

FRAMEWORK AGREEMENT

BETWEEN

THE SWISS FEDERAL COUNCIL

AND

**THE GOVERNMENT OF THE REPUBLIC OF
POLAND**

CONCERNING

**THE IMPLEMENTATION OF THE SWISS-POLISH
COOPERATION PROGRAMME TO REDUCE
ECONOMIC AND SOCIAL DISPARITIES WITHIN
THE ENLARGED EUROPEAN UNION**

THE SWISS FEDERAL COUNCIL (hereinafter referred to as "Switzerland")

AND

THE GOVERNMENT OF THE REPUBLIC OF POLAND (hereinafter referred to as "The Republic of Poland")

hereinafter collectively referred to as "the Parties",

- AWARE of the importance of the enlargement of the European Union (EU) for the stability and prosperity in Europe;
- NOTING the solidarity of Switzerland with the endeavours of the EU to reduce economic and social disparities within the EU;
- BUILDING upon the previous successful cooperation between the two countries;
- HAVING regard to the friendly relations between the two countries;
- DESIROUS of strengthening these relations and the fruitful cooperation between the two countries;
- INTENDING to promote further the social and economic development in the Republic of Poland;
- IN VIEW of the fact that the Swiss Federal Council has expressed, in a Memorandum of Understanding with the European Community of 27 February 2006, the intention that Switzerland shall contribute up to 1'000'000'000 Swiss francs (one billion CHF) to reduce economic and social disparities within the enlarged EU (hereinafter referred to as "Memorandum of Understanding");

have agreed as follows:

Article 1 – Definitions

For the purpose of this Agreement:

- "Contribution" means the non-reimbursable financial contribution granted by Switzerland under this Agreement;
- "Project" means a specific project or programme or other joint activities in the framework of this Agreement. A programme consists of component projects linked by a common theme or shared objectives;
- "Commitment" means the allocation of a certain amount of the Contribution to a Project agreed upon by the Parties;
- "Project Agreement" means an agreement between the Parties and, if need be, additional contracting parties, on the implementation of a Project agreed upon by the Parties;
- "National Coordination Unit" (NCU) means the Polish unit in charge of the coordination of the Swiss-Polish Cooperation Programme;

- “Intermediate Body” means any legal public or private entity appointed by the NCU which acts under the responsibility of the NCU or which carries out duties on behalf of the NCU with regard to Executing Agencies implementing Projects;
- “Paying Authority” means the institution established in the Ministry of Finance ensuring appropriate financial control within the Swiss-Polish Cooperation Programme;
- “Audit Institution” means the institution established at the level of the Ministry of Finance responsible for the control of the use of financial resources under the Swiss-Polish Cooperation Programme;
- “Executing Agency” means any public authority, any public or private corporation as well as any organization recognized by the Parties and mandated to implement a specific Project financed under this Agreement;
- “Implementation Agreement” means an agreement between the NCU and/or the Intermediate Body and the Executing Agency for the implementation of the Project;
- “Block Grant” means a fund set up for a clearly defined purpose, providing assistance to organizations or institutions, facilitating a cost-effective administration mainly in programmes with many small projects;
- “Project Preparation Facility” means the Facility providing financial support for the preparation of the Final Project Proposals;
- “Technical Assistance Fund” means the Fund for the financing of tasks performed by the Polish authorities additionally and exclusively for the implementation of the Contribution;
- “Scholarship Fund” means the Fund for the financing of scholarships for Polish students and researchers admitted at higher education and research institutions in Switzerland.

Article 2 – Objectives

1. The Parties shall promote the reduction of economic and social disparities within the enlarged EU through Projects mutually agreed upon between the Parties and in line with the Memorandum of Understanding and the Conceptual Framework for the Swiss-Polish Cooperation Programme as outlined in Annex 1 of this Agreement.
2. The objective of this Agreement is to establish a framework of rules and procedures for the planning and implementation of the cooperation between the Parties.

Article 3 – Amount of the Contribution

1. Switzerland agrees to grant a non-reimbursable Contribution towards the reduction of economic and social disparities within the enlarged EU of up to CHF 489,020 million (four hundred eighty nine million and twenty thousand Swiss francs) to the Republic of Poland for a Commitment period of five years and a disbursement period of ten years, starting from the approval date of the Contribution by the Swiss Parliament, which is 14 June 2007.
2. Switzerland shall accept submissions of Final Project Proposals according to Annex 2, Chapter 2 for Commitment of funds until two months before the end of the Commitment period.
3. Funds not committed during the Commitment period shall not be available anymore for the Swiss-Polish Cooperation Programme.

Article 4 – Scope

The dispositions of this Agreement shall apply to national and international Projects financed by Switzerland or co-financed by Switzerland with multilateral institutions and other donors, executed by an Executing Agency, mutually agreed upon by the Parties.

Article 5 – Utilization of the Contribution

1. The Contribution shall be used for the financing of Projects and can take any of the following forms:
 - a) Financial assistance including grants, credit lines, guarantee schemes, equity and debt participation, loans and technical assistance
 - b) Block Grants
 - c) Project Preparation Facility
 - d) Technical Assistance Fund
 - e) Scholarships.
2. The Contribution shall be used in line with the objectives, principles, strategies, geographic and thematic focus as outlined in the Conceptual Framework in Annex 1.
3. 5% of the Contribution shall be used by Switzerland for its administration of this Agreement. This includes, inter alia, expenses for staff and consultants, administrative infrastructure, missions, monitoring and evaluation.
4. The Contribution, in the form of grants, may not exceed 60% of the total eligible costs of the Project, except in the case of Projects receiving additional financing in the form of budget allocations from national, regional or local authorities, in which case the Contribution may not exceed 85% of the total eligible costs. Institution-building and technical assistance Projects, Projects implemented by non-governmental organisations as well as financial assistance benefiting the private sector (credit lines, guarantees, equity and debt participation) may be fully financed by the Contribution.

5. The following costs shall not be eligible for grant support: expenditures incurred before the signing of the respective Project Agreement by all parties, interests on debt, the purchase of real estate, staff costs of civil servants of the Polish institutions involved in the management of the Contribution and recoverable value added tax as specified in Article 7 of this Agreement.

Article 6 – Coordination and Procedures

1. To make sure that Projects have the greatest possible impact and in order to avoid duplication and overlapping with projects financed through means of structural and/or cohesion funding as well as by any other funding source, the Parties shall assure an effective coordination and share any information needed to that end.

2. All the correspondence exchanged between the Parties, including reports and Project documents, shall be drafted in English.

3. Each Project shall be subject to a Project Agreement, which shall set out the terms and conditions of grant assistance as well as the roles and responsibilities of the contracting parties.

4. The Republic of Poland is responsible for the identification of Projects to be financed by the Contribution. Switzerland can offer the Republic of Poland proposals to finance Projects, including Projects of multilateral, national or international institutions. The rules and procedures for the selection and implementation of Projects are defined in Annex 2 and for Block Grants, the Project Preparation Facility the Technical Assistance Fund and the Scholarship Fund in Annex 3.

5. All Projects shall be supported by the Republic of Poland and approved by Switzerland. The Parties attach high importance to the monitoring, the evaluation and the audit of Projects and of the Swiss-Polish Cooperation Programme as stipulated in Annex 2. Switzerland, or any mandated third party acting on its behalf, is entitled to visit, monitor, review, audit and evaluate all activities and procedures related to the implementation of the Projects financed by the Contribution, as deemed appropriate by Switzerland. The Republic of Poland shall provide all requested or useful information and shall take or cause to be taken all actions allowing the successful realisation of such mandates.

6. Upon entry into force of this Agreement, the Republic of Poland shall open a separate bank account at the National Bank of the Republic of Poland in which the funds received from the Swiss Contribution shall be deposited. The Swiss administration costs referred to in Article 5, Paragraph 3 of this Agreement shall not be managed through this account. The accumulated net interest shall be yearly reported to Switzerland.

7. Payment procedures are outlined in Annex 2, Chapter 4 of this Agreement.

Article 7 – Value Added Tax and other Taxes and Charges

1. Value added tax (VAT) shall be considered eligible expenditure only if it is genuinely and definitively borne by the Executing Agency. VAT which is recoverable, by whatever

means, shall not be considered eligible even if it is not actually recovered by the Executing Agency or by the final recipient.

2. Other levies, taxes or charges, in particular direct taxes and social security contributions on salaries and wages, shall constitute eligible expenditure only if they are genuinely and definitively borne by the Executing Agency.

Article 8 – Annual Meetings and Reporting

1. In order to ensure effective implementation of the Swiss–Polish Cooperation Programme, the Parties agree to hold annual meetings. The first meeting shall be held no later than one year after the beginning of the application of this Agreement.

2. The Republic of Poland shall organize the meetings in cooperation with Switzerland. The NCU shall present one month before the meetings an annual report. Its content shall include but not be limited to the issues listed in Annex 2.

3. Within three months after the final disbursement under this Agreement, the Republic of Poland shall submit to Switzerland a final report assessing the accomplishment of the objective of this Agreement and a final financial statement on the use of the Contribution, based on the financial audits of the Projects.

Article 9 – Competent Authorities

1. The Republic of Poland has authorized the Minister of Regional Development to act on its behalf as the NCU for the Swiss-Polish Cooperation Programme. The NCU shall have the overall responsibility for the management of the Contribution in the Republic of Poland, including the responsibility for financial control and audit.

2. Switzerland has authorized:

the Federal Department of Foreign Affairs, acting through the Swiss Agency for Development and Cooperation (SDC)

and

the Federal Department of Economic Affairs, acting through the State Secretariat for Economic Affairs (SECO)

to act on its behalf for the implementation of the Swiss-Polish Cooperation Programme.

Projects are assigned to one or the other institution according to their respective fields of competence.

3. The Swiss Embassy shall act as the contact point for the NCU with regard to official information referring to the Contribution. Day-to-day communication between the competent authorities may be maintained directly.

Article 10 – Common Concern

The Parties share a common concern in the fight against corruption, which jeopardises good governance and the proper use of resources needed for development, and, in addition, endangers fair and open competition based upon price and quality. They declare, therefore, their intention of combining their efforts to fight corruption and, in particular, declare that whoever asks for, lets himself/herself be promised or accepts an advantage for acting or refraining from acting in the context of a mandate or contract within the framework of this Agreement, will be considered to have committed an illegal act which shall not be accepted. Any actual case of this kind shall constitute sufficient grounds to justify termination of this Agreement, the respective Project Agreement, the annulment of the procurement or resulting award, or for taking any other corrective measure laid down by applicable law.

Article 11 – Final Provisions

1. Annexes 1, 2 and 3 shall form an integral part of this Agreement.
2. Any dispute which may result from the application of this Agreement shall be resolved by diplomatic means.
3. Any amendment to this Agreement shall be made in writing with the mutual agreement of the Parties and according to their respective procedures. Any amendment to the Annexes 1, 2 and 3 of this Agreement shall be made in writing with the mutual agreement of the competent authorities mentioned in Article 9.
4. This Agreement can be terminated at any time by one of the Parties upon a six-month prior written notice containing its justification. Prior to making such a decision, the Parties shall enter into a dialogue with a view to ensuring that said decision is based on accurate and correct facts. In case of said termination, the provisions of this Agreement shall continue to apply to the Project Agreements concluded before the termination of this Agreement. The Parties shall decide by mutual agreement any other consequences of the termination.
5. This Agreement shall enter into force on the date of the notification confirming the completion by both Parties of their respective approval procedures. The Agreement covers a Commitment period of five years and a disbursement period of ten years. It applies until the final report by the Republic of Poland assessing the accomplishment of the objective of this Agreement is submitted according to Article 8 Paragraph 3. The Commitment period shall start according to Article 3 Paragraph 1. In the case that the Commitment period starts before the entry into force of this Agreement, the Parties shall apply this Agreement provisionally starting on the day of its signing.

Signed at Berne on 20 December 2007, in two authentic copies in the English language.

For the Swiss
Federal Council

For the Government of
the Republic of Poland

Micheline Calmy-Rey

Elżbieta Bień kowska

Doris Leuthard