

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 the Republic of **Bulgaria**, 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>	BG 0107
<u>Title:</u>	2001 Cross-Border Co-operation Programme between Bulgaria and Romania
<u>Duration:</u>	Until 30 November 2003

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of **€ 8 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 BG0107.01 "Construction of a Crossing Border Check Points in Silistra" and project BG0107.02 "Rehabilitation of road II-29 from the Bulgaria/Romania border (Negru Voda) to General Toshevo", where the disbursement expiry dates are **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
9 Moscovska Str
PO Box 668 BG
1000 Sofia
Bulgaria

Tel: (+359 2) 933 5252
Fax: (+359 2) 933 5233

for THE RECIPIENT:

Ministry of Foreign Affairs
Department for European Integration
2 Al. Jendov Str.
1040 Sofia
Bulgaria

Tel: (+ 359 2) 739 922
Fax: (+ 359 2) 971 2906

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.

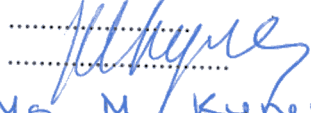
The Annexes shall be deemed an integral part of this Memorandum.



Done at Sofia
Date 07.12.2004

Done at Sofia
Date 07.12.2004

for THE RECIPIENT


Ms. M. Kucheva
Deputy Minister of Foreign Affairs

for THE COMMUNITY




Annex 1	Framework Agreement (with its annexes A and B)
Annex 2	Special Provisions
Annex 3	Information 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 (and the Bulgarian-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.
- To promote economic and social cohesion in the border regions.

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

- To improve the local and Trans-national infrastructure, in particular in the field of transport by the construction of a new access between the two countries (projects BG0107.01 and RO0103.01) and through the improvement of an access road to the border (project BG0107.02)
- To promote the environmental protection by implementing a joint monitoring system of the Black Sea Coast (projects BG0107.03 and RO0103.02), and by preserving an islet in the Danube (project RO0103.03). Additional environmental projects will also be prepared (project BG0107.04)
- To promote the socio-economic Regional Development in the CBC Region through the continuation of a Joint Small Projects Fund (projects BG0107.05 and RO0103.04)

1.3. Programme Description

The programme has been designed following bilateral contacts between Bulgaria and Romania, 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 Bulgaria-Romania 2001 Programme were approved during the Joint Co-operation (JCC) meeting held on 16 March 2001 in Constanta and are in accordance with the content of the JPD.

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

1.3.1 JPD priority: Improvement of local and Trans-national infrastructures

The Danube forms a natural border between Bulgaria and Romania, and has been an obstacle for extensive trades and co-operation between the border regions for a long time. In that context, the cross-border access points are not very numerous. It is necessary to create new ones, and to improve the existing ones so that they do not constitute a bottleneck to the development of any form of cross-border co-operation.

Project BG0107.01 - Construction of a Crossing Border Check Points in Silistra and Project RO0103.01 - The border crossing between Calarasi and Silistra (mirror projects)

The proposed projects consist in the construction of a border crossing at Silistra-Calarasi, and the commissioning of a new ferry boat to cross the Danube in the Romanian territory. These two mirror projects aim at improving the Cross-Border co-operation between Bulgaria and Romania through the creation of a new border crossing. They will also facilitate passing through the Border Crossing by travellers and vehicles by reducing waiting time and by streamlining border crossing formalities.

As regards the cross border impact, these projects will foster cross border co-operation at local and national levels and promote cultural exchanges and the integration of the two border regions. It will also encourage economic development on both sides of the border in an economically depressed region.

On the Bulgarian side, the foreseen activities are:

- The preparation by the Bulgarian authorities of the tender documentation in close relation with the Romanian authorities.
- Technical Assistance in order to review the existing Tender Documents.
- Civil works for construction of the Checkpoint, which include customs control building, Passport and visa control building, vehicle-disinfecting building...
- The Bulgarian authorities undertake the obligation to provide simultaneously all required feeding infrastructures, including the approach road to the border-crossing checkpoint.
- The supervision of the works

Bulgarian beneficiary:	Ministry of Regional Development and Public Works
Total cost of the project:	4.905 MEUR
Phare allocation:	2.600 MEUR
Co-financing:	2.305 MEUR (state budget)

On the Romanian side, the foreseen activities are:

- The detailed design and the engineering of the project in close co-ordination with the Bulgarian authorities.
- The construction of the infrastructures, which include the achievement of loading-unloading platforms, adaptation and consolidation of the banks, internal roads, networks and utilities infrastructure (water supply, electric power, thermal energy).
- The construction of the CheckPoint.
- The modernisation and consolidation of the access road.
- The procurement of a transport ship to cross the Danube.

Romanian beneficiary:	Calarasi County Council and National Administration of Roads
Total cost of the project:	5.05 MEUR

Phare allocation: 3.30 MEUR
Co-financing: 1.75 MEUR (1.25 MEUR from Calarasi County Council and 0.5 MEUR from the Ministry of Public Works, Transport and Housing/National Administration of Roads)

Due to the complex co-ordination that is needed during the implementation of the mirror projects (within the countries and between Romania and Bulgaria) and complex phasing of the works, it is expected that the work contracts will have a duration of around 28 months. Therefore, the expiry date for disbursement for both projects will be 30 November 2005.

Project BG0107.02 - Rehabilitation of road II-29 from the Bulgaria/Romania border (Negru Voda) to General Toshevo

The pavement of road II-29 from the Bulgaria/Romania border (Negru Voda) to General Toshevo is in bad condition. A recent condition survey shows worn asphalt surfacing with extensive pot holing (which has been repaired only by hand packing), rutting, and disintegration of the edges and margins.

The proposed project consists in rehabilitation of approximately 13 km of road II-29 from km 71+390 (General Toshevo) to km 84+320 (Border Crossing). The rehabilitated section will comply with the EU standards, and in particular as regards the maximum authorised weight of 11.5 T per axle. The large Bulgarian towns like Varna and Dobrich as well as the small ones as Aksakovo, General Toshevo and Kardam (near the border) will benefit from of the implementation of the Project.

As regards the cross-border impact, this project will contribute to facilitate the approach to existing Bulgaria-Romania border crossing at Negru Voda and the corresponding transport links on both sides. It will facilitate the increase in trade and cultural links between the two border regions and encourage economic development on both sides of the border in an economically depressed region.

This project complies with the Council Regulation 1266/1999 on Co-ordination of pre-accession assistance. Indeed, the concerned road section is neither part of the Pan European Transport Network, nor of the TINA Network. The total cost is below the minimum threshold of 5 Meuro. For these two reasons, such a transport project would not be eligible to ISPA. Moreover, this project happens to be an incidental and indispensable part of a regional development plan, which is developed in the agreed JPD.

The envisaged activities are:

- Preparation of the tender documentation. Bulgarian consultants will prepare the detailed design. Then, on the basis of the detailed design, the Tender Dossier will be prepared.
- Supervision and review of the tender documentation. A consultant will be contracted to review the detailed design and tender dossier, in order to ensure that they comply with the EU and Phare requirements. The same international consultant will be responsible for construction supervision of the ensuing works contract.
- Works: rehabilitation of the road according to EU standards.

Bulgarian beneficiary: Road Executive Agency (REA) which is part of the Ministry of Regional Development and Public Works

Total cost of the project:	3.33 MEUR
Phare allocation:	2.50 MEUR
Co-financing:	0.83 MEUR (REA)

Due to the defect liability period and the duration of the works, this investment project will require a 2 year disbursement period, till 30 November 2005.

1.3.2. JPD priority: Environmental Protection

The regions and municipalities on both sides of the border are well endowed with natural assets and driven by the desire to protect and sustain them. At the same time industry and energy related development have in several locations caused environmental damage to the air, water and soil. Consequently, measures to monitor, prevent pollution and rehabilitate the environment have become a priority.

Project BG0107.03 - Integrated monitoring of the Bulgarian Black Sea Coast between Durankulak and Rezovo and

Project RO0103.02 - Integrated monitoring of the Romanian Black Sea Coast between Midia – Vama Veche

These mirror projects will ensure the prevention and a warning in time of the accidental pollution in the seacoast, and establish the vulnerable points all along the seaside. They will provide the instruments for the integrated monitoring of the Black Sea both for Romanian and Bulgarian sectors. It will improve the monitoring of the Black Sea coast, enhance and strengthen the capacities of the institutions to implement a marine monitoring.

As regards the cross-border impact, It will allow a better knowledge of the evolution of the environments parameters in case of trans-national pollution, the rapid estimation or the seriousness of accidents incidents as regards their impact on the environment, the elaboration of a common strategy between Romanian and Bulgarian in the crisis situations and the setting up of a control cell at interregional level for following and maintaining water quality.

Close co-ordination will be ensured with the activities that are currently taking place in the framework of the Danube Convention, and with the other projects related to (fresh) water monitoring that are financed under the national Phare programmes. In addition, a start up co-ordination meeting and a wrap up meeting at the end of the project will be organised with the relevant potentially interested institutions and organisations.

On the Bulgarian side, the following activities will be undertaken:

- Assessment of the monitoring laboratories, design and preparation of tender documentation. An inventory will be undertaken by a team of experts to assess the existing monitoring laboratories, to identify the gaps and deficiencies in the existing institutions implementing the marine monitoring programme. The design of the monitoring system will be established. On the basis of the inventory and of the proposed design for the monitoring system, the team of expert will prepare the technical specifications and the tender documentation for the actual procurement of the equipment, in close co-operation with the Romanian authorities.

- Procurement of the necessary equipment for the integrated monitoring system. The whole necessary equipment and respective consumables will be purchased. It will include (indicative): laboratory equipment and consumables, satellite receiving station with hardware and software for image processing for oil slick monitoring on the sea surface, hardware and software for three Geographic Information System (GIS) stations, a vessel with sampling equipment and laboratory equipment for on-board analyses. The respective owners will bear the maintenance and operating costs of the equipment.
- Accreditation of the monitoring laboratories. This component will actually implement the new standard operation procedures for laboratory analyses. The laboratories will have to meet the requirements of the respective accreditation body, to make operational all the laboratory equipment, trained staff, and then pass the accreditation procedure of national and/or international accreditation bodies. Regular monitoring of the marine environment according to the programme, adopted by the Ministry of Environment will be implemented.

Bulgarian beneficiary:	Ministry of Environment and Waters, represented by the regional inspectorates in Varna and Bourgas and Marine Shipping Agency – Varna
Total cost of the project:	2.91 MEUR
Phare allocation:	2.15 MEUR
Co-financing:	0.76 MEUR (Ministry of Environment and Water)

On the Romanian side, the following activities will be undertaken:

- Assistance for the preparation of the project. Some technical assistance will be provided in order to review the foreseen activities, assess the kind of equipment that will be necessary, prepare the technical specifications and prepare the tender documentation for the different components. Consistency with the Bulgarian mirror project will be ensured.
- Purchase of laboratory equipment. Under this component, it is foreseen to purchase additional equipment to improve the quality of the laboratory activity, like (indicative) workstation for aqua digestion of heavy metal samples, autoclave, micro N/C TOC/TN analyser, atomic absorption spectrometer...
- Commissioning of a monitoring system. It is planned to improve the monitoring system by a continuous water quality monitoring, and an improved accuracy. The following equipment will be commissioned (indicative): automatic stations for fast data registering of sea water parameters, Geographical Information Systems...
- Upgrade of "Chefalul" ship and procurement of a fast intervention ship. The "Chefalul" ship performs measurements to make hydrometrical profiles to measure hydro-metrical parameters of the sea water (temperature, water test for salinity and density, sea current, earth test from the bottom of the sea, water transparency, water colour etc.). This ship was in the shipyard in 1999 for rehabilitation work and now it is in good shape, but needs apparatus and devices in order to perform precise measures. With a view to implement the Black Sea National Strategic Action Plan, a small capacity ship for fast interventions in case of accidental pollution will be purchased. This boat will also be used to monitor and prevent the damages caused by the algae blossom phenomena registered during the last years, which spoil the tourist beaches.

Romanian beneficiary:	The National Company of Romanian Waters
Total cost of the project:	2.87 MEUR
Phare allocation:	2.20 MEUR
Co-financing:	0.67 MEUR (National Company of Romanian Waters)

Project RO0103.03 - Protection of wetlands of the Danube - a pilot project for Cama Dinu islet area

The Danube marks the border between Bulgaria and Romania. There are many islands and floodplains along the Lower Danube, some of them being unspoiled, but others are deeply affected by human activity, such as Cama Dinu Islet. These islands are important for the environmental condition of the Danube, since they play a role in self-purification of water. Moreover, their bio-diversity is valuable. The project aims at monitoring Cama Dinu flora and fauna and at studying the influence of the environmental factor quality upon them.

Concerning the cross border impact, it should be noted that the results of the pilot project are necessary to assess the possibility to extend such initiative to a much longer section of the Danube. Future monitoring could therefore be undertaken by all the agencies on both sides of the river. It would strengthen the co-operation of the local environmental institutions. It would also influence the water, air and soil quality of the border area, and both Romania and Bulgaria will benefit from a cleaner Danube. Bulgaria is interested with the output of this project, and could even undertake a similar approach for the islet of Liuliak.

The following activities are foreseen:

- Preparation of the tender documents.
- Assistance for the realisation of the database, the monitoring and to make an inventory of the flora and fauna in Cama Dinu area. In order to study the evolution of flora and fauna in the area, an inventory of the flora and fauna of the islet area will be performed. A database will be developed and the Romanian authorities will monitor the islet.
- Purchase of equipment. Under this component, some equipment necessary for the monitoring and for the laboratory of Giurgiu will be purchased, like (indicative) automatic analysers, air automatic analyser, equipment for distilling of cyanides, bio-monitoring equipment...
- Building of Cama Dinu environment supervising centre. An environment supervising centre will be built on Cama Dinu islet. The building will include a small biological museum, rooms for monitoring equipment, laboratory.
- Awareness campaign. The intention is to inform local population about bio-diversity in the area. Leaflets, booklets, articles for mass media will be developed and workshops for interested people will be organised.

Romanian beneficiary:	Ministry of Waters and Environment Protection
Total cost of the project:	2.66 MEUR
Phare allocation:	2.00 MEUR
Co-financing:	0.66 MEUR (Ministry of Waters and Environment Protection)

Project BG0107.04 - Preparation of Future Environmental Projects

The overall objective of this project is to provide assistance to the border region in fulfilling the EU environmental requirements and to improve and foster the co-operation between Bulgaria and Romania border regions in the field of environment.

The foreseen activity consists in the preparation of the status report, the technical specification and the tender documentation for the following two projects: “Wetland Park” and “Joint control system for emissions.” The first project should be the Bulgarian mirror project to the Romanian project “Protection of wetlands of the Danube - a pilot project for Cama Dinu islet area” – Phare CBC 2001, and the second should prepare a future joint control system for emissions for Bulgaria and Romania.

It will also bring the major cross border benefits as follows:

- The integrated trans-boundary Wetland Park management framework will ensure the preservation of habitats and of the large network of wetlands on both sides of the border, recognising their complex relations.
- The joint control system for emissions will produce information and specific data in order to resolve the disputes between both countries for the origin of the pollutants and based on these data and information in the form of daily, quarterly and annual reports the Regional Inspectorates for Environment and the Municipalities along with both Ministries of Environment will elaborate programmes for air quality evaluation, control and reduction of the air pollution in order to improve the air quality.

Bulgarian beneficiary:	Ministry of Environment and Water
Total cost of the project:	0.25 MEUR
Phare allocation:	0.25 MEUR

1.3.3. JPD priority: Socio-economic Development

Despite the current economic problems, the border region offers clear potential for the development of indigenous economic resources. To that end, individual initiative and local projects with cross-border impact should be developed.

Projects BG0107.04 and RO0103.05 - Joint Small Project Fund (mirror projects)

The Joint Small Project Fund (JSPF) will be established as a flexible mechanism that finances the “small-scale and people-to-people” projects with a cross-border impact.

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 Bulgaria and in Romania. Relevant services of the Commission and in particular DG Agriculture will

also have the opportunity to comment on the guidelines. In principle, the JSPF will be implemented as follow: an ad hoc JSPF Committee (joint committee with representatives from both Bulgaria 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 soft projects (in cash or in kind).

Total project cost:	1.1 MEUR	(0.55 MEUR for each country)
Phare allocation:	1.0 MEUR	(0.5 MEUR for each country)
Co-financing:	0.1 MEUR	(0.05 MEUR for each country)

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

Project code	Priority / Project Title	PHARE			National Co-financing in M€	IFI	Total in M€
		IB	Investment	TOTAL			
	JPD priority: Improvement of local and Trans-national infrastructures	0	8.4	8.4	4.885	0	13.285
RO0103.01	The border crossing between Calarasi (Romania) and Silistra (Bulgaria)	0	3.3	3.3	1.75	0	5.05

BG0107.01	Construction of a Crossing Border Check Points in Silistra	0	2.6	2.6	2.305	0	4.905
BG0107.02	Rehabilitation of road II-29 from the Bulgaria/Romania border (Negru Voda) to General Toshevo	0	2.5	2.5	0.83	0	3.33
JPD priority: Environmental Protection		1.3	5.3	6.6	2.09	0	8.69
RO0103.02	Integrated monitoring of the Romanian Black Sea Coast between Midia – Vama Veche	0.2	2.0	2.2	0.67	0	2.87
BG0107.03	Integrated monitoring of the Bulgarian Black Sea Coast between Durankulak and Rezovo	0	2.15	2.15	0.76	0	2.91
RO0103.03	Protection of wetlands of the Danube - a pilot project for Cama-Dinu islet area	1.1	0.9	2	0.66	0	2.66
BG0107.04	Preparation of Future Environmental Projects	0	0.25	0.25	0	0	0.25
JPD priority: Socio-economic Development		1	0	1	0.1	0	1.1
RO0103.04	Joint Small Project Fund	0.50	0	0.50	0.05	0	0.55
BG0107.05	Joint Small Project Fund	0.50	0	0.50	0.05	0	0.55
	SUB-TOTAL ROMANIA	1.8	6.2	8.00	3.13	0	11.13
	SUB-TOTAL BULGARIA	0.50	7.50	8.00	3.945	0	11.945
TOTAL		2.3	13.7	16	7.075	0	23.075

3. IMPLEMENTATION ARRANGEMENTS

3.1. Institutional Structures in Bulgaria

The Implementing Agency of the programme on the Bulgarian side is the Ministry of Regional Development and Public Works, 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 and payments of invoices.

They will work closely together 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.

3.2. 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.

3.3. Implementation arrangements in Bulgaria

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures¹. 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 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 Bulgaria. 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 make available 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. The CFCU and the IAs must each be headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation with the

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

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

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

A separate (main) interest bearing bank account, denominated in EUR will be opened and managed by the NF 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. NF will maintain adequate accounting and cash management system in respect of the current and deposit accounts used for the programme.

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 BG0107.01 “Construction of a Crossing Border Check Points in Silistra” and project BG0107.02 “Rehabilitation of road II-29 from the Bulgaria/Romania border (Negru Voda) to General Toshevo”, for which the expiry dates for disbursement are 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 balance of funds related to those contracts, as calculated by the PAO and established by the Commission, will be deposited by the NF for safe keeping on separate interest bearing account before the official closure of the programme. The Implementing Agency assumes full responsibility 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 Romania

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures². 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,

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

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 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 RO0103.01 “The border crossing between Calarasi (Romania) and Silistra (Bulgaria)”, 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.

3.5. 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:

- Deputy Minister /Bulgarian Ministry of Regional Development and Public Works.
- Secretary of State /Romanian Ministry of Development and Prognosis;

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 Phare CBC counterparts component.

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. It will also closely co-ordinate the different pre-accession instruments. 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 Bulgaria 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.