

FINANCING MEMORANDUM

The European Commission, hereinafter referred to as "THE COMMISSION", acting for and on behalf of the European Community, hereinafter referred to as "THE COMMUNITY"

on the one part, and

The Government of Romania, hereinafter referred to as "THE RECIPIENT"

on the other part,

HAVE AGREED AS FOLLOWS:

The measure referred to in Article 1 below shall be executed and financed out of the budget resources of THE COMMUNITY in accordance with the provisions set out in this Memorandum. The technical, legal, and administrative framework within which the measure referred to in Article 1 below shall be implemented is set out in the General Conditions annexed to the Framework Agreement between THE COMMISSION and THE RECIPIENT, and supplemented by the terms of this Memorandum and the Special Provisions annexed hereto.

ARTICLE 1 - NATURE AND SUBJECT

As part of its aid programme, THE COMMUNITY shall contribute, by way of grant, towards the financing of the following MEASURE:

<u>Programme number:</u>	RO 9912
<u>Title:</u>	1999 Cross-Border Co-operation Programme between Romania and Hungary
<u>Duration:</u>	Until 31 December 2001

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of € 5 million hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting **until 31 December 2001** subject to the provisions of this Memorandum. All contracts must be signed by this date. Any balance of funds of the EC GRANT which have not been contracted by this date shall be cancelled. The deadline for disbursement of THE EC GRANT is **31 December 2002**. All disbursements must be completed by the deadline for disbursement. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the disbursement period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall expire at the expiry of the disbursement period of the EC GRANT. All the funds which have not been disbursed shall be returned to the Commission.

ARTICLE 4 - ADDRESSES

Correspondence relating to the execution of THE MEASURE, stating THE MEASURE'S number and title, shall be addressed to the following:

for the COMMUNITY:

Delegation of the European Commission to Romania
11, Grigore Mora Str.
71 278 Bucharest
Romania

Tel.: (40-1) 230 36 36

Fax: (40-1) 230 24 53

for THE RECIPIENT:

The Government of Romania
Department for European Integration
Piata Victoriei 1
Bucharest
Romania

Tel.: (40-1) 312 47 32

Fax: (40-1) 312 69 29

ARTICLE 5 - NUMBER OF ORIGINALS

This Memorandum is drawn up in duplicate in the English language.

ARTICLE 6 - ENTRY INTO FORCE

This Memorandum shall enter into force on the date on which it has been signed by both parties. No expenditure incurred before this date is eligible for the EC GRANT.

The Annexes shall be deemed an integral part of this Memorandum.

Done at Bucharest

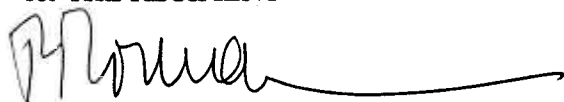
Date

Done at Bucharest

Date

30/12/97

for THE RECIPIENT



Mr. Petre Roman
Deputy Prime Minister
Minister of Foreign Affairs of Romania
National Phare Coordinator

for THE COMMUNITY



Mr. Fokion Fotiadis
Head of European Commission
Delegation to Romania

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|---------|-------------------------------------|
| Annex 1 | Framework Agreement (Annexes A & B) |
| Annex 2 | Special Provisions (Annex C) |
| Annex 3 | Visibility and Publicity |

ANNEX 2 SPECIAL PROVISIONS

1. OBJECTIVES, DESCRIPTION AND CONDITIONALITY

1.1. The wider objectives of the programme are:

- To promote good neighbourliness and stability in the CEEC border regions (and the Hungarian-Romanian one in particular) by funding projects which will yield tangible benefits to the regions and communities on both sides of the border;
- To promote co-operation between border regions in both countries, helping these regions to overcome the specific development problems which may arise, *inter alia*, from their position within the national economies, in the interest of the local communities and in a manner compatible with the environment protection;
- To promote the creation and further development of co-operation networks on either side of the border and establishment of links between these links and wider Community networks.

1.2. The specific objectives and results are reflected in the following priority areas:

- To improve the existing **infrastructure** in the field of transport, aimed at complementing the development of EU Trans-European Networks in accordance with the orientations adopted by the European Commission, through project proposals concerning the improvements on Pan-European Corridor IV (Dresden/Nuremberg-Constanta/Thessaloniki/Istanbul) and on Pan-European Corridor IVc (Szeged/Cenad/Timisoara).
- To promote **environmental protection** by establishing and developing a geographical information system (GIS) and the extension of activities concerning flood prevention, early warning systems for human communities and water management in the whole border area (Romania/Hungary/Ukraine).

1.3. Programme Description

Priority 01: Infrastructure

In that field of priorities, two sets of mirror projects are proposed :

a) Reduction of the road distance between Timis County (Romania) and Csongrad County (Hungary), increasing low costs exchanges and circulation between the two countries.

HU9914.01.01. Hungarian side : Construction and modernisation of public road No 43109 leading to the Romanian border crossing point Kiszombor-Csanád, phase 2.

With the establishment of the new border crossing station, the construction of a new section of public road No 43109 bypassing the settlement and the modernisation of the existing sections became necessary. The present project, being a continuation of phase 1 (Modernisation of the existing sections) includes the construction of a 3 km segment, which provides a connection between the border crossing point and national road No 43, by-passing Kiszombor. The segment built in phase 2 will have a width of 7 m and load-bearing capacity „C”. Co-financing, as for phase 1, is provided from the National Road Fund.

RO9912.01.02. Romanian side : Rehabilitation of DN6 Road between Timisoara and the Hungarian border (Cenad)

The opening of the Cenad/Kiszombor border crossing point to international traffic would considerably shorten the road distance between Timisoara and Szeged and create an alternative to the crossing point Nadlac/Nagylak. In addition the National Administration of Roads is currently contemplating the rehabilitation of road DN6 from Timisoara to Bucharest, part of it (Timisoara-Lugoj and Craiova bypass) being financed under an OECF loan. A major OECF financed pre-investment study has assessed feasibility and environment impacts along the road DN6 in 1996. The activities undertaken, means the effective reinforcement of the DN6 section (10 km) to European standards, in order to enable heavy traffic and the opening of Cenad/Kiszombor border crossing to international traffic, will support the construction and upgrading of Pan-European transport corridor IVc and its future integration with the EU Trans-European transport networks.

b) Development of the exchange of goods by air for the two neighbouring regions, enlargement and rehabilitation of the access roads to the Terminal, improvement of the international access and services' quality in the cross border offices.

HU9914.01.02. Hungarian side : Rehabilitation of the road: Border-Battonya-Mezőkovácsháza-Orosháza, phase 2

The road being built in the framework of the project is part of the Arad-Frontier-Orosháza-Szentes-Kiskunfélegyháza-M5 „corridor”. Rehabilitation is continued from the segment realised in phase 1: from phase 1 to Mezőkovácsháza (7,5 km) and modernisation of Battonya crossing point (2,5 km). During the planned rehabilitation work a new asphalt layer will be constructed on the whole length of traffic line, and engineering structures over the crossing water courses will be reinforced. Safety of traffic will be improved by the placing of sign boards, guard rails, reflecting road studs and new road markings. A new information system will be set up and establishments for the protection of the environment will be built. Rehabilitation will make the road suitable for the traffic through Battonya crossing point.

RO9912.01.01. Romanian side : construction of the Arad International Airport Cargo Terminal

The activities undertaken, means the effective construction of the Terminal, including all the necessary facilities, will support the construction and upgrading of Pan-European transport corridor IV and its future integration with the EU Trans-European transport networks. The development of this project mainly refers to take over by air of the cargo traffic carried on by economic agents in Arad-Romanian county, Bekes and Csongrad-Hungarian counties. This project at the time of its completion will actively support the activity of the Free Zone Arad-Curtici and the Arad International Business Center, which are about to be established in the area. The Cargo Terminal will be placed on Arad Airport, a middle class one, situated on air route connecting Western Europe to Middle East. The area has a minimal population level, so there are no major ecological consequences (noise, pollution, vibration etc) and it is located 30 km from the nearest border crossing point (at Turnu), allowing easy and quick access to this facility for transport means of economic agents located in Bekes-Csongrad region, Hungary. Will be developed new opportunities for Arad-Timisoara area by free airway exchange.

PRIORITY 02: Environmental Protection Projects

RO9912.02.01. Romanian side : Flood Prevention in the Upstream Tisa River Basin

The present project, through its surveillance zone, from the hydro-meteorological point of view, completes another ongoing project financed under 1996 Phare CBC Programme between Romania and Hungary, called “Flood prevention in the Cris River Basin”. At the same time, the project is framed in the main project financed by Romania, entitled “The integrated system of collecting of information and transmission of decisions in case of disasters”. By the accomplishment of the objectives provided in this project, the whole superior basin of Tisa and

its tributaries (from Ukraine, Romania and Hungary) would be entirely monitored from the hydro-meteo point of view. This project together with the Hungarian projects ZZ9622-03/01 to Z9622-03/04 (ongoing “echo-mirror” projects) extend the activities concerning flood prevention and water management to the whole border area. There are real premises for decreasing damages caused by floods and dangerous meteorological phenomena (storms, hoarfrost, big snow etc) and early warning systems for human communities in this area of Europe. The activities undertaken will be in line with requirements of the Commission Regulation (EC) No. 2760/98, Art. 5.1(c), referring the “environmental management dealing with problems exacerbated by the proximity to external borders”.

2. BUDGET

The following table specifies the EU contribution as well as national co-finance to the programme.

No.	Priority / Project Title	PHARE			National Co-financing in €	Total in €
		Institution Building	Investment	TOTAL		
01	Transport infrastructure	0	8.000.000	8.000.000	2.401.600	10.401.600
HU9914.01.01	Hungarian side : Construction and modernisation of road No 43109 leading to the border station Kiszombor-Csanád (phase 2)	0	2.500.000	2.500.000	833.300	3.333.300
HU9914.01.02	Hungarian side : Rehabilitation of road Border-Battonya-Mezőkovácsháza-Orosháza (phase 2)	0	2.500.000	2.500.000	833.300	3.333.300
RO9912.01.01	Romanian side : Airport Cargo Terminal	0	2.000.000	2.000.000	500.000	2.500.000
RO9912.01.02	Romanian side : Rehabilitation of DN6 Road between Timisoara and Hungarian border (Cenad)	0	1.000.000	1.000.000	235.000	1.235.000
02	Environmental protection projects	0	2.000.000	2.000.000	450.000	2.450.000
RO9912.02.01	Romanian side : Flood Prevention in the Upstream Tisa River Basin	0	2.000.000	2.000.000	450.000	2.450.000
	TOTAL	0	10.000.000	10.000.000	2.851.600	12.851.600

The Phare CBC contribution shall not exceed 5 Meuro for Hungary and 5 Meuro for Romania
The overall Phare allocation will be managed through the DIS

3. IMPLEMENTATION ARRANGEMENTS

3.1. Specific arrangements for each side

Hungary

The Implementing Agency (IA) of the Programme on the Hungarian side is the Ministry of Agriculture and Regional Development. A Regional Office was set up in the border region in May 1997, ensuring the day-by-day contact and co-operation with the counties and local authorities as well as with the project beneficiaries in the Hungarian-Romanian border region.

Romania

The Implementing Agency (IA) of the Programme on the Romanian side is the Central Financing and Contracting Unit of the Ministry of Finance. The Implementing Authority acting as co-ordinator for the CBC programmes is the National Agency for Regional Development. The Implementing Agency will work closely together with National Agency for Regional Development and with the beneficiary institutions in order to prepare Terms of Reference, tender documents, evaluation criteria, evaluation of offers, negotiation of contracts, invoices for payment etc. The supervision of the work contract under FIDIC rules will be paid by the beneficiaries. Project beneficiary institutions report monthly to the CBC Implementing Agency,

including direct copies to the EC Delegation, with commitment and disbursement schedules and sufficient details to allow assessment of progress made and remaining work to be accomplished.

The project beneficiary institutions are as follow:

- Arad County Council and Arad Airport SA (**Project RO9912.01.01**).
- Timis County Council (**Project RO9912.01.02**).
- Ministry of Waters, Forests and Environmental Protection / “Romanian Water” National Company-Cluj Branch (**Project RO9912.02.01**).

3.2. Common arrangements for both sides

Both Governments will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.

The programme will be managed according to the Phare Decentralised Implementation System (DIS) procedures. The National Aid Co-ordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes.

A National Fund (NF) on each side (in the State Treasury for the Hungarian side and in the Ministry of Finance for the Romanian side), headed each by a National Authorising Officer (NAO) will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. Appropriate financial control shall be carried out by each competent National Control Authority with respect to the implementation the programme.

The Commission will transfer funds to each NF according to the respective Memorandum of Understanding signed between the Commission and each of the two Governments. Funds will be transferred following requests from the NAO. A payment of **up to 20%** of the funds to be managed locally will be transferred to the NF following, on each country side, signature of a Financing Memorandum and of Financing Agreements (FAs) between the NF and the Implementing Agencies (IAs)/Central Financing and Contracting Unit (CFCU). The provisions foreseen in articles 2 and 13 of the MoU on the NF must also be met. Furthermore, the NAO must submit to the Commission the designation of the PAOs and a description of the system put in place, highlighting the flow of information between the NF and the IA/CFCU and the manner in which the payment function will be carried out.

Four Replenishments will be made of **up to 20%** of the funds to be managed locally or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 10% of the budget has been disbursed by the IAs and the CFCU. The second replenishment may be requested when 30% of the total budget in force has been disbursed. The trigger point for the third replenishment is 50%, and for the final fourth instalment when 70% is disbursed. Save for express prior authorisation from the Commission HQ, no replenishment request may be made if the aggregate of the funds deposited in the NF and the IAs exceeds 10% of the total budget in force of the commitment. Exceptionally the NAO may request an advance payment of more than 20% in accordance with the procedures laid down in the aforesaid Memorandum of Understanding.

The IAs responsible are described at point 6.1.

The National Fund will transfer funds to IAs, including the Central Financing and Contracting Unit (CFCU), in accordance with Financing Agreements (FAs) signed between the NF and the IAs/CFCU where applicable. Each individual FA will be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the CFCU/IA there will be no transfer of funds from the NF to the CFCU/IA. The CFCU and the Implementing Agencies must be headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation

with the NAC. The PAO will be responsible for all the operations carried out by the relevant CFCU/IA.

In both countries a separate bank account denominated in €(Euro) will be opened and managed by the NF in a separate accounting system in the Central Bank or in a bank agreed in advance with the Commission (in the Hungarian State Treasury for Hungary). In principle, all bank accounts will be interest bearing. Interest will be reported to the European Commission. If the Commission so decides, on the basis of a proposal from the NAO, interest may be reinvested in the Programme. The same procedures will apply to any funds transferred to an IA or the CFCU.

The NAO and the PAOs will ensure that all contracts are prepared in accordance with the procedures set out in the DIS Manual.

All contracts must be concluded by 31 December 2001.

All disbursements must be made by 31 December 2002.

Any funds not used by the expiry date of the programme will be recovered by the Commission.

For those contracts with funds retained for a warranty period extending beyond the end of the disbursement period of the programme, the overall total of funds related to those contracts, as calculated by the PAO and established by the Commission, will be paid to the Implementing Agency before the official closure of the programme. The Implementing Agency assumes full responsibility of depositing the funds until final payment is due and for ensuring that said funds will only be used to make payments related to the retention clauses. The Implementing Agency further assumes full responsibility towards the contractors for fulfilling the obligations related to the retention clauses. Interests accrued on the funds deposited will be paid to the Commission after final payment to the contractors. Funds not paid out to the contractors after final payments have been settled shall be reimbursed to the Commission. An overview of the use of funds deposited on warranty accounts - and notably of the payments made out of them and of interests accrued will be provided annually by the NAO to the Commission.

4. MONITORING AND ASSESSMENT

A Joint Monitoring Committee (JMC) will be established. It will include the NAOs, the NACs and the Commission. The JMC will meet at least once a year at to review all Phare funded programmes in order to assess their progress towards meeting the objectives set out in Financing Memoranda and the Accession Partnership relating to each beneficiary country. The JMC may recommend a change of priorities and/or re-allocation of Phare funds.

The JMC will be assisted by Monitoring Sub-Committees (MSC) which will include the NACs, the PAOs of the CBC Programmes and the Commission Services. The above-mentioned **Joint Co-operation Committee** will act as **Monitoring Sub-Committee (MSC)** for the CBC Programme. The JCC will review in detail the progress of the programme, including its components and contracts, on the basis of regular Monitoring and Assessment reports produced with the assistance of external consultant (in accordance with the provisions of the DIS Manual), and will put forward recommendations on aspects of management and design, ensuring these are effected. The JCC will report to the JMC, to which it will submit overall detailed reports on all Phare funded CBC programmes.

5. AUDIT AND EVALUATION

The accounts and operations of the National Fund, and, where applicable, the CFCU and all relevant Implementing Agencies may be checked at the Commission's discretion by an outside auditor contracted by the Commission without prejudice to the responsibilities of the Commission and the Court of Auditors as referred to in the General Conditions relating to the Financing Memorandum attached to the Framework Agreement signed with the government of each beneficiary country.

The Commission services shall ensure that an ex-post evaluation is carried out after completion of the Programme.

6. VISIBILITY / PUBLICITY

The appropriate Programme Authorising Officer (PAO) will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all activities financed from the Programme. This will be done in close liaison with the Commission Delegation in the relevant beneficiary country. Further details are at the annex III "Visibility/Publicity".

7. SPECIAL CONDITIONS

In the event that agreed commitments are not met for reasons, which are within the control of the respective Government of Hungary and Government of Romania, the Commission may review the Programme with a view, at the Commission's discretion, to cancelling all or part of it and/or to re-allocate unused funds for other purposes consistent with the objectives of the Phare Programme.

Almost all the appropriate structures for implementation and management have already been set up during the previous CBC programme, proving that parties involved are able to co-operate to fulfil the proposed objectives. A letter of commitment will accompany every project approved by JCC, stating the fact that local co-financing will be made available by the beneficiaries.

Each construction project will include adequate independent supervision of projects. Works will be tendered to pre-qualified contractors with relevant financial capacity, and technical and FIDIC experience.
