanish motorway infrastructure radiates from Madrid, ringroad construction is necessary to provide continuity for the major motorways (the N I, N II, N IV, N V, N VI) as well as to improve traffic conditions within Madrid and considerably reduce both atmospheric and noise pollution.

10. Cost

(ECU '000 ⁽¹⁾)

Total cost:	93 322 577
Total eligible cost:	93 322 577
Total assistance applied for from the cohesion financial instrument:	79 324 190

⁽¹⁾ ECU 1 = Pta 158,588.

ANNEX II

FINANCING PLAN

Project: 93/11/65/017

(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	36 571,751	36 571,751	100	31 085,988	85	5 485,763	15	5 485,763					
1994	56 750,826	56 750,826	100	48 238,202	85	8 512,624	15	8 512,624					
1995													
Total	93 322,577	93 322,577	100	79 324,190	85	13 998,387	15	13 998,387					

⁽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.
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 - (c) propose, when appropriate, the necessary measure to ensure that the project achieves the objectives laid down for it;
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