

## 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>	<b>RO 0102</b>
<u>Title:</u>	<b>2001 Cross-Border Co-operation Programme between Romania and Hungary</b>
<u>Duration:</u>	<b>Until 30 November 2003</b>

### 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 30 November 2003** 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 **30 November 2004** with the exception of project RO0102.02 "Protection and promotion of the Meadows of Mures River", where the disbursement expiry date is **30 November 2005**. 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  
48a, Bd Primaverii  
71297 Bucharest  
Romania

Tel : (+40-1) 203 54 00  
Fax : (+40-1) 230 24 53

**for THE RECIPIENT:**

The Government Romania  
Ministry of European Integration  
17, Apolodor St.  
Bucharest 5  
Romania

Tel.: (40-1) 301 15 06  
Fax: (40-1) 336 85 09

### 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 *4 December 2001*

for THE RECIPIENT



Mrs. Hildegard Puwak  
Minister of European integration  
National Phare Co-ordinator

Done at Bucharest

Date *4 December 2001*

for THE COMMUNITY



Mr. Jonathan Scheele  
Head of European Commission  
Delegation to Romania

Annex 1	Framework Agreement
Annex 2	Special Provisions
Annex 3	Visibility and Publicity

## **ANNEX II – 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 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 programme results are reflected in the following priority areas:**

- To strengthen economic co-operation in the border region by supporting relations among institutions representing the business sector and encouraging SME initiatives (Project HU01.07.01) and strengthening the cross border partnership by promotion of business and financial co-operation and enterprise development as well as co-operation between institutions representing the business sector in the border region (RO01.02.01);
- To promote environmental protection by reducing the effects of natural calamities in the Körös Valley (Project HU01.07.02) and the protection and promotion of the bio-diversity in the Romanian-Hungarian border region, respectively within the Meadows of the Mures River (Project RO01.02.02);
- Setting up of a flexible mechanism to finance the so called “small-scale and people-to-people projects” within socio-economic development field (local economic development, training and employment measures, improvement of the flow of information and communication, cultural exchanges, support for media etc) with a cross-border impact (Project HU01.07.03 and Project RO01.02.03)
- In order to enhance the ability of elaborating a multi annual strategy and to improve programming and project management skills in the field of cross-border co-operation programmes, Romania envisages, as a very important point in the programme, a technical assistance for the implementation of the multi-annual strategy agreed between Romania and Hungary (Project RO01.02.04). It will be the first time Romania receives such assistance for the Cross-Border Co-operation Programme with Hungary.

#### **1.3. Programme Description**

The programme has been designed following bilateral contacts between Romania and Hungary, several consultations with EC Delegations in both countries and DG Enlargement recommendations reflecting in fact the Commission Regulation No. 2760/98, concerning the

implementation of CBC programmes in the framework of the Phare programmes. The projects selected for support in the Phare CBC Hungary-Romania 2001 Programme are in accordance with the content of the JPD.

As an evidence of an increasing co-operation between the two countries, the projects agreed for the programme CBC 2001 are mirror projects.

### **1.3.1 – JPD PRIORITY: Economic Development**

After an analysis of the social-economical environment of the Romanian and Hungarian border regions, the following weaknesses have been identified:

- rather low level of promotion regarding the bilateral investments,
- low level of common economic events in spite of the regions' potential and the existence of a common strategy of development,
- the regions do not have suitable multi-functional centres that can ensure the organisation of major local and cross-border events,
- unbalanced economic development between the border regions.

Based on this analysis and on experience gained from the previous co-operation between Romania and Hungary, a potential for the development of the economic and social environment in the cross-border area has been identified. For speeding up such activities, the necessity of creating multi-functional buildings that could host activities for economic development and foster co-operation activities has risen.

#### **Project HU01.07.01 - Makó Business and Service Centre for strengthening Hungarian-Romanian cross-border relations**

The project aims at promoting the co-operation between institutions representing the business sector, increasing the business partnerships and contacts with Romania and encouraging the SME initiatives for cross border co-operation by providing them the access to the information on the possibilities and markets existing beyond the border.

Through the implementation of the project a Regional Business and Service Centre for the promotion of cross-border economic activities will be established and an Incubator House in the Industrial Park of Makó will be set up. The newly created establishments and their service and training activity will make possible a better leverage of the opportunities offered by the Makó Entrepreneurial Zone and Industrial Park. Advantageous business services and training programmes for both Hungarian and Romanian SMEs will be provided. The Business and Service Centre will also act as a micro-regional information centre, where all business services and data from other regional institutions interested in cross-border co-operation are available for the local entrepreneurs. The experience gained during the cross-border co-operation will be extended to the entire Hungarian-Romanian border region.

Applicant name:	Self-government of Makó
Total project cost:	3,200,000 EUR
Phare CBC:	2,400,000 EUR
Own contribution:	800,000 EUR
Romanian mirror project:	RO01.02.01 Construction of a Regional Business Centre for Promoting Economic Activities - Timisoara.

### **Project RO0102.01 – Construction of a Regional Business Centre for Promoting Economic Activities – Timisoara (RO)**

The project aims at strengthening the cross-border co-operation between Romania and Hungary, in particular by promoting economic activities between the two border regions through the creation of a Regional Business Centre and the establishment of a programme to promote the utilisation of the Regional Business Centre for cross-border activities.

A Regional Business Centre for promoting the Economic and Training Activities as a multifunctional building will be designed, built and commissioned in accordance with the European standards. It will have a surface of 5100 sqm from which 4000 will include:

- rooms for meetings, business partnerships, seminars and training activities, equipped with multi-media presentation tools;
- areas for permanent exhibitions;
- conference rooms equipped with simultaneous translation systems and multi-media presentation tools;
- administrative premises for a centre of promoting exports, member of centres in European co-operation networks;
- offices for the administrative activity of the centre.

A programme to promote the utilisation of the Regional Business Centre in particular for cross-border activities will also be established, in order to ensure a high utilisation rate of this new building.

This centre will be open for both the Romanian and the Hungarian inhabitants and companies, and will increase the regional economic and social stability and improve the relationships between the two border regions. This will ensure a harmonised development and a well-balanced economic and social environment.

The Timisoara Chamber of Commerce, Industry and Agriculture (TCCIA) will bear the running costs for this facility.

Applicant name:	Timisoara Chamber of Commerce, Industry and Agriculture Regional Development Agency no.V - West Region
Total project cost:	3, 070,000 EUR
Phare CBC:	2,300,000 EUR
Own contribution:	770,000 EUR (from TCCIA)
Hungarian mirror project:	HU01.07.01 - Makó Business and Service Centre for strengthening Hungarian-Romanian cross-border relations

### **1.3.2 – JDP PRIORITY: Environmental Protection, Water Resource Management**

Hungary and Romania have quite a long common border with several rivers crossing it, that is why environmental protection especially water management has great importance among cross border issues. This explains why Romanian – Hungarian good neighbouring relations have recently be tensioned due the ecological accident of Baia-Mare. Common water management has a few decades tradition along the border but co-operation between the relevant authorities should

be further improved. Measures aiming at improvement of information and monitoring systems of water quality, forecasting methods are the most important. Preservation of natural resources stretching over the border also should be emphasised and promoted.

### **Project HU01.07.02 – Flood control development of Körös Valley**

With the implementation of the project aiming at the development of flood control in the Körös Valley the flooding phenomena emerging in Romanian territory will be better known, the understanding of the hydrological factors causing these phenomena will be improved. The objective of flood control will become safely attainable with embankments of appropriate cross-sectional dimensions, which serves the purpose of protecting national assets in the value of approximately 400 MEUR. The modern, economically reasonable, and mechanised maintenance of the embankments will also become possible.

The data transmission and communication equipment will make the monitoring of all events on the flood control embankments much faster. The project providing flood control development in the Körös Valley will also promote sustainable economic growth of the Berettyó and Körös Rivers region.

Applicant name:	District Water Authority of Körös Valley
Total project cost:	2,800,000 EUR
Phare CBC:	2,100,000 EUR
Own contribution:	700,000 EUR
Romanian mirror project:	RO01.02.02. – Protection and promotion of the Meadows of Mures River

### **Project RO01.02.02. – Protection and promotion of the Meadows of Mures River**

The project aims at protecting the bio-diversity in the Romanian-Hungarian border region by scientific monitoring and protection of a diversified ecosystem: the Meadow of the Mures River. The project will include the following aspects:

- Monitoring of the ecosystem - The monitoring activity of the inferior Meadow of the Mures River will consist in collecting data that will feed a database, in order to be aware of the changes occurring to the ecosystem. Phare will finance the procurement of the necessary equipment.
- Protection of the area – The access to the protected area will be rehabilitated. Enclosing against human impacts, like fences, hedges, ditches, which should not disturb local natural migration of the wild animals, will be installed. A pump to assure the constant water level into the Bezdin Lake will be commissioned.
- Creation of a centre for visitors – An administrative centre, which will include offices, laboratories, informational centre and bedrooms will be built. There will also be a research laboratory for ecosystem monitoring, informational centre and a conference/show room, and bedrooms which will be used for administrative staff, researchers and in possibility limit for visitors in organised groups.
- Promotion of tourism and ecological education - A program for visiting the reservation will also be implemented as part of a regional tourist circuit.

This project will contribute to the development of cross border co-operation in the field of

environment, which is a starting point for the future River Basin approach between candidate countries that is recommended by the new Water Framework Directive.

Moreover, the Koros – Maros National Park in Hungary stops at the Romanian border and therefore does not include the Inferior Meadow of the Mures River, although it is part of the same ecosystem. The monitoring and preserve activities in this area will facilitate a future joint management of the Hungarian and Romanian parts of this ecosystem.

Applicant name:	National Forests Department – Forestry Directorate Arad, in collaboration with Environmental Protection Inspectorate of Timisoara and Environmental Protection Inspectorate of Arad
Total project cost:	2,670,000 EUR
Phare CBC:	2,000,000 EUR
Own contribution:	670,000 EUR (from the National Forests Department Forestry Directorate Arad)
Hungarian mirror project:	HU01.07.02 – Flood control development of Körös Valley

Due to the necessary long duration of the monitoring and protection activities in order to reach a sufficient impact, the disbursement expiry date for this project will be 30 November 2005.

### **1.3.3. JPD PRIORITY – Joint Small Project Fund**

With a view to strengthen the local cross-border co-operation of the two border regions, Romania and Hungary decided in early 2000 to start to implement a JSPF. This scheme will finance “soft” projects: business co-operation, enterprise development, technology transfer and marketing for small and medium size enterprises, training, employment, measures for health and cultural exchanges, improvement of information flow and communications between border regions etc. In order to reach a sufficient impact, these schemes need to be implemented in a multi annual perspective: it is therefore proposed to continue this initiative.

### **Projects RO01.02.03 and HU01.07.03 – Joint Small Project Fund**

The Joint Small Project Fund will be established as a flexible mechanism that finances the “small-scale and people-to-people” projects with a cross-border impact. The Joint Co-operation Committee (JCC) has agreed unanimously that the Phare allocation is identical for each country. The JSPF will operate following the Specific Guidelines developed for the 2000 exercise and approved by the Commission Services (EC Delegations) and the Practical Guide to Phare ISPA and SAPARD. Precise joint guidelines will be elaborated by the two countries, and will have to be endorsed by both EC Delegations in Romania and in Hungary. In principle, the JSPF will be implemented as follows: an ad hoc JSPF Committee (joint committee with representatives from both Hungary and Romania) will be established. This Committee will issue a call for proposals that must be open and fair to all eligible organisations. The submitted applications will be assessed by an appropriate Team of Assessors appointed by the JSPF Committee. The final decisions are taken on the basis of these recommendations..

The project applicants will, in many cases, need considerable development assistance. Training and information workshops may be organised to inform and assist would-be participants, so as to



ensure high transparency and encourage good quality proposals. The Secretariat will also appoint experts to visit would-be project applicants in order to provide assistance, especially in relation to matters such as project cost assessment.

The SPF is designed to make available a total Phare contribution of 500,000 EUR/border region. Up to 7% of the PHARE contribution (maximum 35 000 EUR for each country) may be used for expenditure relating to the preparation, selection, appraisal and monitoring of the assistance.

Co-financing is needed and will be one criterion for eligibility of projects. Minimum co-financing will be 10% of the cost of each soft project (in cash or in kind).

Total project cost:	1,100,000 EUR	(550,000 EUR for each country)
Phare CBC:	1,000,000 EUR	(500,000 EUR for each country)
Own contribution:	100,000 EUR	(50,000 EUR for each country)

#### **1.3.4. JPD PRIORITY: Institutional Development, Institutional co-operation**

The Romanian CBC Programme Co-ordination Unit (CBC PCU) within the Ministry of Development and Prognosis is in the establishment phase, the nominated staff being not fully acquired with the necessary skills, routines and experience to successfully enter into and manage the complexity of the future projects. External assistance is therefore needed to strengthen this team. It will be the first time Romania receives such assistance for the Cross-Border Co-operation Programme with Hungary.

CBC programmes are focused on investment for major infrastructure projects of common interest in the transport, energy, environment and economy development sectors, including small-scale projects within Small Projects Fund contributing this way to accession preparation. The article 5 paragraph 4 of the Commission Regulation (EC) No. 2760/98 states that the establishment of development plan, project identification and assistance for the implementation may be financed.

#### **Project RO01.0204 - Assistance for the implementation of the multi-annual strategy agreed between Romania and Hungary**

The project aims at enhancing the ability of elaborating a multi annual strategy and improving programming and project management skills in the field of Cross-Border Co-operation programmes. It will also strengthen the capabilities of the Ministry of Development and Prognosis (MDP) to successfully co-ordinate the preparation and implementation of the multi-annual strategy agreed between Romania and Hungary, including the implementation of projects that are financed in this framework.

The main activities will consist on:

- Assistance to the CBC PCU in preparing the Joint Programming Document referring to the cross-border co-operation, according to the new EC guidelines.
- Preparation and implementation of relevant training sessions for the local actors involved in project selection, evaluation and monitoring procedures.

- Assistance to the CBC PCU in managing the projects financed under Phare CBC RO/HU Programme and setting up the necessary co-operation relationship between MDP and beneficiary institutions.
- If necessary, support to the project beneficiaries (local authorities and line ministries) for preparing the terms of reference and/or technical specification for CBC projects.

Applicant name:	Ministry of Development and Prognosis, Cross Border Co-operation Directorate
Total project cost:	200,000 EUR
Phare CBC:	200,000 EUR

#### **1.4. Conditionality**

Phare support for all projects is provided subject to the availability of national co-financing as defined in the budget table below.

All investment projects which, according to the rules stipulated in Directive 85/337/CEE, as amended by Directive 97/11, require an Environmental Impact Assessment, should be the subject of an Environmental Impact Assessment. If the directive has not yet been fully transposed, the procedure should be similar to that established by the above-mentioned directive.

All investment projects shall be carried out in compliance with the relevant Community environmental legislation. The Project Fiches will contain specific clauses on compliance with the relevant EU-legislation in the field of the environment according to the type of activity carried out under each investment project.

The final implementing rules of the JSPF will be subject to verification and approval from the two Delegations.

## **2. BUDGET**

No.	Priority / Project Title	PHARE			National Cofinancing in €	Total in €
		Institution Building	Investment Support	TOTAL		
	<b>Economic Development</b>	<b>50,000</b>	<b>4,650,000</b>	<b>4,700,000</b>	<b>1,570,000</b>	<b>6,270,000</b>
HU0107.01	Makó Business and Service Centre for strengthening Hungarian-Romanian cross-border relations	0	2,400,000	2,400,000	800,000	3,200,000
RO0102.01	Construction of a Regional Business Centre for Promoting Economic Activities – Timisoara	50,000	2,250,000	2,300,000	770,000	3,070,000
	<b>Environmental Protection, Water Resource Management</b>	<b>200,000</b>	<b>3,900,000</b>	<b>4,100,000</b>	<b>1,370,000</b>	<b>5,470,000</b>
HU0107.02	Flood control development of Körös Valley	0	2,100,000	2,100,000	700,000	2,800,000
RO 0102.02	Protection and promotion of the Meadows of Mures River	200,000	1,800,000	2,000,000	670,000	2,670,000
	<b>Joint Small Project Fund</b>	<b>1,000,000</b>	<b>0</b>	<b>1,000,000</b>	<b>100,000</b>	<b>1,100,000</b>
HU0107.03	Joint Small project fund	500,000	0	500,000	50,000	550,000
RO0102.03	Joint Small project fund	500,000	0	500,000	50,000	550,000
	<b>Institutional Development, Institutional co-operation</b>	<b>0</b>	<b>200,000</b>	<b>0</b>	<b>0</b>	<b>200,000</b>
RO010204	Assistance for the implementation of the multi-annual strategy	0	200,000	0	0	200,000
	Hungary	500,000	4,500,000	5,000,000	1,550,000	6,550,000
	Romania	750,000	4,250,000	5,000,000	1,490,000	6,490,000
	<b>TOTAL</b>	<b>1,250,000</b>	<b>8,750,000</b>	<b>10,000,000</b>	<b>3,040,000</b>	<b>13,040,000</b>

## **3. IMPLEMENTATION ARRANGEMENTS**

### **3.1. Institutional Structures in Romania**

In Romania, the Implementing Agency will be the Ministry of Development and Prognosis, through its Cross Border Co-operation Directorate, which will retain overall responsibility for the implementation of the programme, including: approval of tender documents, evaluation criteria, evaluation of offers, signature of contracts, authorisation of invoices, excepting the payments of invoices that will be made by the Payments Directorate within the same ministry. The CBC Directorate also includes a unit for the National Co-ordination of CBC programmes nominated as CBC Programme Co-ordination Unit (CBC - PCU). This unit will liaise with the beneficiary institutions and with the line Ministries to prepare Terms of Reference, tender documents, evaluation criteria, evaluation of offers, negotiation of contracts, invoices for payment etc. For the

works contracts under FIDIC rules, an official on behalf of project beneficiary acts as the Employer and invoices have to be certified by the independent Engineer contracted and financed by the Programme.

Project beneficiary institutions report monthly to the National Co-ordinator for CBC, 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.

### **3.2. Institutional Structures in Hungary**

In Hungary, the overall responsibility for programme co-ordination and financial management will rest with the Ministry of Agriculture and Regional Development. The Ministry set up a National Agency for Regional Development for various CBC Programmes and the Phare Programme Authorising Officer was nominated. 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. The office has specific tasks, such as: preparation and organisation of awareness-raising activities and management of Small Projects Fund.

### **3.3. Implementation arrangements in Romania**

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures<sup>1</sup>. The National Aid Co-ordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes. The National Aid Co-ordinator and the National Authorising Officer shall be jointly responsible for co-ordination between PHARE (including PHARE CBC), ISPA and SAPARD.

The National Fund (NF) in the Ministry of Public Finances, headed by the National Authorising Officer (NAO) will supervise the financial management of the Programme, and will be responsible for all aspects of financial control and reporting to the European Commission. The National Authorising Officer shall have overall responsibility for financial management of the PHARE funds. He shall ensure that the PHARE rules, regulations and procedures pertaining to procurement, reporting and financial management as well as Community state aid rules are respected, and that a proper reporting and project information system is functioning. The National Authorising Officer shall have the full overall accountability for the PHARE funds of a programme until the closure of the programme.

Appropriate financial control shall be carried out by the competent National Control Authority with respect to the implementation of the programme.

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and Romania on 20 October 1998. 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 signature of the Financing Memorandum and the Financing Agreements (FAs) between the NF and the Implementing Agencies (IAs)/Central Finance and Contracts 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

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<sup>1</sup> taking into consideration the rules set down in the annex of Council Regulation 1266/1999

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 HQs, 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 National Fund will transfer funds to IAs, including the Central Finance and Contracts Unit (CFCU), in accordance with Financing Agreements (FAs) signed between the NFs 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 IAs must each 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.

The Ministry of Development and Prognosis of Romania will be the Implementing Agency (IA).

A separate interest bearing bank account, denominated in EUR will be opened and managed by the NF in a separate accounting system in a Bank agreed in advance with the Commission. 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 funds transferred to the Implementing Agency.

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

All contracts must be concluded by 30 November 2003.

All disbursements must be concluded by 30 November 2004, **with the exception of project RO0102.02 "Protection and promotion of the Meadows of Mures River", for which the expiry date for disbursement is 30 November 2005.**

Any funds not used by the expiry dates 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 annually be provided by the NAO to the Commission.

### 3.4. Implementation arrangements in Hungary

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures<sup>2</sup>. The National Aid Co-ordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes. The National Aid Co-ordinator and the National Authorising Officer shall be jointly responsible for co-ordination between PHARE (including PHARE CBC), ISPA and SAPARD.

The National Fund (NF) in the Ministry of Finance, headed by the National Authorising Officer (NAO), will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. The National Authorising Officer shall have overall responsibility for financial management of the PHARE funds. He shall ensure that the PHARE rules, regulations and procedures pertaining to procurement, reporting and financial management as well as Community state aid rules are respected, and that a proper reporting and project information system is functioning. The National Authorising Officer shall have the full overall accountability for the PHARE funds of a programme until the closure of the programme.

Appropriate financial control shall be carried out by the competent National Control Authority with respect to the implementation of the programme.

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and Hungary on 17 December 1998. 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 signature of the Financing Memorandum and the Financing Agreements (FAs) between the NF and the Implementing Agencies (IAs)/Central Finance and Contracts 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 HQs, 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 National Fund will transfer funds to IAs, including the Central Finance and Contracts Unit (CFCU), in accordance with Financing Agreements (FAs) signed between the NFs 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 IAs must each 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.

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<sup>2</sup> taking into consideration the rules set down in the annex of Council Regulation 1266/1999

The Ministry of Agriculture and Regional Development will be the Implementing Agency (IA).

A separate interest bearing bank account, denominated in EUR will be opened and managed by the NF in a separate accounting system in a Bank agreed in advance with the Commission. 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 being prepared in accordance with the procedures set out in the DIS Manual.

All contracts must be concluded by 30 November, 2003.

All disbursements must be concluded by 30 November, 2004.

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 annually be provided by the NAO to the Commission.

### **3.5. Joint Co-operation Committee**

A Joint Co-operation Committee (JCC) has been established on the basis of the requirements of Commission Regulation No. 2760/98, Art. 7(1).

The co-chairmen of the Joint Co-operation Committee are on the level of:

- Secretary of State for the Romanian Ministry of Development and Prognosis;
- Secretary of State for the Hungarian Ministry of Agriculture and Regional Development.

The co-chairmen define the composition of their respective delegations to the JCC, on central and local public administration level, and may set up field working groups consisting of representatives of local authorities and experts from the ministries and other institutions concerned. These working groups will review in detail the progress of each project, putting forward recommendations on aspects of management and evaluation, reporting to the JCC.

The European Commission representatives take part to the meetings of JCC as members. They examine the conformity with EU rules, requirements of proposed measures and projects, and of implementation arrangements, taking a view on the complementary of project proposals with respect to the Phare CBC both countries' components.

The ordinary meetings of JCC would be held every six months to review the programme, in either of the countries concerned, in order to assess its progress towards meeting the objectives set out. Extraordinary meetings may be required during the period of preparation of programmes and annual financing proposals or in case of any special implementation issue. Such events may be called at any time, by agreement of co-chairmen or the Commission. Extraordinary meetings called at the request of the Commission may be held in Brussels.

The preparation of reports, agendas and minutes of the meetings of the JCC are organised by the co-chairmen and their services.

The JCC, deciding by consensus, should in particular to:

- Give its opinion on the priorities, objectives and CBC proposed measures to be included in the Joint Programming Document;
- Approve the final annual selection of project proposals;
- Receive progress reports, reviews and assessments of the already approved programmes and their component parts;
- Initiate and support activities that could promote CBC measures and make more effective current and future CBC programmes.

#### **4. MONITORING AND ASSESSMENT**

A Joint Monitoring Committee (JMC) will be established. It will include the NAO, the NAC and the Commission. The JMC will meet at least once a year 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. The JMC may recommend a change of priorities and/or the re-allocation of Phare funds.

The JMC will be assisted by Monitoring Sub-Committees (MSC) and will include the NAC, the PAO and the Commission Services. The above-mentioned Joint Co-operation Committee (JCC) will act as Monitoring Sub-Committee (MSC) for the CBC Programme.

The JMC will be assisted by Monitoring Sub-Committees (MSC) and will include the NAC, the PAO of each IA (and of the CFCU where applicable) and the Commission Services. The MSC will review in detail the progress of each 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 MSC will report to the JMC, to which it will submit overall detailed reports on all Phare financed programmes.”

#### **5. ANTI-FRAUD-MEASURES, AUDIT AND EVALUATION**

All financing memoranda as well as the resulting contracts are subject to supervision and financial control by the Commission (including the European Anti-fraud Office) and the Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Candidate Country concerned and on-the-spot checks.

In order to ensure efficient protection of the financial interests of the Community, the Commission can conduct check-ups and inspections on site in accordance with the procedures foreseen in Council Regulation (Euratom, EC) No. 2185/96 dated from November 11, 1996, concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.



The procedures foreseen in Art. 15 para 3 of Commission Regulation No. 2222/2000 dated from June 7, 2000, on the communication in case of irregularities and the putting in place of a system to administrate the information in this field shall apply.

“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 European Union's Court of Auditors as referred to in the General Conditions relating to the Financing Memorandum attached to the Framework Agreement.

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 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. Further details are at the Annex 'Visibility/Publicity.

## **7. SPECIAL CONDITIONS**

In the event that agreed commitments are not met for reasons, which are within the control of the Government of Hungary or the 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.

All the adequate structures for implementation and management have been already set up during the previous similar programmes, 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.

# **ANNEX III – VISIBILITY/PUBLICITY**

## **INFORMATION AND PUBLICITY FOR THE PHARE, ISPA AND SAPARD PROGRAMMES OF THE EUROPEAN COMMUNITIES**

### **1. Objective and scope**

Information and publicity measures concerning assistance from the European Community Phare Programme are intended to increase public awareness and transparency of EU action and to create a consistent image of the measures concerned in all applicant countries. Information and publicity shall concern measures receiving a contribution from the Phare Programme.

### **2. General principles**

The appropriate Programme Authorising Officer in charge of the implementation of Financing Memoranda, and other forms of assistance shall be responsible for publicity on the spot. Publicity shall be carried out in co-operation with the EC Delegations, which shall be informed of measures taken for this purpose.

The competent national and regional authorities shall take all the appropriate administrative steps to ensure the effective application of these arrangements and to collaborate with the EC Delegations on the spot.

The information and publicity measures described below are based on the provisions of the regulations and decisions applicable to the Structural Funds. They are :

- Art. 32 of Regulation (EEC) No 4253/88, as amended by Regulation (EEC) No 2082/93, Official Journal of the European Communities No L193/20, 31 July 1993;
- Commission Decision of 31 May 1994; Official Journal of the European Communities No L 152/39, 18 June 1994.

Information and publicity measures must comply with the provisions of the above mentioned regulation and decision. A manual on compliance is available to national, regional and local authorities from the EC Delegation in the country concerned.

### **3. Information and publicity concerning Phare programmes**

Information and publicity shall be the subject of a coherent set of measures defined by the competent national, regional and local authorities in collaboration with the EC Delegations for the duration of the Financing Memorandum and shall concern both programmes and other forms of assistance.

The costs of information and publicity relating to individual projects shall be met from the budget for those projects.

When Phare programmes are implemented, the measures set out at (a) and (b) below shall apply:

- (a) The competent authorities of the applicant countries shall publish the content of programmes and other forms of assistance in the most appropriate form. They shall ensure that such documents are appropriately disseminated and shall hold them available for interested parties. They shall ensure the consistent presentation throughout the territory of the applicant country of information and publicity material produced.

(b) Information and publicity measures on the spot shall include the following :

(i) In the case of infrastructure investments with a cost exceeding EUR 1 million :

- billboards erected on the sites, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.
- permanent commemorative plaques for infrastructures accessible to the general public, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.

(ii) In the case of productive investments, measures to develop local potential and all other measures receiving financial assistance from Phare, ISPA or SAPARD :

- measures to make potential beneficiaries and the general public aware of Phare, ISPA or SAPARD assistance, in accordance with the provisions cited at paragraph 3(b)(i) above.
- measures targeting applicants for public aids part-financed by Phare, ISPA or SAPARD in the form of an indication on the forms to be filled out by such applications, that part of the aid comes from the EU, and specifically, the Phare, ISPA or SAPARD Programmes in accordance with the provisions outlined above.

#### **4. Visibility of EU assistance in business circles and among potential beneficiaries and the general public**

##### **4.1 Business circles**

Business circles must be involved as closely as possible with the assistance which concerns them most directly.

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to potential beneficiaries, particularly SMEs. These should include an indication of the administrative procedures to be followed.

##### **4.2 Other potential beneficiaries**

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to all persons who benefit or could benefit from measures concerning training, employment or the development of human resources. To this end, they shall secure the co-operation of vocational training bodies involved in employment, business and groups of business, training centres and non-governmental organisations.

##### **Forms**

Forms issued by national, regional or local authorities concerning the announcement of, application for and grant of assistance intended for final beneficiaries or any other person eligible for such assistance shall indicate that the EU, and specifically the Phare, ISPA or SAPARD Programmes, is providing financial support. The notification of aid sent to

beneficiaries shall mention the amount or percentage of the assistance financed by the Programme in question. If such documents bear the national or regional emblem, they shall also bear the EU logo of the same size.

#### 4.3 The general public

##### The media

The competent authorities shall inform the media in the most appropriate manner about actions co-financed by the EU, and Phare, ISPA or SAPARD in particular. Such participation shall be fairly reflected in this information.

To this end, the launch of operations (once they have been adopted by the Commission) and important phases in their implementation shall be the subject of information measures, particularly in respect of regional media (press, radio and television). Appropriate collaboration must be ensured with the EC Delegation in the applicant country.

The principles laid down in the two preceding paragraphs shall apply to advertisements such as press releases or publicity communiqués.

##### Information events

The organisers of information events such as conferences, seminars, fairs and exhibitions in connection with the implementation of operations part-financed by the Phare, ISPA or SAPARD Programmes shall undertake to make explicit the participation of the EU. The opportunity could be taken of displaying the European flags in meeting rooms and the EU logo upon documents depending on the circumstances. The EC Delegation in the applicant country shall assist, as necessary, in the preparation and implementation of such events.

##### Information material

Publications (such as brochures and pamphlets) about programmes or similar measures financed or co-financed by Phare, ISPA or SAPARD should, on the title page, contain a clear indication of the EU participation as well as the EU logo where the national or regional emblem is used.

Where such publications include a preface, it should be signed by both the person responsible in the applicant country and, for the Commission, the Delegate of the Commission to ensure that EU participation is made clear.

Such publications shall refer to the national and regional bodies responsible for informing interested parties.

The above-mentioned principles shall also apply to audio-visual material.

### 5. **Special arrangements concerning billboards, commemorative plaques and posters**

In order to ensure the visibility of measures part-financed by the Phare, ISPA or SAPARD Programmes, applicant countries shall ensure that the following information and publicity measures are complied with :

##### Billboards

Billboards providing information on EU participation in the financing of the investment should be erected on the sites of all projects in which EU participation amounts to EUR 1 million or more. Even where the competent national or regional authorities do not erect a billboard

announcing their own involvement in financing the EU assistance must nevertheless be announced on a special billboard. Billboards must be of a size which is appreciable to the scale of operation (taking into account the amount of co-financing from the EU) and should be prepared according to the instructions contained in the technical manual obtainable from EC Delegations, referred to above.

Billboards shall be removed not earlier than six months after completion of the work and replaced, wherever possible, by a commemorative plaque in accordance with the specifications outlined in the technical manual referred to above.

#### Commemorative plaques

Permanent commemorative plaques should be placed at sites accessible to the general public (congress centres, airports, stations, etc.). In addition to the EU logo, such plaques must mention the EU part-financing together with a mention of the relevant Programme (Phare, ISPA or SAPARD).

Where a national, regional or local authority or another final beneficiary decides to erect a billboard, place a commemorative plaque, display a poster or take any other step to provide information about projects with a cost of less than EUR 1 million, the EU participation must also be indicated.

## **6. Final provisions**

The national, regional or local authorities concerned may, in any event, carry out additional measures if they deem this appropriate. They shall consult the EC Delegation and inform it of the initiatives they take so that the Delegation may participate appropriately in their realisation.

In order to facilitate the implementation of these provisions, the Commission, through its Delegations on the spot, shall provide technical assistance in the form of guidance on design requirements, where necessary. A manual will be prepared in the relevant national language, which will contain detailed design guidelines in electronic form and this will be available upon request.